

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, NOVEMBER 15, 2011

SESSION OF 2011

195TH OF THE GENERAL ASSEMBLY

No. 75

HOUSE OF REPRESENTATIVES

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

**THE SPEAKER (SAMUEL H. SMITH)
PRESIDING**

PRAYER

The SPEAKER. This morning the prayer will be offered by the Reverend Grant Abe, Grace Baptist Church, Monroeville, Pennsylvania.

REV. GRANT ABE, Guest Chaplain of the House of Representatives, offered the following prayer:

Let us bow our hearts and heads in prayer, please:

Heavenly Father, we humbly bow before You, recognizing our frailty and acknowledging Your presence, Your power, Your majesty, and Your interest in all that we do. You are the Creator and we are the creation. Thank You for this opportunity to take a moment to pause and pray at the beginning of this session of the House of Representatives for the Commonwealth of Pennsylvania. May we always be diligent, as Your Word declares to pray for all those in authority. We do that now with thanksgiving for each Representative.

Our prayer, Lord, is that You would invoke Your blessing upon these who have gathered. Give them wisdom in all their deliberation, whether social, economic, or financial. Help them to work together, having one mind regardless of political affiliation, considering all things for the people they represent, keeping them on their task of the things that You have called them to do. May they practice truth and integrity in all that they do, realizing that they are, in the end, ultimately, completely, and personally accountable to You and You alone. Bless their families, Lord. Give their families understanding as they stand with these Representatives in fulfilling their service in their communities.

Father, our prayer for these men and women is that they would show great humility as they do their job, realizing, as the apostle Paul said, "...the authorities that exist are appointed by God." Truly, Lord, they are God's ministers to us for good. May they accept that responsibility as our authority and our ministers for good. Father, You have called them to this place for such a time as this and placed them here to do an important task. We pray that Your will will be done, and that all that is accomplished would redound to Your honor and glory.

We ask this all in the strong name of Jesus Christ. 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, November 14, 2011, will be postponed until printed.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 501 By Representatives TALLMAN, CLYMER, DENLINGER, HEFFLEY, METCALFE, PICKETT, SACCONI and SWANGER

A Resolution memorializing the Senate of the United States to reject the United Nations Convention on the Rights of the Child.

Referred to Committee on CHILDREN AND YOUTH, November 15, 2011.

HOUSE BILLS INTRODUCED AND REFERRED

No. 5 By Representatives TURZAI, S. H. SMITH and METCALFE

An Act apportioning this Commonwealth into congressional districts in conformity with constitutional requirements; providing for the nomination and election of Congressmen; and requiring publication of notice of the establishment of congressional districts following the Federal decennial census.

Referred to Committee on STATE GOVERNMENT, November 15, 2011.

No. 1977 By Representatives OBERLANDER, AUMENT, BAKER, BLOOM, BOYD, CAUSER, CUTLER, FLECK, GABLER, GEIST, GROVE, HICKERNELL, KAUFFMAN, LAWRENCE, METCALFE, MILLARD, QUINN, RAPP, REESE, ROAE, SAYLOR, SONNEY, STERN, STEVENSON, TURZAI, SCHRODER, COX, EMRICK, ELLIS, GRELL, VULAKOVICH, MALONEY, SWANGER, BROOKS, MARSHALL, SACCONI, TALLMAN, HAHN, READSHAW, BARRAR and BEAR

An Act amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, providing for compliance with Federal health care legislation.

Referred to Committee on HEALTH, November 15, 2011.

No. 1978 By Representatives HACKETT, AUMENT, BLOOM, COHEN, D. COSTA, CREIGHTON, CRUZ, DIGIROLAMO, FARRY, FLECK, GROVE, HAHN, HARHART, HEFFLEY, KILLION, METCALFE, MICOZZIE, MILLARD, MILLER, MILNE, TAYLOR, TOOHIL, TRUITT and WATSON

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, in preparation for and conduct of primaries and elections, further providing for peace officers and no peace officers within 100 feet of polling place.

Referred to Committee on STATE GOVERNMENT, November 15, 2011.

No. 1979 By Representatives SCAVELLO, D. COSTA, DALEY, FARRY, GEIST, GEORGE, GINGRICH, GROVE, HESS, KNOWLES, MAJOR, MANN, METZGAR, MURT, D. O'BRIEN, READSHAW, K. SMITH, STABACK, SWANGER, THOMAS and YOUNGBLOOD

An Act amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the offense of scattering rubbish, for the acknowledgment of littering provisions and for the offense of depositing of waste and other material on highway, property or waters.

Referred to Committee on TRANSPORTATION, November 15, 2011.

No. 1981 By Representatives SCAVELLO, BOBACK, BOYD, BROOKS, D. COSTA, CREIGHTON, DALEY, DAVIDSON, DeLUCA, FLECK, GEIST, GEORGE, GILLEN, GOODMAN, GROVE, HORNAMAN, MILLARD, MILLER, SCHRODER, TRUITT, WAGNER and YOUNGBLOOD

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for the definition of "purchase price"; and abrogating a regulation.

Referred to Committee on FINANCE, November 15, 2011.

No. 1983 By Representatives MICOZZIE, DeLUCA, GODSHALL, GROVE, KILLION, CLYMER, HALUSKA, HESS, MILLARD, MURPHY, READSHAW, REICHLEY, STURLA, VULAKOVICH, BARBIN and D. COSTA

An Act amending the act of December 18, 1996 (P.L.1066, No.159), known as the Accident and Health Filing Reform Act, dividing the act into Federal compliance and Commonwealth exclusivity; in Federal compliance, further providing for definitions, for required filings, for review procedure, for notice of disapproval, for use of disapproved forms or rates, for review of form or rate disapproval, for disapproval after use, for filing of provider contracts, for record maintenance, for public comment and for penalties and providing for regulations and for expiration; in Commonwealth exclusivity, providing for regulations and for action by the Insurance Commissioner; and making editorial changes.

Referred to Committee on INSURANCE, November 15, 2011.

No. 1984 By Representative PETRI

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in licensing of drivers, further providing for surrender of license and for probationary license.

Referred to Committee on TRANSPORTATION, November 15, 2011.

No. 1986 By Representatives QUIGLEY, AUMENT, BOYD, R. BROWN, ELLIS, EMRICK, FLECK, GEIST, GEORGE, GODSHALL, HARHART, HESS, HORNAMAN, M. K. KELLER, KILLION, MALONEY, MARSHALL, METCALFE, MILLARD, MURPHY, READSHAW, STEPHENS, STEVENSON, TALLMAN, BOBACK and D. COSTA

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, in veterans' organizations, providing for municipal fee exemptions.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, November 15, 2011.

No. 1987 By Representative PETRI

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, providing for gas transmission line fees.

Referred to Committee on TRANSPORTATION, November 15, 2011.

No. 1990 By Representatives K. BOYLE, BISHOP, B. BOYLE, V. BROWN, DONATUCCI, GEIST, GEORGE, READSHAW, SANTARSIERO, STABACK, MAHONEY, CARROLL, KAVULICH, D. COSTA, DEASY, MANN, PRESTON, PARKER and CONKLIN

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for persons required to report suspected child abuse and for penalties for failure to report or to refer.

Referred to Committee on JUDICIARY, November 15, 2011.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 1397, PN 1658

By Rep. MARSICO

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for the offense of sexual assault by sports official.

JUDICIARY.

HB 1769, PN 2744 (Amended)

By Rep. MARSICO

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for criminal laboratory user fee.

JUDICIARY.

HB 1891, PN 2697

By Rep. MARSICO

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for bowling center operator civil immunity.

JUDICIARY.

HB 1905, PN 2745 (Amended)

By Rep. MARSICO

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for general provisions, for special rules for gifts and for liability; providing for liability for refusal to accept acknowledged power of attorney; and further providing for validity.

JUDICIARY.

HB 2002, PN 2746 (Amended)

By Rep. SCHRODER

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, in administration and enforcement, providing for audit by Auditor General.

GAMING OVERSIGHT.

HB 2004, PN 2747 (Amended)

By Rep. SCHRODER

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, further providing for qualifications and restrictions of Pennsylvania Gaming Control Board members.

GAMING OVERSIGHT.

HB 2011, PN 2748 (Amended)

By Rep. SCHRODER

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, further providing for Pennsylvania Gaming Control Board established.

GAMING OVERSIGHT.

SB 361, PN 1598

By Rep. BAKER

An Act amending the act of June 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law of 1953, further providing for disclosure of records.

HEALTH.

SB 638, PN 1789 (Amended)

By Rep. BAKER

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, in public assistance, further providing for definitions; and, in public assistance, providing for mileage reimbursement for individuals receiving methadone treatment.

HEALTH.

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,
November 14, 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, December 5, 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, November 21, 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 November 21st, it reconvene on Monday, December 5, 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.

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. HICKERNELL, from Lancaster County for the day, and the gentleman, Mr. STEPHENS, from Montgomery County for the day. Without objection, the leaves will be granted.

The Speaker recognizes the minority whip, who requests a leave of absence for: the gentleman, Mr. CRUZ, from Philadelphia County for the day; the gentleman, Mr. Dwight EVANS, from Philadelphia County for the day; the gentleman, Mr. MYERS, from Philadelphia County for the day; the gentleman, Mr. STABACK, from Lackawanna County for the day; and the gentleman, Mr. DALEY, from Washington County for the day. Without objection, the leaves will be granted.

The Speaker recognizes the minority whip, who requests a leave of absence for the gentleman from Northampton County, Mr. SAMUELSON, for the day. Without objection, the leave will be granted.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—194

Adolph	Dunbar	Kirkland	Quinn
Aument	Ellis	Knowles	Rapp
Baker	Emrick	Kortz	Ravenstahl
Barbin	Evankovich	Kotik	Readshaw
Barrar	Evans, J.	Krieger	Reed

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

ADDITIONS—0

NOT VOTING—0

EXCUSED—9

Cruz	Hickernell	Myers	Staback
Daley	Mustio	Samuelson	Stephens
Evans, D.			

LEAVES ADDED—2

O'Brien, D.	Thomas
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LEAVES CANCELED—4

Daley	Hickernell	Samuelson	Stephens
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The SPEAKER. One hundred ninety-four members having voted on the master roll call, a quorum is present.

GUESTS INTRODUCED

The SPEAKER. If I could have the members' attention, I want to welcome some of the guests that are with us today. Located to the left of the rostrum, we would like to welcome

several guests that are accompanying our Guest Chaplain. They are his wife, Kathy Abe, and church members Ron and Bev Mancuso and Harry and Sandy Banks. They are the guests of Representative Rick Saccone, and along with them also is Rick's son, Matt. Will our guests please rise. Welcome to the hall of the House.

Also located to the left of the rostrum, we would like to welcome some guests of Representative Miccarelli. They are the First Troop Philadelphia City Cavalry, and the individuals representing the First Troop Philadelphia City Cavalry are Tyler Hathaway, Charles Meredith, David Thayer, 1st Sgt. Nicholas Bowden, and Cpl. Llewellyn Hunt. Will our guests please rise. Welcome to the hall of the House, gentlemen.

Located in the rear of the House, as a guest of Representative Lawrence, we would like to welcome Brian Arban. Brian, give us a wave so you do not get lost in the crowd back there. Welcome to the hall of the House. Also in the rear of the House, we would like to welcome, as guests of Representative Fred Keller, the Susquehanna University Republicans. Will our guests please wave. Welcome to the hall of the House.

And up in the gallery, as guests of Representative Grell, we would like to welcome the eighth grade civics students from Harrisburg Academy. Will our guests please rise and give us a wave. Welcome to the hall of the House.

Also up in the gallery, we would like to welcome, as guests of Representative Youngblood, the Pennsylvania Federation of Democratic Women. Ladies, please rise. Welcome to the hall of the House.

And in the well of the House, we have some guest pages. As a guest of Representative Bear, we would like to welcome guest page Anna Workman. She is a senior at Linden Hall and is the Lititz Borough 2011 fall junior councilperson. Welcome to the hall of the House, Anna.

Other guest pages: As the guest of Representative Brooks, we would like to welcome guest page Austin Higgins. He is an eighth grade student at St. Michael School. Welcome to the hall of the House.

And as a guest of Representative Killion, and also his nephew, we would like to welcome guest page Sean Killion. Welcome to the hall of the House, Sean.

Additionally, up in the balcony is Nancy Metzgar, who happens to be the mother of Representative Carl Metzgar. Nancy, welcome to the hall of the House. Over here on the far side; she is sitting over there where she can look down over her son's shoulder.

UNCONTESTED CALENDAR

RESOLUTIONS PURSUANT TO RULE 35

Mr. KNOWLES called up **HR 497, PN 2705**, entitled:

A Resolution designating the month of November 2011 as "Lung Cancer Awareness Month" in Pennsylvania.

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Mr. STEVENSON called up **HR 500, PN 2725**, entitled:

A Resolution designating the month of November 2011 as "Pulmonary Hypertension Awareness Month" in Pennsylvania and commending the work of the Pulmonary Hypertension Association.

On the question,
Will the House adopt the resolutions?

(Members proceeded to vote.)

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Speaker recognizes the presence of the gentleman from Northampton, Mr. Samuelson. His name will be returned to the master roll call.

**RESOLUTIONS PURSUANT TO RULE 35
CONTINUED**

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

The following roll call was recorded:

YEAS—195

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

NAYS—0

NOT VOTING—0

EXCUSED—8

Cruz	Evans, D.	Mustio	Staback
Daley	Hickernell	Myers	Stephens

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

CALENDAR

RESOLUTION PURSUANT TO RULE 35

Mr. MICCARELLI called up **HR 415, PN 2433**, entitled.

A Resolution commemorating the 237th anniversary of the founding of the First Troop Philadelphia City Cavalry, also known as the "First City Troop."

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—195

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

DeLissio	Josephs	Peifer	Waters
Delozier	Kampf	Perry	Watson
DeLuca	Kauffman	Petrarca	Wheatley
Denlinger	Kavulich	Petri	White
DePasquale	Keller, F.	Pickett	Williams
Dermody	Keller, M.K.	Preston	Youngblood
DeWeese	Keller, W.	Pyle	
DiGirolamo	Killion	Quigley	Smith, S.,
Donatucci	Kirkland	Quinn	Speaker
Dunbar			

NAYS—0

NOT VOTING—0

EXCUSED—8

Cruz	Evans, D.	Mustio	Staback
Daley	Hickernell	Myers	Stephens

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

STATEMENT BY MS. JOSEPHS

The SPEAKER. If we could have the members' attention. Kindly hold the conversations down a little bit. The Speaker recognizes the lady from Philadelphia, Ms. Josephs, under unanimous consent relative to HR 415.

Ms. JOSEPHS. Thank you, Mr. Speaker.

Thank you, members, for voting for this resolution, and particularly, thank you to Representative Miccarelli for prime-sponsoring the resolution and including me in this celebration of a historic and wonderful troop whose armory is in my district. I am going to just say something about what they do to help the neighborhood and the city, and then Representative Miccarelli will take over from there.

The SPEAKER. Will the lady suspend for one minute. Will the members kindly take their seats or take the conversations to the back of the hall of the House. We would appreciate it if we could hold the conversations down. The Speaker thanks the members.

The lady may proceed.

Ms. JOSEPHS. Thank you, Mr. Speaker.

The First Troop Philadelphia City Cavalry uses or allows the community to use its armory for many, many events, including MANNA (Metropolitan Area Neighborhood Nutrition Alliance), which feeds nutritious meals to people who stay at home because of illness. They hold many art and community shows there, including the annual fall harvest show. They have hosted Will Smith in a Live 8 reception. They provide escorts for dignitaries in Philadelphia, including numerous Presidents and visitors, such as Prince Charles. They provided service to the Commonwealth during recent storms and floods, and they provide color guards, ranging from the opening of the Jewish museum in Philadelphia to the Let Freedom Ring celebration at the Capitol. Most of all, I appreciate the First Troop City Cavalry when they parade in Philadelphia with the horses, their colorful uniforms, the trumpet calls. The First Troop changes an ordinary day in Philadelphia into a scintillating celebration, and I thank them for all their service to this community.

The SPEAKER. The Speaker thanks the lady.

STATEMENT BY MR. MICCARELLI

The SPEAKER. The Speaker recognizes the gentleman from Delaware County, Mr. Miccarelli, under unanimous consent relative to the resolution.

Mr. MICCARELLI. Thank you, Mr. Speaker.

Mr. Speaker, the men to your left are members of the First Troop Philadelphia City Cavalry. They are members of the oldest unit in continuous service to our Republic. Now, as in their beginnings in 1774, the First City is a combat cavalry troop. When they have been called, Mr. Speaker, they have gone. They have been called to defend General Washington and fight the British at Trenton, Princeton, and Brandywine. They were called to Gettysburg to beat back the Confederate invasion of our Commonwealth. They were called to Hazleton during coal strikes. They were called to Johnstown to help Pennsylvania citizens after a devastating flood, and on special occasions, Mr. Speaker, they heartily contribute to the flood tax that bears the name of that town. They have been called to France, Mr. Speaker. They have been called to Germany, Bosnia, Egypt, and Iraq. They have been all over the world, Mr. Speaker, since 9/11. And as the good gentleman from York County did in 2009, they reluctantly part with their families, their wives and children, and put the needs of their country first.

To continue their proud 237-year history that we celebrate today, the unit makes ready for yet another deployment. They will go and they will do their jobs and they will do it well. Their performance throughout history makes that clear. Amongst their ranks are a who's who of Pennsylvania history: Our commander at Gettysburg was the former Speaker of the U.S. House of Representatives, former Congressman Sam Randall, who all credible historians know as the second greatest Speaker of any institution with the first name of Sam.

The SPEAKER. I was listening.

Mr. MICCARELLI. Thank you.

The first superintendent at West Point, Jonathan Williams, was a First City Trooper. Thomas Gates, the former Secretary of the Navy and Secretary of Defense, was a First City Trooper. William Burrows, the first de jure Commandant of the United States Marine Corps, was a First City trooper. The First City Troop has been comprised of astronauts, doctors, bankers, lawyers, architects, painters, and high school principals.

And, Mr. Speaker, the story of the First City Troop is truly the story of Pennsylvania's military history. For 237 years, Mr. Speaker, the First City Troop has made this Commonwealth proud. They continue to do so every day. Thank you, Mr. Speaker.

The SPEAKER. Are there any announcements?

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Speaker recognizes the gentleman from Delaware County, Mr. Adolph, for the purpose of making an announcement.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I would like to announce a House Appropriations Committee meeting in the majority caucus room immediately following the break. Thank you.

The SPEAKER. There will be an Appropriations Committee meeting immediately following the break in the majority caucus room.

REPUBLICAN CAUCUS

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

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus at 11:45. I would ask our Republican members to please report to our caucus room at 11:45, and we would be prepared to come back on the floor at 1:30.

Thank you, Mr. Speaker.

DEMOCRATIC CAUCUS

The SPEAKER. The Speaker recognizes the gentleman from Allegheny County, Mr. Frankel, for the purpose of a caucus announcement.

Mr. FRANKEL. Thank you, Mr. Speaker.

Democrats will caucus at 11:45. Democrats will caucus at 11:45. Thank you.

RECESS

The SPEAKER. This House stands in recess until 1:30, unless sooner recalled by the Speaker.

RECESS EXTENDED

The time of recess was extended until 2 p.m.

AFTER RECESS

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

LEAVE OF ABSENCE CANCELED

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

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 17, PN 2466 By Rep. GEIST

An Act designating the Pickertown Road Bridge carrying Pickertown Road over the U.S. Route 202 Parkway in Warrington Township, Bucks County, as the Robert V. Cotton Bridge.

TRANSPORTATION.

HB 1617, PN 2000 By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for suspension of operating privilege for failure to respond to citation.

TRANSPORTATION.

HB 1702, PN 2755 (Amended) By Rep. CREIGHTON

An Act reenacting and amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code.

LOCAL GOVERNMENT.

HB 1898, PN 2568 By Rep. GEIST

An Act designating the bridge carrying Bridge Street (State Route 4021) over Brubaker Run in the Borough of Hasting, Cambria County, as the Sergeant Derek Lee Shanfield Memorial Bridge.

TRANSPORTATION.

HB 1906, PN 2597 By Rep. GEIST

An Act designating a bridge on that portion of S.R. 4002, Clarence Road, in Snow Shoe Township, Centre County, as the Clarence Bridge of Freedom for All Veterans.

TRANSPORTATION.

HB 1955, PN 2686 By Rep. GEIST

An Act designating Grant Street from Main Street in Waynesboro Borough, Franklin County, to the borough line at Route 316 as the Staff Sergeant Richard J. Tieman Memorial Highway.

TRANSPORTATION.

HB 1956, PN 2687 By Rep. GEIST

An Act designating State Route 16 from the entrance of Greencastle Borough, Franklin County, to the square or other end of the borough on State Route 16 as the Master Sergeant Benjamin F. Bitner Memorial Highway.

TRANSPORTATION.

The SPEAKER. Will the members please report to the floor.

BILLS REREPORTED FROM COMMITTEES

HB 3, PN 2754 (Amended) By Rep. GEIST

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, providing for public-private transportation partnerships; and making a related repeal.

TRANSPORTATION.

HB 149, PN 2574 By Rep. ADOLPH

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for issuance of "In God We Trust" registration plates.

APPROPRIATIONS.

HB 169, PN 2694

By Rep. ADOLPH

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, further providing for legislative intent, for definitions, for games of chance permitted and for prize limits, for limits on sales, for distributor licenses, for registration of manufacturers, for regulations, for licensing of eligible organizations and for special permits; providing for club licensees; further providing for revocation of licenses, for local option, for advertising and for penalties; and making editorial changes.

APPROPRIATIONS.

HB 439, PN 2732

By Rep. ADOLPH

An Act prohibiting certain licensees from knowingly employing illegal aliens; and imposing sanctions.

APPROPRIATIONS.

HB 849, PN 2731

By Rep. ADOLPH

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions; providing for regulation and operation of neighborhood electric vehicles; and further providing for slow moving vehicle emblem and for operation of vehicle without official certificate of inspection.

APPROPRIATIONS.

HB 1140, PN 1242

By Rep. ADOLPH

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of aggravated assault.

APPROPRIATIONS.

LEAVE OF ABSENCE

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

**HOUSE BILLS
INTRODUCED AND REFERRED**

No. 1982 By Representatives THOMAS, CALTAGIRONE, W. KELLER, V. BROWN, MIRABITO, PAYTON and QUINN

An Act amending the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, further providing for appointment of members of an authority; providing for members of an authority in cities of the first class; further providing for qualifications, tenure and compensation of members of an authority; providing for ethics standards; and further providing for organization of an authority.

Referred to Committee on URBAN AFFAIRS, November 15, 2011.

No. 1985 By Representatives FLECK, BENNINGHOFF, BOBACK, BRENNAN, CALTAGIRONE, CARROLL, CLYMER, COHEN, D. COSTA, DALEY, DAVIS, DeWEESE, DIGIROLAMO, J. EVANS, EVERETT, GEIST, GEORGE, GERBER, GIBBONS, GODSHALL, GOODMAN,

HALUSKA, HARRIS, HESS, HORNAMAN, JOSEPHS, KNOWLES, LONGIETTI, MAHONEY, MAJOR, MARSHALL, MASSER, METZGAR, MICCARELLI, MUNDY, MURPHY, MURT, M. O'BRIEN, O'NEILL, PARKER, PASHINSKI, PYLE, QUINN, RAPP, REED, SAINATO, SONNEY, STERN, STEVENSON, TAYLOR, VEREB and VULAKOVICH

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, regulating appropriations to the Department of Corrections.

Referred to Committee on APPROPRIATIONS, November 15, 2011.

BILL SIGNED BY SPEAKER

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

SB 834, PN 1669

An Act amending Title 16 (Counties) of the Pennsylvania Consolidated Statutes, adding provisions for required fiscal security through bonding, blanket bonding and insuring of elected and appointed county officers and employees; providing for determining the form, amount and payment of premiums for and the filing and recording of the required security and for the subsequent issuance of official commissions; and making related repeals.

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

CALENDAR CONTINUED**BILLS ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 1884, PN 2450**, entitled:

An Act authorizing the Department of General Services, with the approval of the Department of Military and Veterans Affairs and the Governor, to grant and convey to the Borough of Tyrone certain land and improvements situate in the Borough of Tyrone, Blair County, known as the Tyrone Armory.

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

* * *

The House proceeded to second consideration of **HB 98, PN 2573**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for special registration plates generally and for personal registration plates; and making editorial changes.

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

* * *

The House proceeded to second consideration of **HB 1526, PN 2696**, entitled:

An Act amending the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, providing for death of a tenant.

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

* * *

The House proceeded to second consideration of **HB 1950, PN 2689**, entitled:

An Act amending Titles 27 (Environmental Resources) and 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, flood control and certain interfund transfers; authorizing the Secretary of Conservation and Natural Resources to determine the need for and location of such projects and to acquire the necessary land; providing for interfund transfers; authorizing counties to impose and collect an unconventional gas well impact fee; providing for distribution of fees and for the Oil and Gas Lease Fund; consolidating the Oil and Gas Act; and repealing an act relating to the establishment of the Oil and Gas Lease Fund and the Oil and Gas Act.

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

GUESTS INTRODUCED

The SPEAKER. The Speaker would like to interrupt the consideration of HB 1950 to recognize a couple of other guests that are with us this afternoon. To the left of the Speaker, as a guest of Representative Mike Reese, we would like to welcome Patti Campbell. Would our guest please rise, and welcome to the hall of the House.

Additionally to the left of the Speaker, as guests of Representative Turzai, we would like to welcome a group from the Oakland Catholic High School in Pittsburgh. Will our guests please rise. Welcome to the hall of the House.

CONSIDERATION OF HB 1950 CONTINUED

The SPEAKER. The House will come to order. The members will please take their seats and clear the aisles. The Speaker would appreciate the members taking their seats. The Sergeants at Arms will clear the aisles. Please take the conversations to the back of the House if necessary. The House will please come to order. Members will please take their seats, clear the aisles, and kindly take the conversations to the rear of the House if necessary.

Members will please take their seats, take the conversations to the rear of the House if necessary, and clear the aisles. The Sergeants at Arms will clear the aisles of the House.

The Speaker thanks the members.

For the information of the members, under consideration of HB 1950, House rule 27 provides in pertinent part as follows: "No bill shall be amended so as to change its original purpose." Similar language is found in Article III, section 1, of the Pennsylvania Constitution. The purpose of this rule and constitutional provision is to prevent a legislative bait and switch. In the most recent opinion by the Pennsylvania Supreme Court on this issue, the court in 2008 held in *Marcevage v. Rendell* that the General Assembly violated the original purpose clause when a bill designed to criminalize crop destruction became instead an expansion of the offense of ethnic intimidation. The court was unmoved by the argument that both the original and final versions of the bill involved crime. I believe the court would similarly be unmoved by a challenge asserting that changing a bill which imposes a local impact fee on gas drillers into a bill that imposes a severance tax collected by the Commonwealth was not a change in the original purpose. Therefore, based upon the above and under rule 27, the following amendments are out of order.

It is the ruling of the Chair that the following amendment is out of order: the amendment offered by the gentleman, Mr. Mirabito, A06113.

Is the gentleman, Mr. Vitali, seeking recognition? Maybe in a minute.

Based on the above ruling, the amendment offered by the gentleman, Mr. Vitali, A0633 is additionally ruled out of order.

RULING OF CHAIR APPEALED

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

Mr. VITALI. To appeal the ruling of the Chair.

POINT OF ORDER

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

The SPEAKER. Mr. Hanna will state his point of order.

Mr. HANNA. When you read the amendment number, we heard you say 633, and we do not have such an amendment.

The SPEAKER. 6033; I apologize if I misspoke.

Mr. HANNA. Thank you, Mr. Speaker.

The SPEAKER. The ruling of the Chair is that amendment A06033 is out of order under rule 27, which provides in pertinent part that "No bill shall be amended so as to change its original purpose."

On the question,

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

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

Mr. VITALI. Thank you, Mr. Speaker.

I think at first it might be helpful for the members and those listening at home to understand what this amendment is so we can discuss it in context. What amendment A06033 would do, it is essentially a—

The SPEAKER. Will the gentleman suspend for one second. The gentleman is certainly entitled to give a brief description of the bill. However, the debate is not on the amendment; it is on the ruling of the Chair, which you have appealed, to just sort of set the tone there.

Mr. VITALI. I understand, Mr. Speaker.

I just think it would be important to give it a little context so we know when we are comparing the contents of the Ellis bill to the contents of this amendment, we can make judgments with regard to whether it is a different subject or not. We have to know the two subjects in order to know whether they are different or the same subject. That is my only point here, Mr. Speaker.

Mr. Speaker, what amendment 6033 would do – and this basically is a conversion of a House bill that was introduced, HB 33; this was the first Marcellus drilling tax bill – this would effectively impose a 5.9-percent tax on Marcellus drilling. It would do it in a two-pronged approach. The first would be a 5-percent tax on the market value of the gas as it is pulled out of the well, and then the second piece would be a 4.6-cents-per-thousand-cubic-foot tax on the volume of gas pulled out. This is similar but slightly less than the tax imposed by West Virginia. The way the revenues would be distributed under the amendment—

The SPEAKER. The gentleman will suspend.

Mr. TURZAI. Objection.

The SPEAKER. The gentleman will suspend.

POINT OF ORDER

Mr. TURZAI. Mr. Speaker, point of order.

The SPEAKER. The gentleman, Mr. Turzai, may state his point of order. I believe the Speaker is on the same page.

The Speaker would give the gentleman some leeway to argue that the original purpose, which is the ruling of the Chair, is correct or incorrect, but we are not going to go into a point-by-point debate over the entire content of the amendment. So I would advise the member to focus his argument onto how it is, either is the original purpose or it is not the original purpose.

Mr. VITALI. Thank you, Mr. Speaker.

I might point out, in the Ellis bill there is in fact a transfer from the Oil and Gas Act to the Environmental Stewardship Fund. So I wanted to point out another similarity, in addition, that HB 33 and amendment 6033 also have a very similar transfer, so it is a related subject matter from an entirely different angle. So what this would do as far as the distribution of this revenue, it would give a third to environmental purposes, very similar to Ellis, which I believe gives a percent of the money from the Oil and Gas Fund to the Environmental Stewardship Fund. This bill also would give about 29 percent of the funds collected from this tax, as it were, to the Environmental Stewardship Fund. The other two-thirds would go a third to the General Fund and a third to local governments.

I might also note, in the Ellis bill, because the Ellis bill does give some—

POINT OF ORDER

Mr. TURZAI. Mr. Speaker, point of order.

The SPEAKER. The gentleman will suspend.

The gentleman, Mr. Turzai, may state his point of order.

Mr. TURZAI. The underlying bill, sir, is HB 1950. I think it is inappropriate to reference it by a member's last name. In addition, the gentleman continues to be off message. This is dealing with the appeal of the Chair's ruling. He needs to state the reasons for the appeal of the Chair and let us vote on it.

Mr. VITALI. I apologize for using the gentleman's name.

The SPEAKER. The gentleman will suspend.

I need to respond to the gentleman, Mr. Turzai's point of order.

Number one, I would again remind members that referring to other members by name is not considered proper. We refer to them by their county or their hometown or some other euphemism of identification.

Secondly, I would restate that implicit in my ruling were the comments I made prior to making the ruling, which was that the reason the Chair has ruled the amendment out of order under the original purpose is that I believe the court would similarly be unmoved by a challenge asserting that challenging a bill which imposes a local impact fee on gas drillers into a bill that imposes a severance tax collected by the Commonwealth was not a change in the original purpose. That is the point of debate. That is the ruling of the Chair, and I would ask the gentleman to constrain his comments to the question before the House, which is your challenging the ruling of the Chair.

Mr. VITALI. Thank you, Mr. Speaker.

Because HB 1950 gives money to local uses, I think it is relevant to point out that amendment 6033 also gives money to local uses. So you have in both bills – because we are talking about the similarity or difference in subject – revenues from the extraction of natural gas going to local uses. You have in both bills moneys from the extraction of natural gas going to the Environmental Stewardship Fund. Mr. Speaker, what we are doing here, Mr. Speaker, is both bills, I would argue, involve the same subject matter, which is revenues from the extraction of oil and gas. Now, we all understand politically we are playing these semantical gymnastics because of the Governor's pledge not to raise taxes. We all know we are playing these semantical games because of the Americans for Tax Reform pledge, so we have to keep convoluting what we are doing and have to call black white and white black, Mr. Speaker.

We are dealing with the same subject matter. We are dealing with raising revenues from the extraction of natural gas to fund the Environmental Stewardship Fund, to fund local purposes, to fund local things. Mr. Speaker, what this is all about is the majority's unwillingness to expose themselves to a vote, which 70 percent of Pennsylvanians want to see done. That is what this is all about. It will be about this—

The SPEAKER. The gentleman will suspend.

Mr. TURZAI. Point of order, Mr. Speaker.

The SPEAKER. I would ask the gentleman to confine his remarks to the ruling of the Chair and would suggest that impugning motives is generally considered improper debate.

Mr. VITALI. Thank you, Mr. Speaker.
I would ask the members to disagree with the ruling of the Chair.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

The question before the House is the appeal of the ruling of the Chair.

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. Thank you.

To the members of the General Assembly, the Speaker's ruling is absolutely correct. We would ask that all the members please support the ruling of the Speaker of the House. Thank you.

The SPEAKER. On the question, the Speaker recognizes the gentleman from Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the gentleman from Delaware County in his request that the ruling of the Chair be overturned. The Chair has ruled that this bill does not stick with the original purpose of HB 1950. Obviously, the original purpose of HB 1950 was to regulate the oil and gas industry, and the purpose of the gentleman from Delaware's amendment is to regulate the oil and gas industry. The only difference is the choice of words, the difference between a "fee" and a "tax." Well, let me tell you, a fee and a tax are the same thing. So in reality, there is no change to this. This simply is an effort by procedural maneuver to avoid a vote on this amendment. We urge that members vote to overturn the ruling of the Chair.

Thank you, Mr. Speaker.

The SPEAKER. Shall the decision of the Chair stand as the judgment of the House?

Those in favor of sustaining the Chair's decision will vote "aye"; those opposed, "no."

On the question recurring,

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

The following roll call was recorded:

YEAS—111

Adolph	Fleck	Maher	Reese
Aument	Gabler	Major	Reichley
Baker	Geist	Maloney	Roae
Barrar	Gillen	Marshall	Rock
Bear	Gillespie	Marsico	Ross
Benninghoff	Gingrich	Masser	Saccone
Bloom	Godshall	Metcalfe	Saylor
Boback	Grell	Metzgar	Scavello
Boyd	Grove	Miccarelli	Schroder
Brooks	Hackett	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	O'Brien, D.	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolamo	Kauffman	Petri	Turzai

Dunbar	Keller, F.	Pickett	Vereb
Ellis	Keller, M.K.	Pyle	Vulakovich
Emrick	Killion	Quigley	Watson
Evankovich	Knowles	Quinn	
Evans, J.	Krieger	Rapp	Smith, S.,
Everett	Lawrence	Reed	Speaker
Farry			

NAYS—86

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

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

Less than a majority of the members elected to the House having voted in the negative, the decision of the Chair stood as the judgment of the House.

On the question recurring,

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

The SPEAKER. The Chair would also advise the members that under rule 27, House rule 27 relative to the original purpose, the gentleman from Delaware County, Mr. Vitali's amendment A06066 is also ruled out of order.

For the same stated reasoning, the amendment by the gentleman, Mr. George from Clearfield County, amendment A06009, is ruled out of order.

RULING OF CHAIR APPEALED

The SPEAKER. The gentleman, Mr. Vitali, is seeking recognition for what purpose?

Mr. VITALI. I appeal the ruling of the Chair with regard to the ruling of amendment 6066 as out of order.

The SPEAKER. The Chair has ruled that amendment A06066 is out of order pursuant to House rule 27 as it pertains to what the language in the rule states, that "No bill shall be amended so as to change its original purpose."

On the question,
Shall the decision of the Chair stand as the judgment of the House?

APPEAL WITHDRAWN

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

Mr. VITALI. Mr. Speaker, could we pause for a second? I believe this is a ghost amendment to another amendment and probably the argument ought to be not on the ghost amendment, but on the amendment in chief. It may make a little more sense.

The SPEAKER. We will check that as well.

Mr. VITALI. I believe that 6045 is the main amendment with regard to that subject matter.

The SPEAKER. The gentleman, Mr. Vitali, is correct that amendment A06066 is filed as a ghost amendment, so we will suspend the ruling of the Chair for the time being. The other amendment the gentleman mentioned we will be getting to in due order. It has not been brought up.

On the question recurring,

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

The SPEAKER. Additionally, the Speaker rules that under House rule 27, the George amendment, A06010, is out of order; amendment A06011 is out of order; amendment A06012 is out of order; the Santarsiero amendment, A06107, is out of order under rule 27; the DiGirolamo amendment, A06047, out of order under rule 27; the DiGirolamo—

RULING OF CHAIR APPEALED

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

Mr. SANTARSIERO. Mr. Speaker, thank you.

I rise to appeal the ruling of the Chair.

The SPEAKER. The gentleman from Bucks County, Mr. Santarsiero, is challenging the ruling of the Chair on amendment A06107. The ruling of the Chair is that under House rule 27, the pertinent part being that "No bill shall be amended so as to change its original purpose," that the amendment is out of order. That is the question before the House.

On the question,

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

The SPEAKER. The gentleman from Bucks County, Mr. Santarsiero, is recognized on the appeal of the ruling of the Chair.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

I will not belabor the point. Many of the arguments that my colleague from Delaware County made on the previous motion are applicable to this one as well. This bill is essentially, the amendment, rather, is essentially the same bill that we passed in the House in September of 2010, which passed with 104 votes in a bipartisan way. Clearly, it is the same purpose as the underlying bill, HB 1950, and I respectfully ask that colleagues

on both sides of the aisle vote to overturn the ruling of the Chair. Thank you.

The SPEAKER. The question before the House is appeal of the ruling of the Chair.

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. We believe that the ruling of the Speaker of the House is correct, and we would ask that all members please vote in support of the Speaker's ruling. Thank you.

The SPEAKER. On the question, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman's amendment certainly complies with the original-purpose rule. The amendment deals with oil and gas, as does the bill, and it is time we stop using these procedural ploys to avoid substantive issues that need to be discussed and that will make this bill better. Thank you, Mr. Speaker.

The SPEAKER. Shall the decision of the Chair stand as the judgment of the House?

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

Mr. VITALI. I simply rise to support the Santarsiero appeal. This is clearly, the 1950 clearly is about raising revenues from the extraction of natural gas. Santarsiero is clearly about the raising of revenues from the extraction of natural gas. Let us not kid each other: This is simply the same subject. We are simply doing this, and those who participate in this, their constituents need to be aware of this. This is about, this appeal is about avoiding the tough vote that Pennsylvanians—

The SPEAKER. The gentleman will suspend.

Mr. VITALI. —want us to take.

The SPEAKER. I would caution the member to stay on the subject of the ruling of the Chair.

Mr. VITALI. Thank you, Mr. Speaker.

I support the Santarsiero appeal.

The SPEAKER. The Speaker thanks the gentleman.

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

Those in favor of sustaining the Chair's decision will vote "aye"; those opposed, "no."

On the question recurring,

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

The following roll call was recorded:

YEAS—111

Adolph	Fleck	Maher	Reese
Aument	Gabler	Major	Reichley
Baker	Geist	Maloney	Roae
Barrar	Gillen	Marshall	Rock
Bear	Gillespie	Marsico	Ross
Benninghoff	Gingrich	Masser	Saccone
Bloom	Godshall	Metcalfe	Saylor
Boback	Grell	Metzgar	Scavello
Boyd	Grove	Miccarelli	Schroder
Brooks	Hackett	Micozzie	Simmons
Brown, R.	Hahn	Millard	Sonney
Causer	Harhart	Miller	Stephens
Christiana	Harper	Milne	Stern
Clymer	Harris	Moul	Stevenson

Cox	Heffley	Murt	Swanger
Creighton	Helm	O'Brien, D.	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolamo	Kauffman	Petri	Turzai
Dunbar	Keller, F.	Pickett	Verbe
Ellis	Keller, M.K.	Pyle	Vulakovich
Emrick	Killion	Quigley	Watson
Evanovich	Knowles	Quinn	
Evans, J.	Krieger	Rapp	Smith, S.,
Everett	Lawrence	Reed	Speaker
Farry			

NAYS—86

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

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

Less than a majority of the members elected to the House having voted in the negative, the decision of the Chair stood as the judgment of the House.

On the question recurring,

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

POINTS OF ORDER

The SPEAKER. For what purpose does the gentleman from Bucks County, Mr. DiGirolamo, rise?

Mr. DiGIROLAMO. Point of order, Mr. Speaker.

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

Mr. DiGIROLAMO. Mr. Speaker, I have heard a couple of my amendments were ruled out of order. Mr. Speaker, can you tell me what amendments they were and whether they were the amendments that dealt with a severance tax?

The SPEAKER. I believe I had only gotten to one of them before another member was recognized, but for the information of the gentleman, the DiGirolamo amendment A06047 is being

ruled out of order under House rule 27, amendment A06050 is being ruled out of order under House rule 27, and amendment A06325 is being ruled out of order under House rule 27.

Mr. DiGIROLAMO. Okay. Thank you, Mr. Speaker.

Further point of order.

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

Mr. DiGIROLAMO. Mr. Speaker, if there is a ruling on amendment 06344, I would like to be recognized, possibly under unanimous consent, if you make the ruling.

The SPEAKER. The Speaker has not gotten to that amendment; however, he will be sure to recognize the gentleman at which time we address that amendment.

Mr. DiGIROLAMO. Thank you, Mr. Speaker.

The SPEAKER. For the information of the members, the following amendments are each being ruled out of order under House rule 27, pursuant to the same original purpose. The George amendment, 06009, is declared out of order under rule 27; amendment A06010 is ruled out of order under rule 27; A06011 is ruled out of order under House rule 27; and amendment A06012 is ruled out of order under House rule 27.

POINT OF ORDER

The SPEAKER. For what purpose does the gentleman from Clearfield, Mr. George, rise?

Mr. GEORGE. I do not know whether, Mr. Speaker, I want to challenge the ruling, but I would ask the gentleman if he could explain to me why those amendments are out of order.

The SPEAKER. House rule 27 provides in pertinent part that "No bill shall be amended so as to change its original purpose." Similar language is found in Article III, section 1, of the Pennsylvania Constitution. The purpose of the rule and the constitutional provision is to prevent a legislative bait and switch. In the most recent opinion of the Pennsylvania Supreme Court on the issue, the court in 2008 held in *Marcavage v. Rendell* that the General Assembly violated the original purpose clause when a bill designed to criminalize crop destruction became instead an expansion of the offense of ethnic intimidation. The court was unmoved by the argument that both the original and final versions of the bill involved crime.

I believe the court would similarly be unmoved by a challenge asserting that changing a bill which imposes a local impact fee on gas drillers into a bill that imposes a severance tax collected by the Commonwealth was not a change in the original purpose, and on that basis, the Chair has ruled those amendments out of order under rule 27.

Mr. GEORGE. Mr. Speaker, if I may, not that we are neighbors but because you are the Speaker and I believe you like a uniform adherence to our discussion, could you ask the members maybe to yield a moment or two? I would like to explain to you what my argument— Thank you, sir.

The SPEAKER. The House will please come to order. The members will please take their seats and take the conversations to the rear of the House, if necessary. Will the members kindly hold the conversations down. It is difficult for the members to hear.

The Speaker thanks the members.

The gentleman may proceed.

Mr. GEORGE. I thank you, Mr. Speaker, in that my argument, should I prevail, would help every individual in here and the people he or she serves.

Now, your explanation is that it violates the rules of the Constitution in changing the uniformity of an amendment into a bill. The purpose of the bill that we are working on, if I may, Mr. Speaker, is to govern and lay credentials and rules in place in regard to the drilling of Marcellus Shale, where they are not only being—

The SPEAKER. Will the gentleman just suspend for a minute.

Is the gentleman appealing the ruling of the Chair?

Mr. GEORGE. Mr. Speaker, I am not here to take a lot of time up. Evidently you have received from your Parliamentarian, who is much smarter than I will ever be, but that does not mean that he is not biased on a matter because of whom he is supporting, and what I am saying is, I do not want to— Mr. Speaker, you know me. I am not after a lot of publicity. I was getting publicity when some of these guys were in diapers, for goodness' sake.

The SPEAKER. The gentleman will suspend.

The members will please hold the conversations down. May we have order.

Mr. GEORGE. What I am saying is, what I am saying is that this change is to agree, the betterment of the purpose that we have taken up this bill in regard to even the taxation, in regard to the drilling, and in regard to the safety and the environment. I do not do anything in this— Oh, yes; we can say it would help with some of these moneys to go in to what every one of us has been saying all the years that we are here, that we want to lower the taxing rate on schools and on homes and on real estate, but that is not what I am saying. I am trying to do something environmentally that will help in case there is a problem, in case there is a bust-out, in case there is a fire. That is all I am trying to do.

The SPEAKER. The gentleman will suspend.

Mr. GEORGE. Mr. Speaker?

The SPEAKER. Just to put us in perspective of where we are in this discussion—

Mr. GEORGE. Mr. Speaker, I thank—

The SPEAKER. —the Speaker has ruled the amendment is out of order. The gentleman may appeal the ruling of the Chair.

Mr. GEORGE. I thank you for your kindness and your flexibility. I am not going to challenge the ruling of the Chair. You made that ruling, you and your Parliamentarian. I will have to accept it. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

For the information of the members, Article III, section 3, of the Constitution provides that "No bill shall be passed containing more than one subject..." unquote. This language is also found in House rule 20. In the case of *Pennsylvanians Against Gambling Expansion Fund v. Commonwealth*, the Supreme Court upheld most of the provisions of the bill but struck down the provisions pertaining to the distribution of moneys for purposes unrelated to the gambling industry such as volunteer fire companies. They did so on the basis that these distributions violated Pennsylvania Constitution Article III, section 3.

The DiGirolamo amendments A06340, A06020, and A06344, as well as the Hanna amendments A06057 and A06060, distribute impact fees for the purposes completely unrelated to the industry, such as drug and alcohol programs and mass transit.

Accordingly, amendment A06340 is ruled out of order under rule 20, amendment A06344 is ruled out of order under House rule 20, amendment A06057 is ruled out of order under rule 20, amendment A06020 is ruled out of order under rule 20, and amendment A06060 is out of order under rule 20.

PARLIAMENTARY INQUIRIES

The SPEAKER. For what purpose does the gentleman from Northampton County, Mr. Samuelson, rise?

Mr. SAMUELSON. A parliamentary inquiry.

The SPEAKER. The gentleman may state his parliamentary inquiry.

Mr. SAMUELSON. As I understand the ruling of the Chair, several amendments are being ruled out of order because they contain more than one subject. My parliamentary inquiry concerns the bill in chief, which includes an impact fee and also preemption of local ordinances, which seem to be two distinct subjects. Is the bill in chief, sponsored by the gentleman from Butler County, out of order by the Speaker's ruling?

The SPEAKER. No.

Mr. SAMUELSON. A further parliamentary inquiry.

The SPEAKER. The gentleman may state his further inquiry.

Mr. SAMUELSON. How is it allowed that a bill in chief can have two subjects but an amendment to that very same bill cannot have two subjects?

The SPEAKER. You have stated a description of the bill as you see it. The bill deals with the oil and gas industry.

Mr. SAMUELSON. Is the preemption of local ordinances directly related to the gas industry, directly related to the impact fee?

The SPEAKER. I am not sure that that is a parliamentary inquiry. I have not ruled on that.

Mr. SAMUELSON. Okay. Thank you, Mr. Speaker.

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. For what purpose does the gentleman from Bucks County, Mr. Santarsiero, rise?

Mr. SANTARSIERO. Thank you, Mr. Speaker.

To make a motion.

The SPEAKER. The gentleman may make his motion.

Mr. SANTARSIERO. Mr. Speaker, I move that HB 1950 is unconstitutional and is violating the single-subject rule.

The SPEAKER. The gentleman, Mr. Santarsiero, raises the point of order that HB 1950, PN 2689, is unconstitutional.

The Speaker, under rule 4, is required to submit questions affecting the constitutionality of a bill to the House for decision, which the Chair now does.

On the question,

Will the House sustain the constitutionality of the bill?

The SPEAKER. The Speaker recognizes the gentleman, Mr. Santarsiero, on that question.

Mr. SANTARSIERO. Mr. Speaker, if I may, is it possible to have your comments read back in response to the questions that the gentleman from Lehigh County posed before?

The SPEAKER. We do not have immediate capability to read back previous comments. It could be done, but it is not like we have them right here to be read back at a moment's notice.

The gentleman could ask a parliamentary question. You are currently recognized under debate on the motion of constitutionality.

Mr. SANTARSIERO. Mr. Speaker, the reason I ask is that—

The SPEAKER. Are you stating a point of order or a parliamentary inquiry or—

Mr. SANTARSIERO. Well, I am trying—

The SPEAKER. —are you just trying to clarify—

You are recognized to debate the constitutionality.

Mr. SANTARSIERO. Right; okay. Well, then perhaps it is in the context of the debate, Mr. Speaker. But I was asking for the clarification because a few moments ago, in response to the gentleman's inquiry, you acknowledged that the underlying bill, HB 1950, in fact dealt with two separate subjects. So it seems to me, although we are not in a court of law—

The SPEAKER. Will the gentleman suspend.

That is not debate on the constitutionality. The gentleman is seemingly seeking to engage the Speaker in debate, and that is not going to happen.

Mr. SANTARSIERO. Right. Thank you, Mr. Speaker. Not at all.

I am trying to make what I think is a relevant point to the underlying motion, which is that there has already been an acknowledgment, if not a ruling, by the Chair that in fact HB 1950 deals with two separate subjects, and that being the case, there can only be one conclusion, and that is that it in fact is unconstitutional because it violates the single-purpose rule.

So, Mr. Speaker, I would ask that our colleagues vote in favor of this motion, because as the Chair itself just acknowledged, this bill deals with two separate subject matters and therefore violates Pennsylvania's Constitution.

The SPEAKER. The question before the House is the question of constitutionality of HB 1950.

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

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, I was of the mind, as we were dealing with the challenges to the Chair on the various amendments that were ruled out of order for violating the single-subject sections of our rules and of our Constitution, in my opinion the Chair was wrong in that ruling, that those amendments were valid, that they were in keeping with the finest traditions of this House, and in how we have in the past determined whether or not they were appropriate to a bill on the issue of single subject. Unfortunately, the Chair has ruled otherwise. The Chair has ruled that they are not in order and do not follow the single-subject clauses of our Constitution or of our rules. If that is how we are going to play this game, if that is how we are going to destroy years of parliamentary tradition in this House, then this bill is not constitutional because it has more than one subject. It amends the Oil and Gas Act and it preempts local ordinances. By the very ruling of the Chair, this bill cannot stand constitutional muster.

Now, if we want to go back and reexamine the rulings of the Chair and get back to the kind of grounding of how we used to proceed and operate in this House, then we can talk about this bill—

The SPEAKER. The gentleman will suspend.

Mr. FREEMAN. —but until—

The SPEAKER. The gentleman will suspend.

Mr. FREEMAN. —that time it is not constitutional.

The SPEAKER. The gentleman will suspend.

The question before the House is the constitutionality of HB 1950, not previous rulings of the Chair.

Mr. FREEMAN. Thank you, Mr. Speaker.

I was merely alluding to support my argument on this bill.

If we are going to adhere to this new standard, then this bill cannot meet constitutional muster. That is a simple fact of parliamentary law procedure and how our Constitution has been interpreted in this matter.

I urge the members to vote against constitutionality of this bill.

The SPEAKER. On the question of constitutionality, the Speaker recognizes the gentleman from York County, Mr. Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I rise to support that this bill, HB 1950, is constitutional. It is constructed in such a way that I believe it meets the constitutional responsibilities of the General Assembly and will pass constitutional muster if it gets to the courts. I ask for support of the Speaker in this ruling. Thank you.

The SPEAKER. On the question of constitutionality, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman from Bucks is correct. This bill is not constitutional. I believe the Speaker has already stated that the purpose of this bill is to impose a fee. The environmental provisions that are included in this bill are not related or necessary for imposing a fee. The preemption provisions in this bill are not necessary or related to imposing a fee. Therefore, it deals with two subjects, which is prohibited by our Constitution.

This bill is unconstitutional and we should vote it that way. Thank you, Mr. Speaker.

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

On the question recurring,

Will the House sustain the constitutionality of the bill?

The following roll call was recorded:

YEAS—111

Adolph	Fleck	Maher	Reese
Aument	Gabler	Major	Reichley
Baker	Geist	Maloney	Roae
Barrar	Gillen	Marshall	Rock
Bear	Gillespie	Marsico	Ross
Benninghoff	Gingrich	Masser	Saccone
Bloom	Godshall	Metcalfe	Saylor
Boback	Grell	Metzgar	Scavello
Boyd	Grove	Miccarelli	Schroder
Brooks	Hackett	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	O'Brien, D.	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolamo	Kauffman	Petri	Turzai
Dunbar	Keller, F.	Pickett	Verbe
Ellis	Keller, M.K.	Pyle	Vulakovich
Emrick	Killion	Quigley	Watson
Evanovich	Knowles	Quinn	
Evans, J.	Krieger	Rapp	Smith, S.,
Everett	Lawrence	Reed	Speaker
Farry			

NAYS—86

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

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the bill was sustained.

On the question recurring,

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

PARLIAMENTARY INQUIRY

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

Mr. DiGIROLAMO. A point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman may state his inquiry.

Mr. DiGIROLAMO. Mr. Speaker, I believe I heard that my amendment A06344 was ruled out of order. May I have the reason and rationale why you said that?

The SPEAKER. In the case of *Pennsylvanians Against Gambling Expansion Fund v. Commonwealth*, the Supreme Court upheld most of the provisions of the bill but struck down the provisions pertaining to the distribution of moneys for purposes unrelated to the gambling industry, such as volunteer fire companies. They did so on the basis that these distributions violated the Pennsylvania Constitution, Article III, section 3, and Article III, section 3, of the Constitution is embodied within our rules that says that "No bill shall be passed containing more than one subject."

STATEMENT BY MR. DiGIROLAMO

Mr. DiGIROLAMO. Mr. Speaker, point of order.

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

Mr. DiGIROLAMO. May I be recognized under unanimous consent?

The SPEAKER. The gentleman is recognized under unanimous consent.

Mr. DiGIROLAMO. Thank you, Mr. Speaker.

Needless to say, I am really disappointed that we are not going to have the opportunity tonight to debate and talk about not only my amendment but some of the other amendments that were ruled out of order. Representative Tom Murt and I, and I might say that there are members on both sides of the aisle, Democrat and Republican, have been working on this issue for quite a long time, and I really believe that all of us genuinely were working to find out, when it comes to Marcellus Shale, what is best for the people of Pennsylvania. I really believe that.

Representative Tom Murt and I started out on putting together a bill many months ago, and we started out with the premise that we wanted to enact a fee or a severance tax that was fair and balanced and mirrored what many of the other States that have Marcellus Shale do. We thought it was imperative that that be broken down into three parts. The first part, that there should be a local share where the local communities would be able to decide what is best and how to spend the money for the impacts that they were experiencing from Marcellus Shale.

Second, we thought that there needed to be an environmental share to fund many of our environmental programs that are important to us all across Pennsylvania in our 67 counties.

And third, we also thought that it was extremely important to have a State share paid for by the Marcellus Shale that would benefit all 67 counties and all the people across Pennsylvania.

And again, Mr. Speaker, unfortunately we are not going to have the opportunity to debate that tonight. I have been around here long enough to know that the numbers and the votes just are not there. I respectfully disagree with the ruling of the Chair, but at this time, Mr. Speaker, I would just like to thank all the groups and organizations and the members on both sides of the aisle who have been working on this issue for a long time. And I have also been around long enough to know that this tonight is not the end, that we are going to have opportunities in the future to debate these issues further.

Thank you, Mr. Speaker, and I appreciate the opportunity to address the Assembly.

The SPEAKER. The Speaker thanks the gentleman.

STATEMENT BY MINORITY LEADER

Mr. HANNA. Mr. Speaker?

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

Mr. HANNA. For the same purpose as the gentleman from Bucks County, Mr. DiGirolamo, on unanimous consent on this particular amendment.

The SPEAKER. Is the gentleman, Mr. Hanna, seeking recognition under unanimous consent?

Mr. HANNA. For the same amendment.

The SPEAKER. The gentleman is recognized under unanimous consent.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, we want to applaud the gentleman for his efforts on this. We do believe that he truly was working with a number of our members as well as a number of his own to try to reach bipartisan consensus on what was best for Pennsylvania, what was best in this issue of Marcellus Shale, and we are very disappointed that we come here today to find that clever procedural maneuvers are being used to rule things out of order that should be debated in the best interest of Pennsylvanians.

So, Mr. Speaker, we believe that all of these amendments are in order, all of them are constitutional and should be debated, and we support the gentleman in his effort to try and reach bipartisan consensus on an issue that is so very, very important to all Pennsylvanians.

Thank you, Mr. Speaker.

The SPEAKER. Is the gentleman, Mr. Turzai, seeking recognition? For what purpose?

Mr. TURZAI. I withdraw at this point, Mr. Speaker. Thank you.

RULING OF CHAIR APPEALED

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

Mr. VITALI. To appeal the ruling of the Chair with regard to amendment 6344.

The SPEAKER. The gentleman from Delaware County, Mr. Vitali, has appealed the ruling of the Chair by which the Chair ruled that amendment A06344 – is that the correct amendment?—

Mr. VITALI. Yes.

The SPEAKER. —that 6344 is out of order pursuant to House rule 20.

On the question,

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

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

Mr. VITALI. Thank you, Mr. Speaker.

This, I believe and hope, is the amendment that the gentleman from Bucks County just outlined. This would be his amendment, not my amendment, and it is my understanding that his amendment differs from other amendments that have been ruled out of order because his amendment, unlike the

amendment I introduced and others, it does in fact impose a fee. This imposes a fee as opposed to a tax, as does HB 1950 imposes a fee.

So I think the argument that these are different subject matters does not withstand close scrutiny here. I think the subject matter – the Oil and Gas Act, imposing a fee, making distributions to local governments – makes this the same subject. There is nothing in our rules or the Constitution requiring two pieces of legislation, a bill and amendment, be identical, just the same subject. The subject is imposing a fee on the extraction of natural oil and gas and using that for various Commonwealth purposes; both use it in part for local governments.

Now, this bill is a good effort and a product of compromise with bipartisan support. I think that we ought to be allowed and the Commonwealth of Pennsylvania's Representatives ought to be allowed to debate this, debate this issue; debate the issue, discuss it, and come to some conclusion, "yea" or "nay," on it. So I believe that this is in order, and I would ask that the ruling of the Chair be overturned and debate be allowed on the gentleman from Bucks County's very fine piece of legislation.

The SPEAKER. Shall the decision of the Chair stand as the judgment of the House?

Is the lady, Ms. Josephs, from Philadelphia seeking recognition on the question?

Ms. JOSEPHS. Yes, please, Mr. Speaker.

The SPEAKER. The lady is recognized on the question of the appeal of the Chair.

Ms. JOSEPHS. I will be very brief. I believe that the Chair's ruling should be overturned. And in one sentence I will say: When people adhere to the rules, you call that a democracy; when the rules are bent so that they only serve an end purpose, you call that a petty tyranny.

Thank you, Mr. Speaker.

The SPEAKER. On the question of the appeal of the ruling of the Chair, the Speaker recognizes the gentleman from Lancaster County, Mr. Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

I would like to provide some further clarification on both the ruling of the Chair and the reason why I support the ruling of the Chair. Mr. Speaker, it is not just about the disparate topics that are found in the bill. Mr. Speaker, as drafted this bill clearly lays out a gas impact fee. It then executes some corresponding appropriations, and to the gentleman from Bucks County's question about the preemption of the local ordinances, that is a condition of imposing that impact fee. Therein lies the nexus; therein lies the connection that we are looking for.

Mr. Speaker, in the *Pennsylvanians Against Gambling Expansion Fund* or the *PAGE* case, as we are referring to it here on the floor, the court explained very clearly that in order to comply with the single-subject requirements of Article III, section 3, an earmark, an allocation, an appropriation – whatever we want to call it – of special funds with no relation to the overarching subject of the bill would be permissible. It would, however, violate the single-subject rule if the bill is authorized and the actual monetary disbursements of such unrelated funds occurs.

Mr. Speaker, it is not about the merit of each of these amendments that we are considering. The programs listed in all of them are quite noble and required. Mr. Speaker, it is about

the constitutional problem when we create those funds as well as disburse the moneys. That is the problem and the area that we cannot change. Mr. Speaker, put another way, we can make deposits into a checking account – in this case it could be the community services integration fund; it could be the emergency addiction fund – but we cannot change the underlying purpose of the bill and reappropriate those same funds in the same bill. That would require additional enabling legislation under a different and clearly distinct bill set and legislative process here in this chamber.

Mr. Speaker, therefore, I would support the ruling of the Chair. We have to take note of that very tiny distinction. We cannot both reappropriate and then reauthorize that money, and therein lies the constitutional problem with many of these amendments that we are considering before us. Thank you.

The SPEAKER. The question before the House is the appeal of the ruling of the Chair.

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

Mr. BARBIN. Thank you, Mr. Speaker.

And with all due respect to the good gentleman from Lancaster County, I would merely say horse hockey. There is no question that a tax and a severance fee are the same subject. It is ridiculous to think they are not. The United States Supreme Court has said they are. In 1987 I had the honor of going to the Supreme Court as the Commonwealth's tax attorney, and in that case we argued that the axle tax was really a fee. Now, the United States Supreme Court said, that is all very nice, that is well and good, but since the axle tax operates as a general revenue raiser, that is a tax. Just like the impact fee here is a general revenue raiser, that is a tax. Now, even Grover says it is a tax. So the bottom line really is, are we going to discuss this or are we going to just paper over it?

I make one other discussion point, that we frequently add a tax at a local level on top of a State tax, and if you do not believe me, look at Philadelphia, look at Allegheny County. We have got a local tax on top of the State sales tax. So to stand here and say that the severance tax is somehow different than an impact fee is ridiculous, because we could have one piece of legislation that had both of them in it and it would still be the same subject.

And my last point is, if you can put preemption, which is zoning regulation, in a bill with a tax bill, that is two subjects. It is not any less than two subjects. They are both on the same area. So that is constitutional.

We are playing a game here, and the problem is by playing the game, we do not get to discuss what is going to protect the water for Pennsylvania citizens, and that is wrong. So I will be voting against the decision of the Chair.

The SPEAKER. Shall the decision of the Chair stand as the judgment of the House?

Those in favor of sustaining the Chair's decision will vote "aye"; those opposed, "nay."

On the question recurring,

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

The following roll call was recorded:

YEAS—111

Adolph	Fleck	Maher	Reese
Aument	Gabler	Major	Reichley
Baker	Geist	Maloney	Roae
Barrar	Gillen	Marshall	Rock
Bear	Gillespie	Marsico	Ross
Benninghoff	Gingrich	Masser	Saccone
Bloom	Godshall	Metcalfe	Saylor
Boback	Grell	Metzgar	Scavello
Boyd	Grove	Miccarelli	Schroder
Brooks	Hackett	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	O'Brien, D.	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolamo	Kauffman	Petri	Turzai
Dunbar	Keller, F.	Pickett	Vereb
Ellis	Keller, M.K.	Pyle	Vulakovich
Emrick	Killion	Quigley	Watson
Evankovich	Knowles	Quinn	
Evans, J.	Krieger	Rapp	Smith, S.,
Everett	Lawrence	Reed	Speaker
Farry			

NAYS—86

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

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

Less than a majority of the members elected to the House having voted in the negative, the decision of the Chair stood as the judgment of the House.

The SPEAKER. The House will be at ease for a few minutes.

On the question recurring,

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

The SPEAKER. For the information of the members, the Sturla amendment, A06135, is out of order under rule 20 because the amendment adds another subject to the bill, property tax assessment, in Title 53. That is added to the bill. This violates Article III, section 3, which provides that "No bill shall be passed containing more than one subject...." Therefore, the ruling of the Chair is amendment A06135 is out of order under rule 20.

Does the gentleman from Lancaster County, Mr. Sturla, seek recognition? For what purpose?

Mr. STURLA. Mr. Speaker, I guess it is pretty obvious what is going to happen here today given the votes that we are going to vote on, what we want to vote on and not vote on, what we do not want to vote on. My sense is that this is directly related to—

The SPEAKER. Will the gentleman suspend.

Mr. STURLA. Point of personal privilege.

The SPEAKER. If the gentleman would like recognition, a point of personal privilege is generally something different than where I think we are. If the gentleman would like recognition under unanimous consent, that would be more appropriate and orderly.

STATEMENT BY MR. STURLA

The SPEAKER. The gentleman is recognized under unanimous consent.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, the amendment that I had attempted to offer clearly dealt with the Marcellus Shale industry and the way that we impose fees on that industry and the natural resource that lies under the ground here in the State of Pennsylvania.

Unlike almost every other State that also imposes a severance tax, Pennsylvania does not tax the value of the mineral wealth under the ground. In Texas, for example, where the severance tax rate is an effective 7.5 percent, they also impose a tax on the value of what is under the ground, and last year the value of what was under the ground for local governments generated \$2 billion in local tax revenue; \$2 billion in local tax revenue. This amendment would have allowed the State of Pennsylvania to allow its local governments to account for that value just like numerous other States do – Ohio, Texas—

The SPEAKER. Will the gentleman suspend.

For what purpose does the gentleman from Butler, Mr. Metcalfe, rise?

Mr. METCALFE. Mr. Speaker, I thought we have a host of amendments to consider today, and if everybody who is going to be ruled out of order wants to rise and ask for personal privilege to continue to talk about the amendment that was ruled out of order, I am going to be objecting.

The SPEAKER. The Speaker would ask the gentleman to— I believe I heard the gentleman say that he may consider objecting to the unanimous consent. The Speaker would ask the gentleman to be a little lenient at this moment. I think that members have been respectful, and I am trying to give the members a little leeway to at least state their point.

The gentleman is in order if he chooses to, but the Speaker would ask the member to be a little patient on the matter.

Mr. METCALFE. I guess I could rephrase in that I may reconsider it, but my may reconsidering might happen in about 30 seconds. Thank you, Mr. Speaker.

RULING OF CHAIR APPEALED

The SPEAKER. The gentleman, Mr. Sturla, may continue under unanimous consent.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, the attempt to reimpose this levy is not a new tax. It is simply a clarification of a court ruling that was made several years ago that said the act was not specific enough with regard to this issue. All this is is an attempt to clarify it, and because of that, because it was already in or believed to be in the Oil and Gas Act, I would ask that the ruling of the Chair be challenged to allow this to be considered appropriate.

The SPEAKER. Well, if I had known you were going to challenge the ruling of the Chair, I might not have been so lenient on the unanimous consent.

The gentleman from Lancaster County, Mr. Sturla, has appealed the ruling of the Chair. To restate the ruling of the Chair, the Sturla amendment, A06135, is out of order under rule 20 because the amendment adds another subject to the bill, that being property assessment, in Title 73, and that is added to the bill. The ruling of the Chair is, therefore, it violates Article III, section 3, providing that "No bill shall be passed containing more than one subject...." Article III, section 3, is embodied in the House rules under House rule 20.

On the question,

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

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

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, if I can again, this is fairly simple. In Fayette County there used to be local taxes imposed on the value of the gas that was under the ground. A court ruling said that because this statute that we are trying to change with this bill was not specific enough, that there needed to be language added to make it specific enough.

The SPEAKER. Will the gentleman suspend.

The question before the House is the ruling of the Chair that the amendment was out of order under rule 20, which mirrors the single-subject rule in the Constitution. His argument should be based on that point of debate and not the substance.

Mr. STURLA. And, Mr. Speaker, the point is that this very act that this bill itself amends deals specifically with this issue. It is not an additional issue; it is the crux of this issue. And I would ask for members to allow for this to be voted upon and not ruled out of order.

Thank you, Mr. Speaker.

The SPEAKER. On the question of the appeal to the ruling of the Chair, the Speaker recognizes the gentleman from Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the gentleman from Lancaster in his motion to appeal the ruling of the Chair.

Mr. Speaker, obviously the bill regulates oil and gas. Obviously the amendment regulates oil and gas. They are the same purpose.

And let us talk specifically about the bill, HB 1950, and its imposition of a local tax or fee. That is exactly what it is designed to do; that is the purpose of HB 1950. The gentleman's amendment actually reinstates a local tax or fee that existed for years prior to the court decision to ruling it unconstitutional. So in fact, this amendment, probably more than any, is absolutely constitutional and does not violate the original-purpose rule.

Mr. Speaker, we urge the members to sustain the gentleman's motion to appeal the ruling of the Chair.

Thank you, Mr. Speaker.

The SPEAKER. The question before the House is the appeal of the ruling of the Chair.

On that question, the Speaker recognizes the gentleman from York County, Mr. Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I rise to support the ruling of the Chair and ask for a positive vote.

The SPEAKER. Shall the decision of the Chair stand as the judgment of the House?

Those in favor of sustaining the Chair's decision will vote "aye"; those opposed, "no."

On the question recurring,

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

The following roll call was recorded:

YEAS—111

Adolph	Fleck	Maher	Reese
Aument	Gabler	Major	Reichley
Baker	Geist	Maloney	Roae
Barrar	Gillen	Marshall	Rock
Bear	Gillespie	Marsico	Ross
Benninghoff	Gingrich	Masser	Saccone
Bloom	Godshall	Metcalfe	Saylor
Boback	Grell	Metzgar	Scavello
Boyd	Grove	Miccarelli	Schroder
Brooks	Hackett	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	O'Brien, D.	Tallman
Culver	Hennessey	O'Neill	Taylor
Cutler	Hess	Oberlander	Tobash
Day	Hickernell	Payne	Toepel
Delozier	Hutchinson	Peifer	Toohil
Denlinger	Kampf	Perry	Truitt
DiGirolo	Kauffman	Petri	Turzai
Dunbar	Keller, F.	Pickett	Vereb
Ellis	Keller, M.K.	Pyle	Vulakovich
Emrick	Killion	Quigley	Watson
Evankovich	Knowles	Quinn	
Evans, J.	Krieger	Rapp	Smith, S.,
Everett	Lawrence	Reed	Speaker
Farry			

NAYS—86

Barbin	DeLuca	Keller, W.	Preston
Bishop	DePasquale	Kirkland	Ravenstahl
Boyle, B.	Dermody	Kortz	Readshaw
Boyle, K.	DeWeese	Kotik	Roebuck

Bradford	Donatucci	Kula	Sabatina
Brennan	Fabrizio	Longiatti	Sainato
Briggs	Frankel	Mahoney	Samuelson
Brown, V.	Freeman	Mann	Santarsiero
Brownlee	Galloway	Markosek	Santoni
Burns	George	Matzie	Shapiro
Buxton	Gerber	McGeehan	Smith, K.
Caltagirone	Gergely	Mirabito	Smith, M.
Carroll	Gibbons	Mullery	Sturla
Cohen	Goodman	Mundy	Thomas
Conklin	Haluska	Murphy	Vitali
Costa, D.	Hanna	Neuman	Wagner
Costa, P.	Harhai	O'Brien, M.	Waters
Curry	Harkins	Parker	Wheatley
Davidson	Hornaman	Pashinski	White
Davis	Johnson	Payton	Williams
Deasy	Josephs	Petrarca	Youngblood
DeLissio	Kavulich		

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

Less than a majority of the members elected to the House having voted in the negative, the decision of the Chair stood as the judgment of the House.

On the question recurring,

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

Ms. PICKETT offered the following amendment No. A06039:

Amend Bill, page 60, by inserting between lines 4 and 5 (e.1) Notice.—An operator must provide written notice to the landowner or water purveyor indicating that the presumption established under subsection (c) may be void if the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady, Ms. Pickett.

Ms. PICKETT. Thank you, Mr. Speaker.

I would ask for the concurrence of my colleagues on this amendment, please.

My concern is that when one of the gas companies approaches a landowner and asks to test their water, they may have already tested it themselves and may not realize that if they do not allow the company to test the water also, they could be giving up their rights under the opportunity to declare that there is a claim or an issue with their water later on. They do need to have the company test that water also.

I have struggled with a way to get that word to everyone, and I would like to include it in this bill. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—178

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

NAYS—19

Bradford	DeWeese	Kortz	Santarsiero
Briggs	DiGirolamo	Kotik	Shapiro
Curry	Frankel	Markosek	Wagner
Davis	Hanna	Metzgar	Wheatley
Dermody	Harper	Murt	

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

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

On the question recurring,

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

Mr. **BARRAR** offered the following amendment
No. **A06072**:

Amend Bill, page 3, line 23, by inserting after "Fund,"

The amount transferred to the Environmental Stewardship Fund under this paragraph shall not exceed \$75,000,000.

On the question,

Will the House agree to the amendment?

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

Mr. **BARRAR**. Thank you, Mr. Speaker.

This amendment would cap the Environmental Stewardship Fund at \$75 million. The percentage would stay the same, but when the fund reaches – the payout would reach \$75 million, it would be capped at that unless the legislature decided to raise that.

Thank you. I would ask for a positive vote.

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

On that question, the Speaker recognizes the lady from Montgomery County, Ms. Harper.

Ms. **HARPER**. Thank you, Mr. Speaker.

Last session we had the Legislative Budget and Finance Committee do a report on Growing Greener. During the time we were doing Growing Greener II, we spent \$625 million in about 6 years. Capping the money going to Growing Greener at \$75 million is not a wise thing to do. In every year that we had money available for acid mine drainage, watershed protection, farmland protection, parks and recreation, trails – in every one of the years when we had money available for those projects, we were oversubscribed. There might be as many as double the projects that need funding as we have.

The gentleman's amendment would not improve this bill, and I would urge my colleagues to vote "no" against restricting the funding that can go to Growing Greener and the Environmental Stewardship Fund, and through it, the Department of Agriculture, the Department of Environmental Protection, and the Department of Natural Resources. The study that the Legislative Budget and Finance Committee did showed that every single county in this Commonwealth was benefitted by the program, and I know the program must be close to the Speaker's own heart, since you were the original sponsor of the Growing Greener legislation.

This is a very popular program across the Commonwealth. When the referendum was put up for a vote, 79 percent of Pennsylvanians approved the spending – 79 percent. Mr. Speaker, there is not a politician in this room that can claim such popularity statewide as the Environmental Stewardship Fund and Growing Greener. It would be a terrible mistake to cap the program when it is so much needed in the Commonwealth. It is particularly appropriate that this bill provides funding for the Environmental Stewardship Fund, because what we are talking about is a heavy industry. It has many benefits, but we also need to mitigate its ill effects, and these programs do it.

I would ask my colleagues not to vote to choke the funding for Growing Greener and the Environmental Stewardship Fund.

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 Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the Barrar amendment, amendment A06072.

Without reiterating all of the arguments presented by the lady from Montgomery County, we agree with those arguments. We believe that this fund should not be limited, and we would ask for a "no" vote on this amendment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—19

Barrar	Dunbar	Krieger	Rapp
Benninghoff	Evankovich	Lawrence	Reese
Bloom	Gabler	Metcalf	Roae
Causar	Harris	Perry	Saccone
Cox	Hutchinson	Pyle	

NAYS—178

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

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

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

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

Mr. MAHER offered the following amendment No. A06118:

Amend Bill, page 10, by inserting between lines 27 and 28
(c) Public availability.—A report under this section shall be a public record under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

Currently production reports, in my understanding, are public records. This would amend the bill to ensure that reports of producers filed in accordance with the changed law would also be public records.

The SPEAKER. The Chair apologizes. Has the gentleman concluded? The Chair apologizes.

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

The following roll call was recorded:

YEAS—197

Adolph	Ellis	Knowles	Ravenstahl
Aument	Emrick	Kortz	Readshaw
Baker	Evankovich	Kotik	Reed
Barbin	Evans, J.	Krieger	Reese
Barrar	Everett	Kula	Reichley
Bear	Fabrizio	Lawrence	Roae
Benninghoff	Farry	Longietti	Rock
Bishop	Fleck	Maher	Roebuck
Bloom	Frankel	Mahoney	Ross
Boback	Freeman	Major	Sabatina
Boyd	Gabler	Maloney	Saccone
Boyle, B.	Galloway	Mann	Sainato
Boyle, K.	Geist	Markosek	Samuelson
Bradford	George	Marshall	Santarsiero
Brennan	Gerber	Marsico	Santoni
Briggs	Gergely	Masser	Saylor
Brooks	Gibbons	Matzie	Scavello
Brown, R.	Gillen	McGeehan	Schroder
Brown, V.	Gillespie	Metcalf	Shapiro
Brownlee	Gingrich	Metzgar	Simmons
Burns	Godshall	Miccarelli	Smith, K.
Buxton	Goodman	Micozzie	Smith, M.
Caltagirone	Grell	Millard	Sonney
Carroll	Grove	Miller	Stephens

Causer	Hackett	Milne	Stern
Christiana	Hahn	Mirabito	Stevenson
Clymer	Haluska	Moul	Sturla
Cohen	Hanna	Mullery	Swanger
Conklin	Harhai	Mundy	Tallman
Costa, D.	Harhart	Murphy	Taylor
Costa, P.	Harkins	Murt	Thomas
Cox	Harper	Neuman	Tobash
Creighton	Harris	O'Brien, D.	Toepel
Culver	Heffley	O'Brien, M.	Toohil
Curry	Helm	O'Neill	Truitt
Cutler	Hennessey	Oberlander	Turzai
Davidson	Hess	Parker	Vereb
Davis	Hickernell	Pashinski	Vitali
Day	Hornaman	Payne	Vulakovich
Deasy	Hutchinson	Payton	Wagner
DeLissio	Johnson	Peifer	Waters
Delozier	Josephs	Perry	Watson
DeLuca	Kampf	Petrarca	Wheatley
Denlinger	Kauffman	Petri	White
DePasquale	Kavulich	Pickett	Williams
Dermody	Keller, F.	Preston	Youngblood
DeWeese	Keller, M.K.	Pyle	
DiGirolammo	Keller, W.	Quigley	Smith, S.,
Donatucci	Killion	Quinn	Speaker
Dunbar	Kirkland	Rapp	

NAYS—0

NOT VOTING—0

EXCUSED—6

Cruz	Evans, D.	Myers	Staback
Daley	Mustio		

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

On the question recurring,

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

The SPEAKER. The House will be at ease for a moment.

The House will come to order.

LEAVE OF ABSENCE

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

CONSIDERATION OF HB 1950 CONTINUED

On the question recurring,

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

Mr. MILLER offered the following amendment No. **A06048**:

Amend Bill, page 8, line 10, by inserting after "county." The ordinance enacted by the county shall only be valid if the county has conducted property reassessment within the ten-year period prior to

the effective date of the ordinance or the county has entered into a contract prior to the effective date of the ordinance to conduct property reassessment within two years following the effective date of the ordinance.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from York County, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

Amendment A06048 provides that any county that wishes to impose an impact fee cannot do that if they have not done property reassessment within the past 10 years. There is an out; they can still do the reassessment as long as they issue a contract for the property reassessment to be done within a 2-year period.

I would appreciate the support of the members on this amendment. Thank you.

PARLIAMENTARY INQUIRY

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

For what purpose does the gentleman from Northampton County, Mr. Samuelson, rise? Do you seek recognition on this amendment?

Mr. SAMUELSON. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman may state his parliamentary inquiry.

Mr. SAMUELSON. If there is a bill about impact fees for natural gas drilling and there is an amendment about reassessment, does that change the subject of the bill in a way that is permitted by our rules? Does this put two subjects into one amendment or one bill?

The SPEAKER. A previous amendment was ruled out of order and the ruling of the Chair had been sustained by the members of the House because it brought up a subject of assessment and entered into the amendment an additional title, Title 53. The way this amendment is drafted, it would be the Speaker's interpretation that it is in order.

Mr. SAMUELSON. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—16

Bloom	Creighton	Miller	Saylor
Brown, R.	DeLuca	Moul	Sturla
Costa, D.	Gillespie	Perry	Tallman
Costa, P.	Grove	Reichley	Tobash

NAYS—179

Adolph	Evankovich	Kirkland	Quinn
Aument	Evans, J.	Knowles	Rapp
Baker	Everett	Kortz	Ravenstahl
Barbin	Fabrizio	Kotik	Readshaw
Barrar	Farry	Krieger	Reed
Bear	Fleck	Kula	Reese

Benninghoff	Frankel	Lawrence	Roae
Bishop	Freeman	Longiotti	Rock
Boback	Gabler	Maher	Roebuck
Boyd	Galloway	Mahoney	Ross
Boyle, B.	Geist	Major	Sabatina
Boyle, K.	George	Maloney	Saccone
Bradford	Gerber	Mann	Sainato
Brennan	Gergely	Markosek	Samuelson
Briggs	Gibbons	Marshall	Santarsiero
Brooks	Gillen	Marsico	Santoni
Brown, V.	Gingrich	Masser	Scavello
Brownlee	Godshall	Matzie	Schroder
Burns	Goodman	McGeehan	Shapiro
Buxton	Grell	Metcalfe	Simmons
Caltagirone	Hackett	Metzgar	Smith, K.
Carroll	Hahn	Miccarelli	Smith, M.
Causser	Haluska	Micozzie	Sonney
Christiana	Hanna	Millard	Stephens
Clymer	Harhai	Milne	Stern
Cohen	Harhart	Mirabito	Stevenson
Conklin	Harkins	Mullery	Swanger
Cox	Harper	Mundy	Taylor
Culver	Harris	Murphy	Toepel
Curry	Heffley	Murt	Toohil
Cutler	Helm	Neuman	Truitt
Davidson	Hennessey	O'Brien, M.	Turzai
Davis	Hess	O'Neill	Vereb
Day	Hickernell	Oberlander	Vitali
Deasy	Hornaman	Parker	Vulakovich
DeLissio	Hutchinson	Pashinski	Wagner
Delozier	Johnson	Payne	Waters
Denlinger	Josephs	Payton	Watson
DePasquale	Kampf	Peifer	Wheatley
Dermody	Kauffman	Petrarca	White
DeWeese	Kavulich	Petri	Williams
DiGirolamo	Keller, F.	Pickett	Youngblood
Donatucci	Keller, M.K.	Preston	
Dunbar	Keller, W.	Pyle	Smith, S., Speaker
Ellis	Killion	Quigley	
Emrick			

NOT VOTING—1

O'Brien, D.

EXCUSED—7

Cruz	Evans, D.	Myers	Thomas
Daley	Mustio	Staback	

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. **GEORGE** offered the following amendment
No. **A06141**:

Amend Bill, page 36, lines 27 through 30; page 37, lines 1 through 30; page 38, lines 1 through 28, by striking out "Expedited review of applications.—" in line 27, all of lines 28 through 30 on page 36, all of lines 1 through 30 on page 37 and all of lines 1 through 28 on page 38 and inserting

(Reserved).

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Clearfield County, Mr. George.

Mr. GEORGE. I apologize for the delay, Mr. Speaker.

This amendment removes the expedited review of the position. We are encountering new challenges with Marcellus almost every week. Why would we want to grease the skids for faster reviews when we really do not know the full environmental impacts? Money cannot buy love, and it should not be able to buy expediency when our Commonwealth is at stake.

So I would ask that everyone in this body who believes as we should believe that we should not ruin the environment when we can stop that action, I ask everyone to support this bill.

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

On that question, the Speaker recognizes the gentleman from Indiana County, Mr. Reed.

Mr. REED. Thank you, Mr. Speaker.

We would ask the members to support the gentleman from Clearfield County's amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—191

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

DePasquale	Kavulich	Petri	White
Dermody	Keller, F.	Pickett	Williams
DeWeese	Keller, M.K.	Preston	Youngblood
DiGirolamo	Keller, W.	Pyle	
Donatucci	Killion	Quigley	Smith, S.,
Dunbar	Kirkland	Quinn	Speaker
Ellis			

NAYS-5

Causar	Hutchinson	Metcalfe	Rapp
Creighton			

NOT VOTING-0

EXCUSED-7

Cruz	Evans, D.	Myers	Thomas
Daley	Mustio	Staback	

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

On the question recurring,

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

The SPEAKER. The House will be at ease for a moment.

The House will come to order.

LEAVE OF ABSENCE

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

CONSIDERATION OF HB 1950 CONTINUED

On the question recurring,

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

Mr. **BAKER** offered the following amendment No. **A06347**:

Amend Bill, page 1, line 12, by inserting after "Act" with modifications and additions

Amend Bill, page 1, lines 17 through 23; pages 2 through 127, lines 1 through 30, by striking out all of said lines on said pages and inserting

Section 1. Title 27 of the Pennsylvania Consolidated Statutes is amended by adding chapters to read:

CHAPTER 33
OIL AND GAS

Subchapter

A. (Reserved)

B. Oil and Gas Lease Fund

SUBCHAPTER A

(RESERVED)

SUBCHAPTER B

OIL AND GAS LEASE FUND

Sec.

3301. Definitions.

3302. Oil and Gas Lease Fund.

3303. Powers and duties of secretary.

3304. Appropriation of moneys.

3305. Interfund transfers.

§ 3301. 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:

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

"Fund." The Oil and Gas Lease Fund established by this subchapter.

"Secretary." The Secretary of Conservation and Natural Resources of the Commonwealth.

§ 3302. Oil and Gas Lease Fund.

(a) Establishment.—The Oil and Gas Lease Fund is established in the State Treasury.

(b) Deposits.—All rents and royalties from oil and gas leases of any land owned by the Commonwealth, except rents and royalties received from game and fish lands, shall be placed in the fund to be used exclusively:

(1) for conservation, recreation, dams or flood control;

(2) to match any Federal grants which may be made for any of the purposes enumerated in this subchapter; and

(3) for interfund transfers as provided in section 3305 (relating to interfund transfers).

§ 3303. Powers and duties of secretary.

The secretary shall have the following powers and duties:

(1) To determine, in the secretary's discretion, the need for and the location of any project authorized by this chapter.

(2) To acquire in the name of the Commonwealth by purchase, condemnation or otherwise such lands as may be needed.

§ 3304. Appropriation of moneys.

All the moneys from time to time paid into the fund are specifically appropriated on a continuing basis to the department to carry out the purposes of this subchapter.

§ 3305. Interfund transfers.

Transfers shall be made between funds in the State Treasury as follows:

(1) On July 1, 2013, and each July 1 thereafter, an amount equal to 25% of the total moneys received from the prior fiscal year shall be transferred from the fund to the Environmental Stewardship Fund for the purpose of plugging abandoned oil and gas wells and other uses authorized by law for the Environmental Stewardship Fund.

(2) (i) Beginning July 1, 2014, a total of \$40,000,000 shall be transferred from the fund to the Hazardous Sites Cleanup Fund for the purpose of remedial response or remedy at oil and gas well sites and other uses authorized by law for the Hazardous Sites Cleanup Fund.

(ii) On July 1, 2015, and each July 1 thereafter, the following shall apply:

(A) the sum of the amount transferred under subparagraph (i) during the prior fiscal year; and

(B) an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers from the prior fiscal year, multiplied by the amount in clause (A),

shall be transferred from the fund to the Hazardous Sites Cleanup Fund for the purpose specified in subparagraph (i).

(3) On July 1, 2013, and each July 1 thereafter, an amount equal to 5% of the total moneys received from the prior fiscal year, but not to exceed \$5,000,000, shall be transferred from the fund to the several counties, school districts and

townships entitled to receive payment from the Commonwealth in lieu of taxes under the act of May 17, 1929 (P.L.1798, No.591), referred to as the Forest Reserves Municipal Financial Relief Law. The moneys transferred under this paragraph shall be allocated to each county, school district and township based on the number of acres of land in the county, school district or township to which the payment under that act applies in proportion to the aggregate number of acres of all such lands of the counties, school districts and townships in this Commonwealth.

(4) On July 1, 2013, and each July 1 thereafter, a total of \$15,000,000 shall be transferred from the fund to the Conservation District Fund. These funds shall be distributed in a manner consistent with the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law, and the provisions of the State Conservation Commission's Conservation District Fund Allocation Program—Statement of Policy under 25 Pa. Code Ch. 83 Subch. B (relating to Conservation District Fund Allocation Program—Statement of Policy).

CHAPTER 35

WELLS

Subchapter

- A. Unconventional Gas Wells
- B. (Reserved)

SUBCHAPTER A

UNCONVENTIONAL GAS WELLS

Sec.

- 3501. Short title.
- 3502. Definitions.
- 3503. Unconventional gas well impact fee.
- 3504. (Reserved).
- 3505. (Reserved).
- 3506. Administration.
- 3506.1. Well information.
- 3506.2. Payment confirmation.
- 3506.3. County authority.
- 3506.4. Enforcement.
- 3506.5. Examinations.
- 3507. Deposit of fees.
- 3508. Allocation and distribution of fees.
- 3509. Calculation of payments.
- 3510. Recordkeeping and State reporting.
- 3511. Expiration.
- § 3501. Short title.

This subchapter shall be known and may be cited as the Unconventional Gas Well Impact Act.

§ 3502. Definitions.

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

"Association." A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons.

"Coal bed methane." Gas that can be produced from coal beds, coal seams, mined-out areas or gob wells.

"Corporation." A corporation, joint stock association, limited liability company, business trust or any other incorporated enterprise organized under the laws of the United States, this Commonwealth or any other state, territory or foreign country or dependency.

"Department." The Department of Environmental Protection of the Commonwealth.

"Highway mileage." The number of miles of public roads and streets most recently certified by the Department of Transportation as eligible for distribution of liquid fuels funds under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

"Municipality." A city, borough, incorporated town or township.

"Natural gas." A fossil fuel consisting of a mixture of

hydrocarbon gases, primarily methane, possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term includes gas from oil fields known as associated gas or casing head gas, natural gas fields known as nonassociated gas, coal beds, shale beds and other formations. The term does not include coal bed methane.

"Nonproducing well." A natural gas well that produces an average of less than 90,000 cubic feet of natural gas per day during a calendar year.

"Operator." A person or its subsidiary, affiliate or holding company that holds a permit or other authorization to engage in the business of severing natural gas for sale, profit or commercial use from an unconventional well in this Commonwealth. The term does not include a person who severs natural gas from a storage field.

"Person." A natural person or a corporation, fiduciary, association or other entity, including the Commonwealth and any of its political subdivisions, instrumentalities and authorities. When the term is used in a provision prescribing and imposing a penalty or imposing a fine or both, the term shall include a member of an association and an officer of a corporation.

"Rate." The rate under section 3503 (relating to unconventional gas well impact fee).

"Reporting period." The fiscal year in which a well impact fee is assessed.

"Unconventional gas well." A bore hole drilled or being drilled for the purpose of or to be used for producing oil or gas from a geologic shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where oil or gas generally cannot be produced at economic flow rates or in economic volumes except by wells stimulated by hydraulic fracture treatments, a horizontal well bore or by using multilateral well bores or other techniques to expose more of the formation of the well bore.

"Unconventional gas well impact fee." A fee that is adopted under section 3503 (relating to unconventional gas well impact fee) on each unconventional well producing natural gas within this Commonwealth.

§ 3503. Unconventional gas well impact fee.

(a) Imposition.—By enactment of an ordinance by the governing body of a county, except as set forth in subsection (b), a county may impose an unconventional gas well impact fee on each unconventional gas well that is located on a well pad and produces natural gas within the county.

(b) Exemptions.—The unconventional gas well impact fee shall not be imposed on:

(1) nonproducing wells; or

(2) unconventional gas wells in which all of the natural gas is used directly by a consumer at the site.

(c) Fee for existing unconventional gas wells.—The fee for an unconventional gas well producing natural gas which is in existence on the effective date of the ordinance under subsection (a) shall be as follows:

(1) For the first year of production following the effective date of the ordinance, not more than \$40,000.

(2) For the second year of production following the effective date of the ordinance, not more than \$30,000.

(3) For the third year of production following the effective date of the ordinance, not more than \$20,000.

(4) For the fourth year of production through the tenth year of production following the effective date of the ordinance, not more than \$10,000.

(d) Fee for new unconventional gas wells.—The fee for an unconventional gas well producing natural gas drilled after the effective date of the ordinance under subsection (a) shall be as follows:

(1) For the first year of production, not more than \$40,000.

(2) For the second year of production, not more than \$30,000.

(3) For the third year of production, not more than

\$20,000.

(4) For the fourth year of production through the tenth year of production, not more than \$10,000.

(e) Vertical unconventional gas well fee.—

(1) The fee for an unconventional vertical gas well shall be not more than 25% of the fee established in subsections (c) and (d).

(2) For purposes of this subsection, an unconventional vertical gas well shall be defined as an unconventional gas well that:

(i) Produces oil or gas from a geologic shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval.

(ii) Utilizes hydraulic fracture treatment through a single vertical well bore.

(f) Prohibition.—

(1) Under no circumstances may an operator make an unconventional gas well impact fee, or any other levy related to the removal or extraction of natural gas, an obligation, indebtedness or liability of a landowner, leaseholder or other person in possession of real property upon which such removal or extraction occurs.

(2) Any provision of an agreement between an operator and a landowner, leaseholder or other person in possession of real property upon which removal or extraction of natural gas occurs that violates paragraph (1) shall be null and void.

(3) This section shall be applicable to any agreement entered into on or before the effective date of this section.

(g) Retroactivity prohibited.—No fee shall be imposed to cover a period of natural gas production which occurred prior to the effective date of the ordinance.

§ 3504. (Reserved).

§ 3505. (Reserved).

§ 3506. Administration.

(a) Report.—By April 1 of the year after enactment of an ordinance imposing a fee under this chapter and each April 1 thereafter, each operator shall submit a report and payment of the fee with the county on a form prescribed by the department for the previous calendar year. The report shall include the following:

(1) The number of unconventional gas wells of an operator in each municipality within the county.

(2) The total number of cubic feet of natural gas severed by the operator for each unconventional gas well identified under paragraph (1) during the previous calendar year.

(3) The date that each unconventional gas well identified under paragraph (1) began or ceased the production of natural gas.

(b) Fee due date.—The fee imposed under this chapter shall be due by April 1 of the year after enactment of an ordinance imposing the fee and each April 1 thereafter. The fee shall become delinquent if not remitted to the county on the reporting date.

§ 3506.1. Well information.

(a) List.—Upon request, the department shall provide a county with a list of all unconventional gas wells that have received a well permit from the department issued under this chapter. The list shall be updated on a monthly basis. In lieu of providing the list to each county, the department may maintain a list on its publicly accessible Internet website if the list is updated on a monthly basis.

(b) Updates.—An operator shall notify the county within 30 days from the date the unconventional gas well began or ceased the production of natural gas.

§ 3506.2. Payment confirmation.

Prior to issuing a permit to drill an unconventional gas well in this Commonwealth, the department shall require the permit applicant to certify in its well permit application that the operator has paid all fees that may be owed under this chapter. The department may deny a well permit application if it finds that the operator falsified this certification.

§ 3506.3. County authority.

(a) Powers.—A county may make all inquiries and determinations necessary to calculate and collect a fee imposed under this chapter, including, if applicable, interest and penalties.

(b) Notice.—If a county determines that a fee imposed under this chapter has not been paid in full, it may issue a notice of the amount due and demand for payment and shall set forth the basis for the determination.

(c) Address.—Notice of failure to pay the correct fee shall be sent to the operator at its registered address via certified mail.

(d) Time period.—A county may challenge the amount of a fee paid under this chapter within three years after the date the report under this chapter is filed.

(e) Intent.—If no report is filed or an operator files a false or fraudulent return with the intent to evade a fee, an assessment of the amount owed may be made at any time.

§ 3506.4. Enforcement.

(a) Assessment.—A county may assess interest on any delinquent fee imposed under this chapter at the rate prescribed under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) Penalty.—In addition to the interest under subsection (a), if an operator fails to make timely payment of the fee, a penalty shall be added to the amount of the fee due. The amount of the penalty shall be 5% for each month, or fraction of a month, during which the failure continues, not to exceed 25% in the aggregate.

(c) Timely payment.—If a county determines that an operator has not made a timely payment of the fee, the county shall send a written notice of the amount of the deficiency to the operator within 30 days from the date of determining the deficiency. If the operator has not provided a complete and accurate statement of the volume of natural gas extracted for the payment period, the county may estimate the volume in its deficiency notice.

(d) Remedies.—The remedies provided under this chapter shall be in addition to any other remedies provided at law or in equity.

(e) Lien.—Fines, fees, interest and penalties shall be collectible in the manner provided by law for the collection of debts. If the operator liable to pay any amount neglects or refuses to pay the amount after demand, the amount, together with costs that may accrue, shall be a judgment in favor of the county upon the property of the operator, if the judgment has been entered and docketed of record by the prothonotary of the county where the property is situated.

§ 3506.5. Examinations.

(a) Access.—A county which has imposed a fee under this chapter, or its authorized agents or representatives, shall:

(1) Have access to the books, papers and records of any operator in order to verify the accuracy and completeness of a report filed or fee paid under this chapter.

(2) Require and compel the preservation and production of all books, papers and records for any period deemed proper not to exceed three years from the end of the calendar year to which the records relate.

(3) Examine any employee of an operator concerning the severing of natural gas subject to a fee or any matter relating to the enforcement of this chapter.

(b) Unauthorized disclosure.—

(1) Any information obtained by a county as a result of any report, examination, investigation or hearing under this chapter shall be confidential and shall be exempt from disclosure under the provisions of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, and shall not be disclosed except in accordance with judicial order or as otherwise provided by law.

(2) An individual unlawfully divulging the information described under this subsection commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 and costs of prosecution or to imprisonment for not more than one year, or both.

§ 3507. Deposit of fees.

(a) Establishment.—Each county imposing a fee under this chapter shall establish an interest-bearing account designed solely for fees.

(b) Deposit.—All fees collected by a county imposing a fee under this chapter shall be deposited into the account described under subsection (a).

§ 3508. Allocation and distribution of fees.

(a) Allocation of fees.—The fees deposited into the account established under section 3507 (relating to deposit of fees) shall be allocated as follows:

(1) Seventy-five percent of the fees shall be allocated to the county and its municipalities in the manner provided under subsection (b).

(2) Twenty-five percent of the fees shall be allocated to the Commonwealth and distributed in the manner provided under subsections (c) and (d).

(b) Distribution of fees to county and municipalities.—The fees allocated to the county and its municipalities under subsection (a)(1) shall be distributed as follows:

(1) Thirty-six percent of the fees shall be retained by the county where the producing unconventional gas wells are located.

(2) Thirty-seven percent of the fees shall be distributed to the municipalities where producing unconventional gas wells are located. The amount for each municipality shall be determined using a formula that divides the number of producing unconventional gas wells in the municipality by the number of producing unconventional gas wells in the county and multiplies the resulting percentage by the amount available for distribution under this subparagraph.

(3) Twenty-seven percent of the fees shall be distributed to all municipalities in the county where producing unconventional gas wells are located as follows:

(i) Fifty percent shall be distributed to all municipalities using a formula that divides the population of the municipality within the county by the total population of the county and multiplies the resulting percentage by the amount available for distribution to the county under this subparagraph.

(ii) Fifty percent shall be distributed to each municipality using a formula that divides the highway mileage of the municipality within the county by the total highway mileage of the county and multiplies the resulting percentage by the amount available for distribution to the county under this subparagraph.

(c) Distribution of fees to Commonwealth.—The fees allocated to the Commonwealth under subsection (a)(2) shall be remitted to the Commonwealth for deposit into a restricted account in the General Fund of the Commonwealth dedicated solely for fees. The funds are hereby appropriated and shall be distributed as follows and as set forth under subsection (e):

(1) Seventy percent to the Department of Transportation for road, bridge, rail and other transportation infrastructure improvements to address impacts from unconventional natural gas development.

(2) Ten and one-half percent to the department, not to exceed \$10,000,000 annually, for the regulation of unconventional gas wells and the plugging of abandoned and orphan gas wells within the Commonwealth.

(3) Seven and one-half percent to the Public Utility Commission, not to exceed \$2,000,000 annually, for the enhancement, inspection and enforcement of pipeline safety standards as required by law related to the safe transport of gas and hazardous liquids.

(4) Four and one-half percent to the Pennsylvania Emergency Management Agency, not to exceed \$2,000,000 annually, for emergency response planning, training and

coordination associated with unconventional natural gas production activity within the Commonwealth.

(5) Three and three-quarters percent to the Department of Health, not to exceed \$2,000,000 annually, for collecting and disseminating information, preparing and conducting health care provider outreach and education and investigating health-related complaints and other uses associated with unconventional natural gas production activity within this Commonwealth.

(6) Three and three-quarters percent to the Office of State Fire Commissioner, not to exceed \$2,000,000 annually, for the development, delivery and sustainment of training programs for first responders and acquisition of specialized equipment necessary for emergency response.

(d) Additional distribution of fees to Department of Transportation.—In addition to the distribution of fees to the Department of Transportation under subsection (c)(1), any funds remaining in the restricted account after distribution of fees under subsection (c)(2), (3), (4), (5) and (6) are hereby appropriated shall be distributed to the Department of Transportation.

(e) Continuing nature.—

(1) The distributions under subsections (c) and (d) shall be executive authorizations.

(2) The appropriations under subsections (c) and (d) shall be continuing appropriations. Those appropriations shall not lapse at the end of any fiscal year.

(f) Timing of distribution.—A county shall distribute the fees authorized under this chapter within 45 days after the date the fees are received.

(g) Use of funds by counties and municipalities.—A county or municipality receiving fees under this section shall make use of the fees received only for the following purposes associated with unconventional natural gas production within the county or municipality:

(1) Construction, reconstruction, maintenance and repair of roadways, bridges and public infrastructure.

(2) Water, storm water and sewer systems, including construction, reconstruction, maintenance and repair.

(3) Emergency preparedness and response, including police, fire, hazardous material response, 911, equipment acquisition, responder recruitment and other services.

(4) Preservation and reclamation of surface and subsurface waters and water supplies, including drinking water monitoring and testing.

(5) Records management, geographic information systems and information technology.

(6) Projects that increase the availability of affordable housing, either for sale or rental, to residents whose annual income is less than the area median income.

(7) Delivery of social services, including domestic relations, drug and alcohol treatment, job training and counseling.

(8) Assistance to the county conservation district for inspection, oversight and enforcement of unconventional natural gas development.

(9) County or municipal planning.

(10) Local tax reduction.

§ 3509. Calculation of payments.

(a) General rule.—The county treasurer of a county that imposes and collects the unconventional gas well impact fee shall certify the number of all unconventional gas wells located within each municipality of the county based upon the appropriate reports provided by the department.

(b) Payments to municipalities.—The county treasurer of a county that imposes and collects the unconventional gas well impact fee shall pay to municipalities the amounts required under this subchapter.

§ 3510. Recordkeeping and State reporting.

(a) General rule.—Commencing in calendar year 2013 and each year thereafter, before December 1, each county that imposes and

collects the unconventional gas well impact fee authorized by this subchapter shall prepare and deliver a report to the Secretary of the Senate and the Chief Clerk of the House of Representatives detailing the expenditure of the funds collected under this subchapter.

(b) Audit.—The Department of Community and Economic Development may audit a county's and municipality's expenditure of the funds.

(c) Availability of records.—A county and municipality that receives the funds shall make its financial records and other documents relating to its expenditure of the funds available to the department.

(d) Time.—Reports shall be prepared no later than June 30 of the year following the initial receipt of any fees distributed under this section and each June 30 thereafter.

(e) Location.—Reports shall be published on the county or municipality's publicly accessible Internet website. If a municipality does not maintain a publicly accessible Internet website, the municipality shall provide its report to the county, which shall publish the municipality's report on the county's publicly accessible Internet website.

§ 3511. Expiration.

(a) Notice.—The Secretary of the Commonwealth shall, upon the effective date of an act authorizing a severance tax on each unconventional well producing gas in this Commonwealth, submit for publication in the Pennsylvania Bulletin notice of that fact.

(b) Date.—This chapter shall expire on the date of the publication of the notice under subsection (a).

SUBCHAPTER B

(RESERVED)

Section 2. Title 58 is amended by adding parts to read:

PART I

PRELIMINARY PROVISIONS

(RESERVED)

PART II

(RESERVED)

PART III

UTILIZATION

Chapter

31. (Reserved)

32. Development

CHAPTER 31

(RESERVED)

CHAPTER 32

DEVELOPMENT

Subchapter

A. Preliminary Provisions

B. General Requirements

C. Underground Gas Storage

D. Eminent Domain

E. Enforcement and Remedies

F. Miscellaneous Provisions

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

3201. Scope of chapter.

3202. Declaration of purpose.

3203. Definitions.

§ 3201. Scope of chapter.

This chapter relates to oil and gas.

§ 3202. Declaration of purpose.

The purposes of this chapter are to:

(1) Permit optimal development of oil and gas resources of this Commonwealth consistent with protection of the health, safety, environment and property of Pennsylvania citizens.

(2) Protect the safety of personnel and facilities employed in coal mining or exploration, development, storage and production of natural gas or oil.

(3) Protect the safety and property rights of persons residing in areas where mining, exploration, development,

storage or production occurs.

(4) Protect the natural resources, environmental rights and values secured by the Constitution of Pennsylvania.
§ 3203. 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:

"Abandoned well." Any of the following:

(1) A well:

(i) that has not been used to produce, extract or inject any gas, petroleum or other liquid within the preceding 12 months;

(ii) for which equipment necessary for production, extraction or injection has been removed; or

(iii) considered dry and not equipped for production within 60 days after drilling, re-drilling or deepening.

(2) The term does not include wells granted inactive status.

"Alteration." An operation which changes the physical characteristics of a well bore, including stimulation or removing, repairing or changing the casing. For the purpose of this chapter only, the term does not include:

(1) Repairing or replacing of the casing if the activity does not affect the depth or diameter of the well bore, the use or purpose of the well does not change and the activity complies with regulations promulgated under this chapter, except that this exclusion does not apply:

(i) to production casings in coal areas when the production casings are also the coal protection casings; or

(ii) when the method of repairing or replacing the casing would affect the coal protection casing.

(2) Stimulation of a well.

"Board." The Oil and Gas Technical Advisory Board.

"Bridge." An obstruction placed in a well at any depth.

"Building." An occupied structure with walls and roof within which persons live or customarily work.

"Casing." A string or strings of pipe commonly placed in wells drilled for natural gas or petroleum.

"Cement" or "cement grout." Any of the following:

(1) Hydraulic cement properly mixed with water only.

(2) A mixture of materials adequate for bonding or sealing of well bores as approved by regulations promulgated under this chapter.

"Coal mine." Any of the following:

(1) Operations in a coal seam, including excavated portions, abandoned portions and places actually being worked.

(2) Underground workings and shafts, slopes, tunnels and other ways and openings, including those which are in the course of being sunk or driven, along with all roads and facilities connected with them below the surface.

"Coal operator." A person that operates or proposes to operate a coal mine as an owner or lessee.

"Completion of a well." The date after treatment, if any, that the well is properly equipped for production of oil or gas, or, if the well is dry, the date that the well is abandoned.

"Department." The Department of Environmental Protection of the Commonwealth.

"Drilling." The drilling or re-drilling of a well or the deepening of an existing well.

"Environmental law." Any of the following:

(1) A Federal statute pertaining to oil and gas operations, public health, safety, natural resources or the environment.

(2) A Federal regulation, rule, administrative order or agency interpretation or guidance pertaining to oil and gas operations, public health, safety, natural resources or the environment.

(3) A Federal judicial decision pertaining to oil and gas operations, public health, safety, natural resources or the environment.

(4) A Commonwealth statute pertaining to oil and gas operations, public health, safety, natural resources or the environment. The term includes any of the following:

(i) The act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

(ii) The act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

(iii) The act of July 7, 1961 (P.L.518, No.268), known as the Delaware River Basin Compact.

(iv) The act of July 25, 1961 (P.L.825, No.359), known as the Oil and Gas Conservation Law.

(v) The act of July 17, 1968 (P.L.368, No.181), referred to as the Susquehanna River Basin Compact Law.

(vi) The act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act.

(vii) The act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act.

(viii) The act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

(ix) The act of June 23, 1982 (P.L.597, No.170), known as the Wild Resource Conservation Act.

(x) The act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act.

(xi) The act of July 10, 1984 (P.L.688, No.147), known as the Radiation Protection Act.

(xii) The act of October 5, 1984 (P.L.734, No.159), known as the Worker and Community Right-to-Know Act.

(xiii) The act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act.

(xiv) The act of December 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining Conservation and Reclamation Act.

(xv) The act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

(xvi) The act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act.

(xvii) The act of December 7, 1990 (P.L.639, No.165), known as the Hazardous Material Emergency Planning and Response Act.

(xviii) The act of May 19, 1995 (P.L.4, No.2), known as the Land Recycling and Environmental Remediation Standards Act.

(xix) The act of July 4, 2008 (P.L.526, No.43), known as the Great Lakes-St. Lawrence River Basin Water Resources Compact.

(xx) The provisions of 27 Pa.C.S. Ch. 31 (relating to water resources planning)

(xxi) The provisions of 27 Pa.C.S. Ch. 41 (relating to environmental laboratory accreditation).

(xxii) The provisions of 27 Pa.C.S. Ch. 62 (relating to waste transportation safety).

(xxiii) The provisions of 30 Pa.C.S. (relating to fish).

(xxiv) The provisions of 34 Pa.C.S. (relating to game).

(5) A regulation, rule, administrative order or agency interpretation or guidance of a Commonwealth agency pertaining to oil and gas operations, public health, safety, natural resources or the environment.

(6) A decision of a court of this Commonwealth pertaining to oil and gas operations, public health, safety, natural

resources or the environment.

"Fresh groundwater." Water in that portion of the generally recognized hydrologic cycle which occupies the pore spaces and fractures of saturated subsurface materials.

"Gas." Any of the following:

(1) A fluid, combustible or noncombustible, which is produced in a natural state from the earth and maintains a gaseous or rarified state at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA.

(2) Any manufactured gas, byproduct gas or mixture of gases or natural gas liquids.

"Inactivate." To shut off the vertical movement of gas in a gas storage well by means of a temporary plug or other suitable device or by injecting bentonitic mud or other equally nonporous material into the well.

"Linear foot." A unit or measurement in a straight line on a horizontal plane.

"Oil." Hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred to as petroleum.

"Oil and gas operations." Any of the following:

(1) Exploration for oil and gas. This paragraph includes the conduct of seismic operations.

(2) Siting and locating of oil and gas wells.

(3) Drilling, stimulation and completion of oil and gas wells.

(4) Generation, processing, treatment, storage, transportation and disposal of fresh water, wastewater, wastes, chemicals and other materials directly associated with drilling, stimulation and completion of oil and gas wells.

(5) Production, gathering and collection of oil or gas.

(6) Compression, transportation, processing, measurement and storage of oil or gas.

(7) Reclamation activities.

(8) Construction and use of drilling rigs and pipelines. This paragraph includes equipment directly related to the activities set forth in this paragraph.

(9) Construction and use of access roads, well sites, drilling pads, impoundments, compression stations, processing stations, meter stations and storage tanks. This paragraph includes buildings, facilities or structures, which are directly related to the activities set forth in this paragraph. This paragraph does not include ancillary support, supply and service facilities, the location of which is not dependent on the location of specific wells or pipelines.

"Operating coal mine." Any of the following:

(1) An underground coal mine which is producing coal or has been in production of coal at any time during the 12 months immediately preceding the date its status is put in question, including contiguous worked-out or abandoned coal mines to which it is connected underground.

(2) An underground coal mine to be established or reestablished under paragraph (1).

"Operating well." A well that is not plugged and abandoned.

"Orphan well." A well abandoned prior to April 18, 1985, that has not been affected or operated by the present owner or operator and from which the present owner, operator or lessee has received no economic benefit other than as a landowner or recipient of a royalty interest from the well.

"Outside coal boundaries." When used in conjunction with the term "operating coal mine," the boundaries of the coal acreage assigned to the coal mine under an underground mine permit issued by the Department of Environmental Protection.

"Owner." A person who owns, manages, leases, controls or possesses a well or coal property. The term does not apply to orphan wells, except where the Department of Environmental Protection determines a prior owner or operator benefited from the well as provided in section 3220(a) (relating to plugging requirements).

"Person." An individual, association, partnership, corporation, political subdivision or agency of the Federal Government, State government or other legal entity.

"Petroleum." Hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred to as oil.

"Pillar." A solid block of coal surrounded by either active mine workings or a mined-out area.

"Plat." A map, drawing or print accurately drawn to scale showing the proposed or existing location of a well or wells.

"Reservoir protective area." The area surrounding a storage reservoir boundary, but within 2,000 linear feet of the storage reservoir boundary, unless an alternate area has been designated by the Department of Environmental Protection, which is deemed reasonably necessary to afford protection to the reservoir, under a conference held in accordance with section 3251 (relating to conferences).

"Retreat mining." Removal of coal pillars, ribs and stumps remaining after development mining has been completed in that section of a coal mine.

"Secretary." The Secretary of Environmental Protection of the Commonwealth.

"Storage operator." A person who operates or proposes to operate a storage reservoir as an owner or lessee.

"Storage reservoir." That portion of a subsurface geological stratum into which gas is or may be injected for storage purposes or to test suitability of the stratum for storage.

"Unconventional well." A bore hole drilled or being drilled for the purpose of or to be used for producing oil or gas from a geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where oil or gas generally cannot be produced at economic flow rates or in economic volumes except by one of the following:

(1) Vertical or horizontal well bores stimulated by hydraulic fracture treatments.

(2) Using multilateral well bores or other techniques to expose more of the formation of the well bore.

"Water management plan." A plan associated with drilling or completing a well in an unconventional formation that demonstrates that the withdrawal and use of water sources protects those sources as required by law and protects public health, safety and welfare.

"Water purveyor." Any of the following:

(1) The owner or operator of a public water system as defined in section 3 of the act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act.

(2) Any person subject to the act of June 24, 1939 (P.L.842, No.365), referred to as the Water Rights Law.

"Water source."

(1) Any of the following:

(i) Waters of this Commonwealth.

(ii) A source of water supply used by a water purveyor.

(iii) Mine pools and discharges.

(iv) Any other waters that are used for drilling or completing a well in an unconventional formation.

(2) The term does not include flowback or production waters or other fluids:

(i) which are used for drilling or completing a well in an unconventional formation; and

(ii) which do not discharge into waters of this Commonwealth.

"Well." A bore hole drilled or being drilled for the purpose of, or to be used for, producing, extracting or injecting gas, petroleum or another liquid related to oil or gas production or storage, including brine disposal, but excluding a bore hole drilled to produce potable water. The term does not include a bore hole drilled or being drilled for the purpose of, or to be used for:

(1) Systems of monitoring, producing or extracting gas from solid waste disposal facilities, if the bore hole is a well

subject to the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, which does not penetrate a workable coal seam.

(2) Degasifying coal seams, if the bore hole is:

(i) used to vent methane to the outside atmosphere from an operating coal mine; regulated as part of the mining permit under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act; and drilled by the operator of the operating coal mine for the purpose of increased safety; or

(ii) used to vent methane to the outside atmosphere under a federally funded or State-funded abandoned mine reclamation project.

"Well control emergency." An incident during drilling, operation, workover or completion that, as determined by the department, poses a threat to public health, welfare or safety, including a loss of circulation fluids, kick, casing failure, blowout, fire and explosion.

"Well control specialist." Any person trained to respond to a well control emergency with a current certification from a well control course accredited by the International Association of Drilling Contractors or other organization approved by the department.

"Well operator" or "operator." Any of the following:

(1) The person designated as operator or well operator on the permit application or well registration.

(2) If a permit or well registration was not issued, a person who locates, drills, operates, alters or plugs a well or reconditions a well with the purpose of production from the well.

(3) If a well is used in connection with underground storage of gas, a storage operator.

"Wetland." Areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and which normally support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

"Workable coal seams." A coal seam which:

(1) is actually being mined in the area in question under this chapter by underground methods; or

(2) in the judgment of the Department of Environmental Protection, can reasonably be expected to be mined by underground methods.

SUBCHAPTER B GENERAL REQUIREMENTS

Sec.

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§ 3211. Well permits.

(a) Permit required.—No person shall drill or alter a well, except for alterations which satisfy the requirements of subsection (j), without having first obtained a well permit under subsections (b), (c), (d) and

(e), or operate an abandoned or orphan well unless in compliance with subsection (l). A copy of the permit shall be kept at the well site during drilling or alteration of the well. No person shall be required to obtain a permit to redrill a nonproducing well if the redrilling:

(1) has been evaluated and approved as part of an order from the department authorizing cleaning out and plugging or replugging a nonproducing well under section 13(c) of the act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act; and

(2) is incidental to a plugging or replugging operation and the well is plugged within 15 days of redrilling.

(b) Plat.—

(1) The permit application shall be accompanied by a plat prepared by a competent engineer or a competent surveyor, on forms furnished by the department, showing the political subdivision and county in which the tract of land upon which the well to be drilled is located; a list of municipalities adjacent to the well site; the name of the surface landowner of record and lessor; the name of all surface landowners and water purveyors whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within 2,500 feet of the proposed well location; the name of the owner of record or operator of all known underlying workable coal seams; the acreage in the tract to be drilled; the proposed location of the well determined by survey, courses and distances of the location from two or more permanent identifiable points or landmarks on the tract boundary corners; the proposed angle and direction of the well if the well is to be deviated substantially from a vertical course; the number or other identification to be given the well; the workable coal seams underlying the tract of land upon which the well is to be drilled or altered and which shall be cased off under section 3217 (relating to protection of fresh groundwater and casing requirements); and any other information needed by the department to administer this chapter.

(2) The applicant shall forward by certified mail a copy of the plat to the surface landowner; the municipality in which the tract of land upon which the well to be drilled is located; the municipalities adjacent to the well; all surface landowners and water purveyors, whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within 2,500 feet of the proposed well location; the owner and lessee of any coal seams; and each coal operator required to be identified on the well permit application.

(b.1) Notification.—The applicant shall submit proof of notification with the well permit application. Notification of surface owners shall be performed by sending notice to those persons to whom the tax notices for the surface property are sent, as indicated in the assessment books in the county in which the property is located. Notification of surface landowners or water purveyors whose water supplies are within 1,000 feet of the proposed well location shall be on forms, and in a manner prescribed by the department, sufficient to identify the rights afforded those persons under section 3218 (relating to protection of water supplies) and to advise them of the advantages of taking their own predrilling or prealteration survey.

(b.2) Approval.—If the applicant submits to the department written approval of the proposed well location by the surface landowner and the coal operator, lessee or owner of any coal underlying the proposed well location and no objections are raised by the department within 15 days of filing, or if no approval has been submitted and no objections are made to the proposed well location within 15 days from receipt of notice by the department, the surface landowner or any coal operator, lessee or owner, the written approval shall be filed and become a permanent record of the well location, subject to inspection at any time by any interested person.

(c) Applicants.—If the applicant for a well permit is a corporation, partnership or person that is not a resident of this Commonwealth, the applicant shall designate the name and address of an agent for the operator who shall be the attorney-in-fact for the

operator and who shall be a resident of this Commonwealth upon whom notices, orders or other communications issued under this chapter may be served and upon whom process may be served. Each well operator required to designate an agent under this section shall, within five days after termination of the designation, notify the department of the termination and designate a new agent.

(d) Permit fee.—Each application for a well permit shall be accompanied by a permit fee, established by regulation of the department, which bears a reasonable relationship to the cost of administering this chapter.

(e) Issuance of permit.—The department shall issue a permit within 45 days of submission of a permit application unless the department denies the permit application for one or more of the reasons set forth in subsection (e.1), except that the department shall have the right to extend the period for 15 days for cause shown upon notification to the applicant of the reasons for the extension. The department may impose permit terms and conditions necessary to assure compliance with this chapter or other laws administered by the department.

(e.1) Denial of permit.—The department may deny a permit for any of the following reasons:

(1) The well site for which a permit is requested is in violation of any of this chapter or issuance of the permit would result in a violation of this chapter or other applicable law.

(2) The permit application is incomplete.

(3) Unresolved objections to the well location by coal mine owner or operator remain.

(4) The requirements of section 3225 (relating to bonding) have not been met.

(5) The department finds that the applicant, or any parent or subsidiary corporation of the applicant, is in continuing violation of this subchapter, any other statute administered by the department, any rule or regulation promulgated under this subchapter or a statute administered by the department or any plan approval, permit or order of the department, unless the violation is being corrected to the satisfaction of the department. The right of the department to deny a permit under this paragraph shall not take effect until the department has taken a final action on the violations and:

(i) the applicant has not appealed the final action in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act; or

(ii) if an appeal has been filed, no supersedeas has been issued.

(f) Drilling.—

(1) Upon issuance of a permit, the well operator may drill at the location shown on the plat after providing the department, the surface landowner and the local political subdivision in which the well is to be located 24 hours' notice of the date that drilling will commence.

(2) The unconventional well operator shall provide the department 24 hours' notice prior to cementing all casing strings, conducting pressure tests of the production casing, stimulation and abandoning or plugging an unconventional well.

(3) In noncoal areas where more than one well is to be drilled as part of the same development project, only the first well of the project need be located by survey. Remaining wells of the project shall be shown on the plat in a manner prescribed by regulation.

(4) Prior to drilling each additional project well, the well operator shall notify the department and provide reasonable notice of the date on which drilling will commence.

(5) Whenever, before or during the drilling of a well not within the boundaries of an operating coal mine, the well operator encounters conditions of a nature which renders drilling of the bore hole or a portion thereof impossible, or more hazardous than usual, the well operator, upon verbal notice to the department, may immediately plug all or part of the bore hole, if

drilling has occurred, and commence a new bore hole not more than 50 feet from the old bore hole if the location of the new bore hole does not violate section 3215 (relating to well location restrictions) and, in the case of a well subject to act of July 25, 1961 (P.L.825, No.359), known as the Oil and Gas Conservation Law, if the new location complies with existing laws, regulations and spacing orders and the new bore hole is at least 330 feet from the nearest lease boundary.

(6) Within ten days of commencement of the new bore hole, the well operator shall file with the department a written notice of intention to plug, a well record, a completion report, a plugging certificate for the original bore hole and an amended plat for the new bore hole.

(7) The well operator shall forward a copy of the amended plat to the surface landowner identified on the well permit application within ten days of commencement of the new well bore.

(g) Posting.—The well permit number and operator's name, address and telephone number shall be conspicuously posted at the drilling site prior to commencement of drilling.

(h) Labeling.—The well operator shall install the permit number issued by the department in a legible, visible and permanent manner on the well upon completion.

(i) Expiration.—Well permits issued for drilling wells under this chapter shall expire one year after issuance unless operations for drilling the well are commenced within the period and pursued with due diligence or unless the permit is renewed in accordance with regulations of the department. If drilling is commenced during the one-year period, the well permit shall remain in force until the well is plugged in accordance with section 3220 (relating to plugging requirements) or the permit is revoked. A drilling permit issued prior to April 18, 1985, for a well which is an operating well on April 18, 1985, shall remain in force as a well permit until the well is plugged in accordance with section 3220. Nothing in this subsection shall be construed to rescind the provisions pertaining to drilling permits contained in Chapter 34.

(j) Exceptions.—The Environmental Quality Board may establish by regulation certain categories of alterations of permitted or registered wells for which permitting requirements of this section shall not apply. A well operator or owner who proposes to conduct the alteration activity shall first obtain a permit or registration modification from the department. The Environmental Quality Board shall promulgate regulations as to the requirements for modifications.

(k) No transfer permitted.—No permit issued under this section or registration issued under section 3213 (relating to well registration and identification) may be transferred without prior approval of the department. A request for approval of a transfer shall be on the forms, and in the manner, prescribed by the department. The department shall approve or deny a transfer request within 45 days of receipt of a complete and accurate application. The department may deny a request only for reasons set forth in subsection (e.1)(4) and (5). Approval of a transfer request shall permanently transfer responsibility to plug the well under section 3220 to the recipient of the transferred permit or registration.

(l) Regulations.—The Environmental Quality Board may establish by regulation requirements for the permitting and operation of abandoned or orphan wells. A person who proposes to conduct abandoned or orphan well operations shall first obtain a permit to operate an abandoned or orphan well.

(m) Water management.—The following shall apply to water management:

(1) No person may withdraw or use water from water sources within this Commonwealth for the drilling or hydraulic fracture stimulation of any natural gas well completed in an unconventional gas formation, whether on or off of the land where the gas well is located, except in accordance with a water management plan approved by the department.

(2) The department shall review and approve water

management plans based upon a determination that the proposed withdrawal, when operated in accordance with the proposed withdrawal operating conditions set forth in the plan, including conditions relating to quantity, withdrawal rate and timing and any passby flow conditions, will:

(i) not adversely affect the quantity or quality of water available to other users of the same water sources;

(ii) protect and maintain the designated and existing uses of water sources; and

(iii) not cause adverse impact to water quality in the watershed considered as a whole.

(3) (i) The criteria under paragraph (2) shall be presumed to be achieved if the proposed water withdrawal has been approved by and is operated in accordance with conditions established by the Susquehanna River Basin Commission, the Delaware River Basin Commission or the Great Lakes Commission, as applicable.

(ii) Notwithstanding subparagraph (i), the department may establish additional requirements as necessary to comply with the laws of this Commonwealth.

(4) In addition to the requirements under paragraphs (1), (2) and (3), compliance with a department-approved water management plan shall be a condition of any permit issued under this chapter for the drilling or hydraulic fracture stimulation of any natural gas well completed in an unconventional formation and shall be deemed to satisfy the laws of this Commonwealth.

§ 3212. Permit objections.

(a) General rule.—If a well referred to in section 3211(b) (relating to well permits) will be located on a tract whose surface is owned by a person other than the well operator, the surface landowner affected shall be notified of the intent to drill and may file objections, in accordance with section 3251 (relating to conferences), based on the assertion that the well location violates section 3215 (relating to well location restrictions) or that information in the application is untrue in any material respect, within 15 days of the receipt by the surface owner of the plat under section 3211(b). Receipt of notice by the surface owner shall be presumed to have occurred 15 days from the date of the certified mailing when the well operator submits a copy of the certified mail receipt sent to the surface owner and an affidavit certifying that the address of the surface owner to which notice was sent is the same as the address listed in the assessment books in the county where the property is located. If no objection is filed or none is raised by the department within 15 days after receipt of the plat by the surface landowner, or, if written approval by the surface landowner is filed with the department and no objection is raised by the department within 15 days of filing, the department shall proceed to issue or deny the permit.

(b) Special circumstances.—If a well referred to in section 3211(b) will penetrate within the outside coal boundaries of an operating coal mine or a coal mine already projected and platted but not yet being operated, or within 1,000 linear feet beyond those boundaries, and, in the opinion of the coal owner or operator, the well or a pillar of coal about the well will unduly interfere with or endanger the mine, the coal owner or operator affected may file objections under section 3251 to the proposed location within 15 days of the receipt by the coal operator of the plat under section 3211(b). If possible, an alternative location at which the proposed well could be drilled to overcome the objections shall be indicated. If no objection to the proposed location is filed or if none is raised by the department within 15 days after receipt of the plat by the coal operator or owner, or, if written approval by the coal operator or owner of the location is filed with the department and no objection is raised by the department within 15 days of filing, the department shall proceed to issue or deny the permit.

(c) Procedure upon objection.—If an objection is filed by a coal operator or owner or made by the department, the department shall fix

a time and place for a conference under section 3251 not more than ten days from the date of service of the objection to allow the parties to consider the objection and attempt to agree on a location. If they fail to agree, the department, by an appropriate order, shall determine a location on the tract of land as near to the original location as possible where, in the judgment of the department, the well can be safely drilled without unduly interfering with or endangering the mine as defined in subsection (b). The new location agreed upon by the parties or determined by the department shall be indicated on the plat on file with the department and become a permanent record upon which the department shall proceed to issue or deny the permit.

(d) Survey.—Within 120 days after commencement of drilling operations, the coal operator shall accurately locate the well by a closed survey on the same datum as the mine workings or coal boundaries are mapped, file the results of the survey with the department and forward a copy by certified mail to the well operator.

§ 3212.1. Comments by municipalities.

(a) General rule.—The municipality where the tract of land upon which the unconventional well to be drilled is located may submit written comments to the department describing local conditions or circumstances which the municipality has determined should be considered by the department in rendering its determination on the unconventional well permit. A comment under this subsection must be submitted to the department within 15 days of the receipt of the plat under section 3211(b) (relating to well permits). The municipality shall simultaneously forward a copy of its comments to the permit applicant and all other parties entitled to a copy of the plat under section 3211(b), who may submit a written response. A written response must be submitted to the department within ten days of receipt of the comments of the municipality.

(b) Consideration by department.—Comments and responses under subsection (a) may be considered by the department in accordance with section 3215(d) (relating to well location restrictions).

(c) No extension of time period.—The process outlined in this section shall not extend the time period for the issuance or denial of a permit beyond the time period set forth in this chapter.

§ 3213. Well registration and identification.

(a) General rule.—On or before July 5, 1996, each person who owned or operated a well in existence prior to April 18, 1985, which has not been registered with the department and for which no drilling permit has been issued by the department, shall register the well with the department. A well owner or operator who registers under this subsection and a well owner or operator who has previously registered a well under this chapter shall, on or before July 5, 1996, identify any abandoned well on property which the well owner or operator owns or leases and request approval from the department for classification of the well as an orphan well. Information regarding wells to be registered or identified shall be provided on a form, or in a manner prescribed by the department, and shall include:

(1) The name and address of the well operator and, if the well operator is a corporation, partnership or person nonresident of this Commonwealth, the name and address of an agent for the operator upon whom notices, orders, process or other communications issued under this chapter may be served.

(2) The well name and the location of the well indicated by a point on a 7 1/2 minute United States Geological Survey topographic map or any other location description sufficient to enable the department to locate the well on the ground.

(3) The approximate date of drilling and completing the well, its approximate depth and producing horizons, well construction information and, if available, driller's logs.

(4) An indemnity bond, an alternative fee in lieu of bonding or other evidence of financial security submitted by the well operator and deemed appropriate by the department and satisfying the requirements of section 3225 (relating to bonding). No bond, alternative fee or other evidence of financial security shall be required for identification of an orphan well. For wells drilled prior to January 30, 1956, which have not been bonded,

the well operator shall have five years to comply with the provisions of this paragraph.

(5) A registration fee of \$15 per well or blanket registration fee of \$250 for multiple well registration applications submitted simultaneously. The registration fee shall be waived until July 5, 1996, and no fee shall be charged for identification of an orphan well.

(a.1) Orphan wells.—After July 5, 1996, a well owner, well operator or other person discovering an abandoned well on property purchased or leased by the well owner, well operator or other person shall identify it to the department within 60 days of discovery and advise the department that he is seeking classification of the well as an orphan well. No fee shall be required for identification.

(b) Extension.—The department may extend the one-year time period under subsection (a) for good cause shown. The extension may not exceed a period ending two years from April 18, 1985. The department may adopt and promulgate guidelines designed to ensure a fair implementation of this section, recognizing the practical difficulties of locating unpermitted wells and complying with the reporting requirements of this chapter.

(c) Installation of registration number.—The well operator shall install the registration number issued by the department in a legible, conspicuous and permanent manner on the well within 60 days of issuance.

(d) Definition.—For purposes of subsection (a)(4) and (5), the term "owner" does not include an owner or possessor of surface real property, on which an abandoned well is located, who did not participate or incur costs in, and had no right of control over, the drilling or extraction operation of the abandoned well.

§ 3214. Inactive status.

(a) General rule.—Upon application, the department shall grant inactive status for a period of five years for a permitted or registered well, if the following requirements are met:

(1) the condition of the well is sufficient to prevent damage to the producing zone or contamination of fresh water or other natural resources or surface leakage of any substance;

(2) the condition of the well is sufficient to stop the vertical flow of fluids or gas within the well bore and is adequate to protect freshwater aquifers, unless the department determines the well poses a threat to the health and safety of persons or property or to the environment;

(3) the operator anticipates construction of a pipeline or future use of the well for primary or enhanced recovery, gas storage, approved disposal or other appropriate uses related to oil and gas well production; and

(4) the applicant satisfies the bonding requirements of sections 3213 (relating to well registration and identification) and 3225 (relating to bonding), except that the department may require additional financial security for a well on which an alternative fee is being paid in lieu of bonding under section 3225(d).

(b) Monitoring.—The owner or operator of a well granted inactive status shall be responsible for monitoring the mechanical integrity of the well to ensure that the requirements of subsection (a)(1) and (2) are met and shall report the same on an annual basis to the department in the manner and form prescribed by departmental regulations.

(c) (Reserved).

(d) Return to active status.—A well granted inactive status under subsection (a) shall be plugged in accordance with section 3220 (relating to plugging requirements) or returned to active status within five years of the date inactive status was granted, unless the owner or operator applies for an extension of inactive status which may be granted on a year-to-year basis if the department determines that the owner or operator has demonstrated ability to continue meeting the requirements of this section and the owner or operator certifies that the well will be of future use within a reasonable period of time. An owner or operator who has been granted inactive status for a well which is

returned to active status prior to expiration of the five-year period set forth in subsection (a) shall notify the department that the well has been returned to active status and shall not be permitted to apply for another automatic five-year period of inactive status for the well. The owner or operator may make application to return the well to inactive status, and the application may be approved on a year-to-year basis if the department determines that the owner or operator has demonstrated an ability to continue meeting the requirements of this section and the owner or operator certifies that the well will be of future use within a reasonable period of time. The department shall approve or deny an application to extend a period of inactive status or to return a well to inactive status within 60 days of receipt of the application, and the application shall not be unreasonably denied. If the department has not completed its review of the application within 60 days, the inactive status shall continue until the department has made a determination on the request. If the department denies an application to extend the period of inactive status or to return a well to inactive status, a well owner or operator aggrieved by the denial shall have the right to appeal the denial to the Environmental Hearing Board within 30 days of receipt of the denial. Upon cause shown by a well owner or operator, the board may grant a supersedeas under section 4 of the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, so that the well in question may retain inactive status during the period of the appeal.

(e) Revocation of inactive status.—The department may revoke inactive status and order immediate plugging of a well if the well is in violation of this chapter or rules or regulations promulgated under this chapter or if the owner or operator demonstrates inability to perform obligations under this chapter or becomes financially insolvent, or upon receipt by the department of notice of bankruptcy proceedings by the permittee.

§ 3215. Well location restrictions.

(a) General rule.—Wells may not be drilled within 200 feet, or, in the case of an unconventional gas well, 500 feet measured horizontally from the vertical well bore to a building or water well, existing when the copy of the plat is mailed as required by section 3211(b) (relating to well permits) without written consent of the owner of the building or water well. Unconventional gas wells may not be drilled within 1,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without the written consent of the water purveyor. If consent is not obtained and the distance restriction would deprive the owner of the oil and gas rights of the right to produce or share in the oil or gas underlying the surface tract, the well operator shall be granted a variance from the distance restriction upon submission of a plan identifying the additional measures, facilities or practices as prescribed by the department to be employed during well site construction, drilling and operations. The variance, if granted, shall include additional terms and conditions required by the department to ensure safety and protection of affected persons and property, including insurance, bonding, indemnification and technical requirements.

(b) Limitation.—

(1) No well may be drilled within 100 feet, or, in the case of an unconventional well, 300 feet measured horizontally from any solid blue lined stream as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

(2) The edge of the disturbed area associated with any unconventional well must maintain a 100-foot setback from the edge of any solid blue lined stream as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

(3) No unconventional well may be drilled within 300 feet of any wetlands greater than one acre in size, and the edge of the disturbed area must maintain a 100-foot setback from the boundary of the wetlands.

(4) The department shall waive the distance restrictions upon

submission of a plan identifying additional measures, facilities or practices to be employed during well site construction, drilling and operations. The waiver shall impose permit conditions necessary to protect the waters of this Commonwealth.

(c) Impact.—On making a determination on a well permit, the department shall consider impact of the proposed well on public resources, including, but not limited to:

(1) Publicly owned parks, forests, game lands and wildlife areas.

(2) National or State scenic rivers.

(3) National natural landmarks.

(4) Habitats of rare and endangered flora and fauna and other critical communities.

(5) Historical and archaeological sites listed on the Federal or State list of historic places.

(d) Consideration of municipality comments.—The department may consider the comments submitted under section 3212.1 (relating to comments by municipalities) in making a determination on a well permit. Notwithstanding any other law, no municipality shall have a right of appeal or other form of review from the department's decision.

(e) Regulation criteria.—The Environmental Quality Board shall develop by regulation criteria:

(1) For the department to utilize for conditioning a well permit based on its impact to the public resources identified under subsection (c) and for ensuring optimal development of oil and gas resources and respecting property rights of oil and gas owners.

(2) For appeal to the Environmental Hearing Board of a permit containing conditions imposed by the department. The regulations shall also provide that the department has the burden of proving by clear and convincing evidence that the conditions were necessary to protect against a probable harmful impact of the public resources.

(3) For processes and procedures for the adjudication of compensation claims of affected owners, if any conditions or restrictions imposed by application of the criteria developed under paragraph (1) deprive the owner of the oil and gas rights, in part or in whole, of the right to produce or share in the oil or gas underlying the surface tract or tracts affected by imposition of any condition or conditions.

(f) Floodplains.—

(1) No well site may be prepared or well drilled within any floodplain if the well site will have:

(i) a pit or impoundment containing drilling cuttings, flowback water, produced water or hazardous materials, chemicals or wastes within the floodplain; or

(ii) a tank containing hazardous materials, chemicals, condensate, wastes, flowback or produced water within the floodway.

(2) A well site shall not be eligible for a floodplain restriction waiver if the well site will have a tank containing condensate, flowback or produced water within the flood fringe unless all the tanks have adequate floodproofing in accordance with the National Flood Insurance Program standards and accepted engineering practices.

(3) The department may waive restrictions upon submission of a plan that shall identify the additional measures, facilities or practices to be employed during well site construction, drilling and operations. The waiver, if granted, shall impose permit conditions necessary to protect the waters of this Commonwealth.

(4) Best practices to ensure the protection of the waters of this Commonwealth must be utilized for the storage and handling of all water, chemicals, fuels, hazardous materials or solid waste on a well site located in a floodplain. The department may request that the well site operator submit a plan for the storage and handling of materials for approval by the department and may impose conditions or amend permits to include permit

conditions as are necessary to protect the environment, public health and safety.

(5) Unless otherwise specified by the department, the boundary of the floodplain shall be as indicated on maps and flood insurance studies provided by the Federal Emergency Management Agency. In an area where no Federal Emergency Management Agency maps or studies have defined the boundary of the 100-year frequency floodplain, absent evidence to the contrary, the floodplain shall extend from:

(i) any perennial stream up to 100 feet horizontally from the top of the bank of the perennial stream; or

(ii) from any intermittent stream up to 50 feet horizontally from the top of the bank of the intermittent stream.

(g) Existing wells and pads.—Subsections (a) and (b) shall not apply to any of the following:

(1) A well for which a valid permit exists as of the effective date of this subsection.

(2) A well permit application submitted after the effective date of this subsection for a well that will be located on a wellpad upon which a well has been drilled under a valid permit that was approved before the effective date of this subsection.

§ 3215.1. General restrictions.

(a) Security fencing.—Security fencing shall be installed at natural gas compressed stations, dehydration and processing facilities and other central processing facilities to secure all permanent buildings, facilities, structures and equipment and to protect the public. Warning signs shall be placed on the security fencing providing notice of potential dangers and providing contact information in case of an emergency.

(b) Temporary operations.—The following shall apply to temporary operations, such as well drilling and completion operations:

(1) Except as provided under paragraph (2), temporary security fencing shall be installed at the oil or gas well site to secure all buildings, facilities, structures and equipment at the site and to protect the public. Warning signs shall be placed at the well site providing notice of potential dangers and providing contact information in case of an emergency.

(2) In lieu of security fencing under paragraph (1), a well owner or operator may establish 24-hour security staffing at the site and install a security gate at the entrance of the access road to prevent unauthorized access.

(c) Lighting.—Lighting at the well site and at other buildings, facilities and structures directly related to oil and gas operations, either temporary or permanent, shall be directed downward and inward toward the activity, to the extent practicable, so as to minimize the glare on public roads and nearby buildings within 100 feet of the well site, building, facility or structure.

(d) Noise regulations.—Well owners and operators shall comply with all applicable noise regulations promulgated by the Federal Energy Regulatory Commission, except that the noise level from permanent oil and gas operations may not exceed 60 dBA at the nearest property line of the tract of land upon which oil and gas operations are being conducted.

(e) Atmospheric discharge.—Well owners and operators shall comply with each applicable environmental law governing the discharge of gases, vapors and odors into the atmosphere. The discharge of gases, vapors and odors during oil and gas operations may not unreasonably interfere with the comfortable enjoyment of life or property.

(f) Applicability.—This section shall only apply to unconventional natural gas wells.

§ 3216. Well site restoration.

(a) General rule.—Each oil or gas well owner or operator shall restore the land surface within the area disturbed in siting, drilling, completing and producing the well.

(b) Plan.—During and after earthmoving or soil disturbing activities, including, but not limited to, activities related to siting, drilling, completing, producing and plugging the well, erosion and sedimentation control measures shall be implemented in accordance with an erosion and sedimentation control plan prepared in accordance with the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

(c) Pits, drilling supplies and equipment.—Within nine months after completion of drilling of a well, the owner or operator shall restore the well site, remove or fill all pits used to contain produced fluids or industrial wastes and remove all drilling supplies and equipment not needed for production. Drilling supplies and equipment not needed for production may be stored on the well site if express written consent of the surface landowner is obtained.

(d) Items related to production or storage.—Within nine months after plugging a well, the owner or operator shall remove all production or storage facilities, supplies and equipment and restore the well site.

(e) Clean Streams Law.—Restoration activities required by this chapter or in regulations promulgated under this chapter shall also comply with all applicable provisions of The Clean Streams Law.

(f) Violation of chapter.—Failure to restore the well site as required in this chapter or regulations promulgated under this chapter constitutes a violation of this chapter.

(g) Extension.—

(1) The restoration period may be extended by the department for an additional period of time not to exceed two years upon demonstration by the well owner or operator that:

(i) the extension will result in less earth disturbance, increased water reuse or more efficient development of the resources; or

(ii) site restoration cannot be achieved due to adverse weather conditions or a lack of essential fuel, equipment or labor.

(2) The demonstration under paragraph (1) shall do all of the following:

(i) Include a site restoration plan that shall provide for:

(A) the timely removal or fill of all pits used to contain produced fluids or industrial wastes;

(B) the removal of all drilling supplies and equipment not needed for production;

(C) the stabilization of the well site that shall include interim postconstruction storm water management best management practices; or

(D) other measures to be employed to minimize accelerated erosion and sedimentation in accordance with The Clean Streams Law.

(ii) Provide for returning the portions of the site not occupied by production facilities or equipment to approximate original contours and making them capable of supporting the uses that existed prior to drilling the well.

(3) The department may condition an extension under this subsection as is necessary in accordance with The Clean Streams Law.

§ 3217. Protection of fresh groundwater and casing requirements.

(a) General rule.—To aid in protection of fresh groundwater, well operators shall control and dispose of brines produced from the drilling, alteration or operation of an oil or gas well in a manner consistent with the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, or any rule or regulation promulgated under The Clean Streams Law.

(b) Casing.—To prevent migration of gas or fluids into sources of fresh groundwater and pollution or diminution of fresh groundwater, a string or strings of casing shall be run and permanently cemented in each well drilled through the fresh water-bearing strata to a depth and

in a manner prescribed by regulation by the department.

(c) Procedure when coal has been removed.—If a well is drilled at a location where coal has been removed from one or more coal seams, the well shall be drilled and cased to prevent migration of gas or fluids into the seam from which coal has been removed in a manner prescribed by regulation of the department. The department and the coal operator, owner or lessee shall be given at least 72 hours' notice prior to commencement of work protecting the mine.

(d) Procedure when coal has not been removed.—If a well is drilled at a location where the coal seam has not been removed, the well shall be drilled to a depth and of a size sufficient to permit placement of casing, packers in and vents on the hole at the points and in the manner prescribed by regulation to exclude gas or fluids from the coal seam, except gas or fluids found naturally in the seam itself, and to enable monitoring the integrity of the production casing.

§ 3218. Protection of water supplies.

(a) General rule.—A well operator who affects a public or private water supply by pollution or diminution shall restore or replace the affected supply with an alternate source of water adequate in quantity or quality for the purposes served by the supply.

(b) Pollution or diminution of water supply.—A landowner or water purveyor suffering pollution or diminution of a water supply as a result of the drilling, alteration or operation of an oil or gas well may so notify the department and request that an investigation be conducted. Within ten days of notification, the department shall investigate the claim and make a determination within 45 days following notification. If the department finds that the pollution or diminution was caused by drilling, alteration or operation activities or if it presumes the well operator responsible for pollution under subsection (c), the department shall issue orders to the well operator necessary to assure compliance with subsection (a), including orders requiring temporary replacement of a water supply where it is determined that pollution or diminution may be of limited duration.

(c) Presumption.—Unless rebutted by a defense established in subsection (d), it shall be presumed that a well operator is responsible for pollution of a water supply if:

(1) except as set forth in paragraph (2):

(i) the water supply is within 1,000 feet of an oil or gas well; and

(ii) the pollution occurred within six months after completion of drilling or alteration of the oil or gas well; or

(2) in the case of an unconventional well:

(i) the water supply is within 2,500 feet of the unconventional well; and

(ii) the pollution occurred within 12 months of the later of completion, drilling or alteration of the unconventional well.

(d) Defenses.—To rebut the presumption established under subsection (c), a well operator must affirmatively prove any of the following:

(1) The pollution existed prior to the drilling or alteration activity as determined by a predrilling or prealteration survey.

(2) The landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.

(3) The water supply is not within 1,000 feet of the well.

(4) The pollution occurred more than six months after completion of drilling or alteration activities.

(5) The pollution occurred as the result of a cause other than the drilling or alteration activity.

(e) Independent certified laboratory.—An operator electing to preserve a defense under subsection (d)(1) or (2) shall retain an independent certified laboratory to conduct a predrilling or prealteration survey of the water supply. A copy of survey results shall be submitted to the department and the landowner or water purveyor in the manner prescribed by the department.

(f) Other remedies preserved.—Nothing in this section shall prevent a landowner or water purveyor claiming pollution or diminution of a water supply from seeking any other remedy at law or in equity.

§ 3219. Use of safety devices.

Any person engaged in drilling an oil or gas well shall equip it with casings of sufficient strength, and other safety devices as are necessary, in the manner prescribed by regulation of the department, and shall use every effort and endeavor effectively to prevent blowouts, explosions and fires.

§ 3219.1. Well control emergency response.

(a) Contracts.—The department may enter into contracts with well control specialists in order to provide adequate emergency response services in the event of a well control emergency.

(b) Civil immunity.—Except as set forth in subsection (c), a well control specialist with which the department has entered into a contract under subsection (a) shall be immune from civil liability for actions taken in good faith to carry out its contractual obligations.

(c) Nonapplicability.—Subsection (b) shall not apply to damage arising from any of the following:

(1) Breach of the contract under subsection (a).

(2) An intentional tort.

(3) Gross negligence.

§ 3220. Plugging requirements.

(a) General rule.—Upon abandoning a well, the owner or operator shall plug it in the manner prescribed by regulation of the department to stop vertical flow of fluids or gas within the well bore, unless the department has granted inactive status for the well or it has been approved by the department as an orphan well. If the department determines that a prior owner or operator received economic benefit, other than economic benefit derived only as a landowner or from a royalty interest, after April 18, 1979, from an orphan well or an unregistered well, the owner or operator shall be responsible for plugging the well. In the case of a gas well penetrating a workable coal seam which was drilled prior to January 30, 1956, or which was permitted after that date but not plugged in accordance with this chapter, if the owner or operator or a coal operator or an agent proposes to plug the well to allow mining through it, the gas well shall be cleaned to a depth of at least 200 feet below the coal seam through which mining is proposed and, unless impracticable, to a point 200 feet below the deepest mineable coal seam. The gas well shall be plugged from that depth in accordance with section 13 of the act of December 18, 1984 (P.L.1069, No.214), known as the Coal and Gas Resource Coordination Act, and the regulations of the department.

(b) Areas underlain by coal.—Prior to the plugging and abandonment of a well in an area underlain by a workable coal seam, the well operator or owner shall notify the department and the coal operator, lessee or owner and submit a plat, on a form to be furnished by the department, showing the location of the well and fixing the date and time plugging will commence, which shall be not less than three working days, nor more than 30 days, after the notice is received, to permit representatives of the persons notified to be present at the plugging. Notice and the right to be present may be waived by the department and the coal operator, lessee or owner, but waiver by the coal operator, lessee or owner shall be in writing and a copy shall be attached to the notice of abandonment filed with the department under this section. Whether or not representatives attend, if the well operator has fully complied with this section, the well operator may proceed, at the time fixed, to plug the well in the manner prescribed by regulation of the department. When plugging has been completed, a certificate shall be prepared and signed, on a form to be furnished by the department, by two experienced and qualified people who participated in the work setting forth the time and manner in which the well was plugged. One copy of the certificate shall be mailed to each coal operator, lessee or owner to whom notice was given by certified mail and another shall be mailed to the department.

(c) Abandoned wells.—Prior to abandonment of a well, except an uncompleted bore hole plugged immediately upon suspension of

drilling in an area not underlain by a workable coal seam, the well operator shall notify the department of the intention to plug and abandon the well and submit a plat, on a form to be furnished by the department, showing the location of the well and fixing the date and time at which plugging will commence, which shall be not less than three working days, nor more than 30 days, after the notice is received, to permit a department representative to be present at the plugging. The notice or waiting period may be verbally waived by the department. In noncoal areas where more than one well has been drilled as part of the same development project and the wells are now to be plugged, the department shall be given three working days' notice prior to plugging the first well of the project, subject to waiver of notice described in subsection (b). In the plugging of subsequent wells, no additional notice shall be required if plugging on the project is continuous. If plugging of subsequent wells is delayed for any reason, notice shall be given to the department of continuation of the project. Whether or not a representative attends, if the well operator has fully complied with this section, the well operator may proceed, at the time fixed, to plug the well in the manner prescribed by regulation of the department. When plugging has been completed, a certificate shall be prepared, on a form to be furnished by the department, by two experienced and qualified people who participated in the work setting forth the time and manner in which the well was plugged. A copy of the certificate shall be mailed to the department.

(d) Wells abandoned upon completion of drilling.—If a well is to be abandoned immediately after completion of drilling, the well operator shall give at least 24 hours' notice by telephone, confirmed by certified mail, to the department and to the coal operator, lessee or owner, if any, fixing the date and time when plugging will commence. Notice and the right to be present may be waived by the department and the coal operator, lessee or owner, if any. Whether or not representatives of the department or coal operator, lessee or owner, if any, attend, if the well operator has fully complied with the requirements of this section, the well operator may proceed, at the time fixed, to plug the well in the manner provided by regulation of the department. The well operator shall prepare the certificate of plugging and mail copies of the same as provided in subsection (b).

(e) Orphan wells.—If a well is an orphan well or abandoned without plugging, or if a well is in operation but not registered under section 3213 (relating to well registration and identification), the department may enter upon the well site and plug the well and to sell equipment, casing and pipe at the site which may have been used in production of the well in order to recover the costs of plugging. The department shall make an effort to determine ownership of a well which is in operation but has not been registered and provide written notice to the owner of pending action under this subsection. If the department cannot determine ownership within 30 days, it may proceed under this subsection. Costs of plugging shall have priority over all liens on equipment, casing and pipe, and the sale shall be free and clear of those liens to the extent that the cost of plugging exceeds the sale price. If the amount obtained for casing and pipe salvaged at the site is inadequate to pay for plugging, the owner or operator of the abandoned or unregistered well shall be liable for the additional costs.

(f) Definition.—For purposes of this section, the term "owner" does not include the owner or possessor of surface real property, on which an abandoned well is located, who did not participate or incur costs in and had no right of control over the drilling or extraction operation of the abandoned well.

§ 3221. Alternative methods.

A well operator may request permission to use a method or material other than those required by this chapter for casing, plugging or equipping a well in an application to the department which describes the proposed alternative in reasonable detail and indicates the manner in which it will accomplish the goals of this chapter. Notice of filing of the application shall be given by the well operator by certified mail to any affected coal operators, who may, within 15 days after the notice, file objections to the proposed alternative method or material. If no timely objections are filed or raised by the department, the department

shall determine whether to allow use of the proposed alternative method or material.

§ 3222. Well reporting requirements.

(a) General rule.—Except as provided in subsection (a.1), each well operator shall file with the department, on a form provided by the department, an annual report specifying the amount of production, on the most well-specific basis available, along with the status of each well, except that in subsequent years only changes in status must be reported. The Commonwealth may utilize reported information in enforcement proceedings, in making designations or determinations under section 1927-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, or in aggregate form for statistical purposes.

(a.1) Marcellus Shale formation wells.—Each operator of an unconventional well shall file with the department, on a form provided by the department, a semiannual report specifying the amount of production on the most well-specific basis available. The initial report under this subsection shall be filed on or before August 15, 2010, and shall include production data from the preceding calendar year and specify the status of each well. In subsequent reports, only changes in status must be reported. Subsequent semiannual reports shall be filed with the department on or before February 15 and August 15 of each year and shall include production data from the preceding reporting period. The Commonwealth may utilize reported information in enforcement proceedings, in making designations or determinations under section 1927-A of The Administrative Code of 1929 or in aggregate form for statistical purposes. Beginning November 1, 2010, the department shall make the reports available on its publicly accessible Internet website. Costs incurred by the department to comply with the requirements of this subsection shall be paid out of the fees collected under section 3211(d) (relating to well permits).

(b) Collection of data.—

(1) Well operators shall maintain a record of each well drilled or altered.

(2) A record containing the information required by the department shall be filed within 30 days of cessation of drilling of each well.

(3) A completion report containing any additional required information shall be filed within 30 days after completing the well and shall be kept on file by the department.

(4) (i) The completion report shall include a stimulation record. At a minimum, the stimulation record shall contain pump rates, pressures, total volume used to stimulate the well, a list of hazardous and other chemicals used to stimulate the well, volume of water used, identification of water sources used under a department-approved water management plan and depth at which potable aquifers are encountered during drilling. The well operator may designate specific portions of the stimulation record as containing a trade secret or confidential proprietary information. The department shall prevent disclosure of designated confidential information to the extent permitted under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(ii) The completion report shall identify:

(A) whether methane was encountered in other than a target formation; and

(B) the country of origin and manufacture of the steel products used in the construction of the well.

(iii) The completion report shall be kept on file by the department and posted on the department's publicly accessible Internet website.

(5) Upon request of the department, the well operator shall, within 90 days of completion or recompletion of drilling, submit a copy of any electrical, radioactive or other standard industry logs which have been run. No information under this

paragraph shall be required unless the well operator has compiled the information in the ordinary course of business.

(6) Upon request by the department within one year, the well operator shall file a copy of drill stem test charts, formation water analysis, porosity, permeability or fluid saturation measurements, core analysis and lithologic log or sample description or other similar data as compiled. No information under this paragraph shall be required unless the well operator had it compiled in the ordinary course of business, and interpretation of data under this paragraph is not required to be filed.

(c) Drill cuttings and core samples.—Upon notification by the department prior to commencement of drilling, the well operator shall collect any additional data specified by the department, including representative drill cuttings and samples from cores taken and any other geological information that the operator reasonably can compile. Interpretation of the data is not required to be filed.

(d) Retention and filing of data.—Data required under subsection (b) and drill cuttings required under subsection (c) shall be retained by the well operator and filed with the department no more than three years after completion of the well. Upon request, the department shall extend the deadline up to five years from the date of completion of the well. The department shall be entitled to utilize information collected under this subsection in enforcement proceedings, in making designations or determinations under section 1927-A of The Administrative Code of 1929 and in aggregate form for statistical purposes.

§ 3223. Notification and effect of well transfer.

The owner or operator of a well shall notify the department in writing within 30 days, in a form directed by regulation, of sale, assignment, transfer, conveyance or exchange by or to the owner of the well. A transfer shall not relieve the well owner or operator of an obligation accrued under this chapter, nor shall it relieve the owner or operator of an obligation to plug the well until the requirements of section 3225 (relating to bonding) have been met, at which time the transferring owner or operator shall be relieved from all obligations under this chapter, including the obligation to plug the well.

§ 3224. Coal operator responsibilities.

(a) General rule.—At any time prior to removing coal or other underground materials from, or extending the workings in, a coal mine within 500 feet of an oil or gas well of which the coal operator has knowledge, or within 500 feet of an approved well location of which the coal operator has knowledge, the coal operator, by certified mail, shall forward to or file with the well operator and the department a copy of the relevant part of all maps and plans which it is presently required by law to prepare and file with the department, showing the pillar which the coal operator proposes to leave in place around each oil or gas well in the projected workings. Thereafter, the coal operator may proceed with mining operations in the manner projected on the maps and plans, but the operator may not remove coal or cut a passageway within 150 feet of the well or approved well location without written approval under this section. If, in the opinion of the well operator or the department, the plan indicates that the proposed pillar is inadequate to protect either the integrity of the well or public health and safety, the affected well operator shall attempt to reach an agreement with the coal operator on a suitable pillar, subject to approval of the department. Upon failure to agree, the well operator may, within ten days after receipt of the proposed plan under this section, file objections under section 3251 (relating to conferences), indicating the size of the pillar to be left as to each well. If objections are not timely filed and the department has none, the department shall grant approval, reciting that maps and plans have been filed, no objections have been made thereto and the pillar proposed to be left for each well is approved in the manner as projected.

(b) Objections.—If an objection is filed by the well operator or raised by the department, the department shall order that a conference be held under section 3251 within ten days of the filing of objections. At the conference, the coal operator and the person who has objected

shall attempt to agree on a proposed plan, showing the pillar to be left around each well, which will satisfy the objections and receive department approval. If an agreement is reached, the department shall grant approval to the coal operator, reciting that a plan has been filed and the pillar to be left for each well is approved pursuant to the agreement. If an agreement is not reached on a plan showing the pillar to be left with respect to a well, the department, by appropriate order, shall determine the pillar to be left with respect to the well. In a proceeding under this section, the department shall follow as nearly as is possible the original plan filed by the coal operator. The department shall not require the coal operator to leave a pillar in excess of 100 feet in radius, except that the department may require a pillar of up to 150 feet in radius if the existence of unusual conditions is established. Pillars determined by the department shall be shown on maps or plans on file with the department as provided in subsection (a), and the department shall approve the pillar to be left for each well.

(c) Pillars of reduced size.—Application may be made at any time to the department by the coal operator to leave a pillar of a size smaller than shown on the plan approved or determined by the department under this section. If an application is filed, the department shall:

(1) follow the appropriate procedure under subsection (a) or (b);

(2) by appropriate order, determine a plan involving a pillar of a smaller size as to any well covered by the application; and

(3) grant approval for the pillar to be left with respect to each well.

(d) Violation.—No coal operator, without written approval of the department after notice and opportunity for a hearing under this section, shall remove coal or cut a passageway so as to leave a pillar of smaller size, with respect to an oil or gas well, than that approved by the department under this chapter.

(e) Limitation.—With regard to a coal pillar required by law to be left around a well drilled prior to April 18, 1985, nothing in this chapter shall be construed to:

(1) require a well operator to pay for the coal pillar;

(2) affect a right which a coal operator may have had prior to April 18, 1985, to obtain payment for the coal pillar; or

(3) affect a duty or right which a storage operator or landowner may have had prior to April 18, 1985, to pay or not pay for the coal pillar.

(f) Mining through plugged wells.—A coal operator who intends to mine through a plugged oil or gas well or otherwise completely remove any pillar from around that well shall file a plan under subsection (a) which shall be subject to all of the provisions of this section. No coal operator may mine through a plugged oil or gas well of which he has knowledge until written approval has been granted by the department in accordance with this section. The Bureau of Deep Mine Safety in the department shall have the authority to establish conditions under which the department may approve a coal operator's plan to mine through a plugged oil or gas well.

§ 3225. Bonding.

(a) General rule.—The following shall apply:

(1) Except as provided in subsection (d), upon filing an application for a well permit, and before continuing to operate an oil or gas well, the owner or operator of the well shall file with the department a bond covering the well and well site on a form to be prescribed and furnished by the department. A bond filed with an application for a well permit shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all drilling, water supply replacement, restoration and plugging requirements of this chapter. A bond for a well in existence on April 18, 1985, shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all water supply replacement, restoration and plugging requirements of this chapter. The amount of the bond required shall be in the following amounts and may be adjusted by the Environmental Quality Board every two years to reflect

the projected costs to the Commonwealth of plugging the well:

(i) For wells with a total well bore length less than 6,000 feet:

(A) For operating up to 50 wells, \$4,000 per well; but no bond may be required under this clause in excess of \$35,000.

(B) For operating 51 to 150 wells, \$35,000 plus \$4,000 per well for each well in excess of 50 wells; but no bond may be required under this clause in excess of \$60,000.

(C) For operating 151 to 250 wells, \$60,000 plus \$4,000 per well for each well in excess of 150 wells; but no bond may be required under this clause in excess of \$100,000.

(D) For operating more than 250 wells, \$100,000 plus \$4,000 per well for each well in excess of 250 wells; but no bond may be required under this clause in excess of \$250,000.

(ii) For wells with a total well bore length greater than 6,000 feet:

(A) For operating up to 25 wells, \$10,000 per well; but no bond may be required under this clause in excess of \$60,000.

(B) For operating 26 to 50 wells, \$60,000 plus \$10,000 per well for each well in excess of 25 wells; but no bond may be required under this clause in excess of \$120,000.

(C) For operating 51 to 150 wells, \$120,000 plus \$10,000 per well for each well in excess of 50 wells; but no bond may be required under this clause in excess of \$180,000.

(D) For operating more than 150 wells, \$180,000 plus \$10,000 per well for each well in excess of 150 wells; but no bond may be required under this clause in excess of \$250,000.

(2) In lieu of individual bonds for each well, an owner or operator may file a blanket bond for the applicable amount under paragraph (1), on a form prepared by the department, covering all of its wells in this Commonwealth, as enumerated on the bond form.

(3) Liability under the bond shall continue until the well has been properly plugged in accordance with this chapter and for a period of one year after filing of the certificate of plugging with the department. Each bond shall be executed by the operator and a corporate surety licensed to do business in this Commonwealth and approved by the secretary. In lieu of a corporate surety, the operator may deposit with the department:

(i) cash;

(ii) certificates of deposit or automatically renewable irrevocable letters of credit, from financial institutions chartered or authorized to do business in this Commonwealth and regulated and examined by the Commonwealth or a Federal agency, which may be terminated at the end of a term only upon 90 days' prior written notice by the financial institution to the permittee and the department;

(iii) negotiable bonds of the United States Government or the Commonwealth, the Pennsylvania Turnpike Commission, the General State Authority, the State Public School Building Authority or any municipality within the Commonwealth; or

(iv) United States Treasury Bonds issued at a discount without a regular schedule of interest payments to maturity, otherwise known as Zero Coupon Bonds, having a maturity date of not more than ten years after the date of purchase and at the maturity date having a value of not less than the applicable amount under paragraph (1). The cash deposit, certificate of deposit,

amount of the irrevocable letter of credit or market value of the securities shall be equal at least to the sum of the bond.

(4) The secretary shall, upon receipt of a deposit of cash, letters of credit or negotiable bonds, immediately place the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the Commonwealth, in trust, for the purpose for which the deposit is made.

(5) The State Treasurer shall at all times be responsible for custody and safekeeping of deposits. The operator making the deposit shall be entitled from time to time to demand and receive from the State Treasurer, on the written order of the secretary, the whole or any portion of collateral deposited, upon depositing with the State Treasurer, in lieu of that collateral, other collateral of classes specified in this section having a market value at least equal to the sum of the bond, and also to demand, receive and recover the interest and income from the negotiable bonds as they become due and payable.

(6) If negotiable bonds on deposit under this subsection mature or are called, the State Treasurer, at the request of the owner of the bonds, shall convert them into other negotiable bonds, of classes specified in this section, designated by the owner.

(7) If notice of intent to terminate a letter of credit is given, the department shall give the operator 30 days' written notice to replace the letter of credit with other acceptable bond guarantees as provided in this section. If the owner or operator fails to timely replace the letter of credit, the department shall draw upon and convert the letter of credit into cash and hold it as a collateral bond guarantee.

(b) Release.—No bond shall be fully released until the requirements of subsection (a) and section 3223 (relating to notification and effect of well transfer) have been fully met. Upon release of bonds and collateral under this section, the State Treasurer shall immediately return to the owner the specified amount of cash or securities.

(c) Noncompliance.—If a well owner or operator fails or refuses to comply with subsection (a), regulations promulgated under this chapter or conditions of a permit relating to this chapter, the department may declare the bond forfeited and shall certify the same to the Attorney General, who shall proceed to enforce and collect the full amount of the bond and, if the well owner or operator has deposited cash or securities as collateral in lieu of a corporate surety, the department shall declare the collateral forfeited and direct the State Treasurer to pay the full amount of the funds into the Well Plugging Restricted Revenue Account or to sell the security to the extent forfeited and pay the proceeds into the Well Plugging Restricted Revenue Account. If a corporate surety or financial institution fails to pay a forfeited bond promptly and in full, the corporate surety or financial institution shall be disqualified from writing further bonds under this chapter or any other environmental law administered by the department. A person aggrieved by reason of forfeiting the bond or converting collateral, as provided in this section, shall have a right to appeal to the Environmental Hearing Board in the manner provided by law. Upon forfeiture of a blanket bond for a violation occurring at one or more well sites, the person whose bond is forfeited shall, within ten days of the forfeiture, submit a replacement bond to cover all other wells of which the person is an owner or operator. Failure to submit the replacement bond constitutes a violation of this section as to each of the wells owned or operated by the person.

(d) Alternatives to certain bonds.—The following shall apply:

(1) An operator of not more than 200 wells who cannot obtain a bond for a well drilled prior to April 18, 1985, as required under subsection (a), due to inability to demonstrate sufficient financial resources may, in lieu of the bond:

(i) Submit to the department a fee in the amount of \$50 per well, a blanket fee of \$500 for ten to 20 wells or a blanket fee of \$1,000 for more than 20 wells, which shall be a nonrefundable fee paid each year that the

operator has not filed a bond with the department. All fees collected in lieu of a bond under this subsection shall be used for the purposes authorized by this chapter. The Environmental Quality Board shall have the power, by regulation, to increase the amount of the fees established under this subsection.

(ii) Make phased deposits of collateral to fully collateralize the bond, subject to the following:

(A) Payment shall be based on the number of wells owned or operated. The operator shall make an initial deposit and make annual deposits in accordance with the schedule in clause (B). Interest accumulated by the collateral shall become a part of the bond until the collateral plus accumulated interest equals the amount of the required bond. The collateral shall be deposited, in trust, with the State Treasurer as provided in this subsection or with a bank selected by the department which shall act as trustee for the benefit of the Commonwealth to guarantee the operator's compliance with the drilling, water supply replacement, restoration and plugging requirements of this chapter. The operator shall be required to pay all costs of the trust.

(B) An operator of up to ten existing wells who does not intend to operate additional wells shall deposit \$250 per well and shall, thereafter, annually deposit \$50 per well until the obligations of this section are fully met. An operator of 11 to 25 wells or an operator of up to ten wells who applies for one or more permits for additional wells shall deposit \$2,000 and shall, thereafter, annually deposit \$1,150 plus \$150 for each additional well to be permitted that year until the obligations of this section are fully met. An operator of 26 to 50 wells shall deposit \$3,000 and shall, thereafter, annually deposit \$1,300 plus \$400 for each additional well to be permitted that year until the obligations of this section are fully met. An operator of 51 to 100 wells shall deposit \$4,000 and shall, thereafter, annually deposit \$1,500 plus \$400 for each additional well to be permitted that year until the obligations of this section are fully met. Operators of 101 to 200 wells shall deposit \$8,000 and shall, thereafter, annually deposit \$1,600 plus \$1,000 for each additional well to be permitted that year until the obligations of this section are fully met. Operators of more than 200 wells shall fully bond their wells immediately.

(C) The department shall reduce the amount of phased collateral payments or the period of time over which phased collateral payments shall be made on behalf of owners or operators who, prior to August 1, 1992, have paid a fee in lieu of bond under subparagraph (i), and who, by August 1, 1993, choose to enter the phased collateral program under this subparagraph rather than continue to make payments in lieu of bond. Payments made prior to August 1, 1992, in lieu of bond shall not be credited in any other manner, and the department shall not be required to refund the fees. The Environmental Quality Board, by regulation, may change the annual deposits established under clause (B) if necessary to accommodate a change in the amount of the bond required under

this section.

(2) An operator may continue to pay a fee in lieu of bond or make phased deposits of collateral to fully collateralize the bond so long as the operator does not miss a payment under this subsection and remains in compliance with this chapter. If an operator misses a payment under this subsection, the operator shall immediately:

(i) submit the appropriate bond amount in full;

or

(ii) cease all operations and plug all wells.

(d.1) Individuals.—The following shall apply:

(1) An individual who is unable to obtain a bond to drill new wells due to inability to demonstrate financial resources may meet the collateral bond requirements of subsection (a) by making phased deposits of collateral to fully collateralize the bond. The individual shall be limited to drilling ten new wells per calendar year and, for each well to be drilled, deposit \$500 and make an annual deposit of 10% of the remaining bond amount for a period of ten years. Interest accumulated shall become a part of the bond until the collateral plus accumulated interest equals the amount of the required bond. The collateral shall be deposited in trust with the State Treasurer under subsection (a) or with a bank selected by the department which shall act as trustee for the benefit of the Commonwealth to guarantee the individual's compliance with the drilling, water supply replacement, restoration and plugging requirements of this chapter. The individual shall pay all costs of the trust.

(2) Individuals may continue to use phased collateral to obtain permits if they have not missed a payment for a well drilled under this provision and remain in compliance with this chapter. If an individual misses a payment, the individual shall:

(i) immediately submit the appropriate bond amount in full; or

(ii) cease all operations and plug all wells.

(3) For purposes of this subsection, an "individual" means a natural person doing business under his own name.

(e) Reservation of remedies.—All remedies violating this chapter, regulations adopted under this chapter and conditions of permits are expressly preserved. Nothing in this section shall be construed as an exclusive penalty or remedy for violations of law. No action taken under this section shall waive or impair any other remedy or penalty provided in law.

(f) Change of law.—Owners or operators who have failed to meet the requirements of this section prior to August 1, 1992, shall not be required to make payments under this section on a retroactive basis as a condition of obtaining a permit under this chapter, nor shall the failure be deemed a violation of this chapter.

§ 3226. Oil and Gas Technical Advisory Board.

(a) Creation of board.—The Oil and Gas Technical Advisory Board is created, consisting of the following members, all of whom shall be chosen by the Governor and shall be residents of this Commonwealth:

(1) Three individuals, each of whom shall be:

(i) a petroleum engineer;

(ii) a petroleum geologist; or

(iii) an experienced driller representative of the oil and gas industry with three years of experience in this Commonwealth.

(2) One mining engineer from the coal industry with three years of experience in this Commonwealth.

(3) One geologist or petroleum engineer with three years of experience in this Commonwealth, who shall be chosen from a list of three names submitted by the Citizens Advisory Council to the Governor and who shall sit as a representative of the public interest.

(b) Reimbursement.—Board members shall not receive a salary but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

(c) Majority vote.—All actions of the board shall be by majority vote. The board shall meet as called by the secretary, but not less than semiannually, to carry out its duties under this chapter. The board shall select a chairman and other officers deemed appropriate.

(d) Consultation.—The department shall consult with the board in the formulation, drafting and presentation stages of all regulations of a technical nature promulgated under this chapter. The board shall be given a reasonable opportunity to review and comment on all regulations of a technical nature prior to submission to the Environmental Quality Board for initial consideration. The written report of the board shall be presented to the Environmental Quality Board with any regulatory proposal. The chairman of the board shall be invited to participate in the presentation of all regulations of a technical nature before the Environmental Quality Board to the extent allowed by procedures of the Environmental Quality Board. Nothing herein shall preclude any member of the board from filing a petition for rulemaking with the Environmental Quality Board in accordance with procedures established by the Environmental Quality Board.

SUBCHAPTER C

UNDERGROUND GAS STORAGE

Sec.

3231. Reporting requirements for gas storage operations.

3232. Reporting requirements for coal mining operations.

3233. General gas storage reservoir operations.

3234. Gas storage reservoir operations in coal areas.

3235. Inspection of facilities and records.

3236. Reliance on maps and burden of proof.

3237. Exemptions and prohibitions.

§ 3231. Reporting requirements for gas storage operations.

(a) General duties.—The following shall apply:

(1) A person injecting into or storing gas in a storage reservoir underlying or within 3,000 linear feet of a coal mine operating in a coal seam that extends over the storage reservoir or reservoir protective area shall, within 60 days, file with the department a copy of a map and certain data in the form and manner provided in this subsection or as otherwise prescribed by regulation of the department.

(2) A person injecting gas into or storing gas in a storage reservoir which is not under or within 3,000 linear feet of, but less than 10,000 linear feet from, a coal mine operating in a coal seam that extends over the storage reservoir or reservoir protective area shall file the map and data within 60 days or a longer period set by departmental regulation.

(3) A person proposing to inject or store gas in a storage reservoir located as defined in paragraph (1) or (2) shall file the appropriate required map and data with the department not less than six months prior to starting the actual injection or storage.

(4) A map required by this subsection shall be prepared by a competent engineer or geologist, showing:

(i) the stratum in which the existing or proposed storage reservoir is or is proposed to be located;

(ii) the geographic location of the outside boundaries of the storage reservoir and reservoir protective area;

(iii) the location of all known oil or gas wells in the reservoir or within 3,000 linear feet thereof which have been drilled into or through the storage stratum, indicating which have been or are to be cleaned out and plugged or reconditioned for storage along with the proposed location of all additional wells which are to be drilled within the storage reservoir or within 3,000 linear feet thereof.

(5) The following, if available, shall be furnished for all known oil or gas wells which have been drilled into or through the storage stratum within the storage reservoir or within 3,000 linear feet thereof: name of the operator, date drilled, total depth, depth of production if the well was productive of oil or gas, the initial rock pressure and volume, the depths at which all coal

seams were encountered and a copy of the driller's log or other similar information. At the time of the filing of the maps and data, a statement shall be filed:

(i) detailing efforts made to determine that the wells shown are accurately located on the map;

(ii) affirming that the wells shown represent, to the best of the operator's knowledge, all oil or gas wells which have ever been drilled into or below the storage stratum within the proposed storage reservoir or within the reservoir protective area;

(iii) stating whether the initial injection is for testing purposes;

(iv) stating the maximum pressure at which injection and storage of gas is contemplated; and

(v) providing a detailed explanation of the methods to be used or which previously have been used in drilling, cleaning out, reconditioning and plugging wells in the storage reservoir or within the reservoir protective area.

(6) The map and data required to be filed under paragraph (5) shall be amended or supplemented semiannually if material changes occur. The department may require a storage operator to amend or supplement the map or data at more frequent intervals if material changes have occurred justifying the earlier filing.

(b) Other reporting requirements.—A person who is injecting gas into or storing gas in a storage reservoir not at the time subject to subsection (a), by a process other than that of secondary recovery or gas recycling, shall, within 60 days, or a longer period set by departmental regulations, file maps and data required by departmental regulation and as follows:

(1) A person who, after April 18, 1985, proposes to inject or store gas in a storage reservoir in an area not covered by subsection (a) by a process other than that of secondary recovery or gas recycling shall file the required map and data with the department not less than six months prior to the starting of actual injection or storage.

(2) The map shall be prepared by a competent engineer or competent geologist and show:

(i) the stratum in which the existing or proposed storage reservoir is or is to be located;

(ii) the geographic location of the outside boundaries of the storage reservoir; and

(iii) the location of all known oil or gas wells within the reservoir, or within 3,000 linear feet thereof, which have been drilled into or through the storage stratum, indicating which have been or are to be cleaned out and plugged or reconditioned for storage and the proposed location of all additional wells which are to be drilled within the storage reservoir or within 3,000 linear feet thereof.

(3) The following, if available, shall be furnished for all known oil or gas wells which have been drilled into or through the storage stratum within the storage reservoir or within 3,000 linear feet thereof: name of the operator, date drilled, total depth, depth of production if the well was productive of oil or gas, the initial rock pressure and volume and a copy of the driller's log or other similar information. At the time of the filing of the maps and data, a statement shall be filed:

(i) detailing efforts made to determine that the wells shown are accurately located on the map;

(ii) affirming that the wells shown represent, to the best of the operator's knowledge, all oil or gas wells which have ever been drilled into or below the storage stratum within the proposed storage reservoir;

(iii) stating whether the initial injection is for testing purposes;

(iv) stating the maximum pressure at which

injection and storage of gas is contemplated; and

(v) providing a detailed explanation of the methods to be used or which previously have been used in drilling, cleaning out, reconditioning and plugging wells in the storage reservoir.

(4) The map and data required to be filed under paragraph (3) shall be amended or supplemented semiannually if material changes occur. The department may require a storage operator to amend or supplement the map or data at more frequent intervals if material changes have occurred justifying the earlier filing.

(c) Political subdivisions.—Storage operators shall give notice to the department of the name of each political subdivision and county in which the operator maintains and operates a gas storage reservoir.

(d) Notice to affected persons.—At the time of the filing of maps and data and the filing of amended or supplemental maps or data required by this section, the person filing the information shall give written notice of the filing to all persons who may be affected under the provisions of this chapter by the storage reservoir described in the maps or data. Notices shall contain a description of the boundaries of the storage reservoir. When a person operating a coal mine or owning an interest in coal properties which are or may be affected by the storage reservoir requests, in writing, a copy of any map or data filed with the department, the copy shall be furnished by the storage operator.

(e) Outside boundaries.—For purposes of this chapter, the outside boundaries of a storage reservoir shall be defined by the location of those wells around the periphery of the storage reservoir which had no gas production when drilled in the storage stratum. The boundaries shall be originally fixed or subsequently changed if, based on the number and nature of the wells and the geological and production knowledge of the storage stratum, its character, permeability, distribution and operating experience, it is determined in a conference under section 3251 (relating to conferences) that modifications should be made.

(f) Inapplicability of section.—The requirements of this section shall not apply to the operator of an underground gas storage reservoir so long as the reservoir is located more than 10,000 linear feet from an operating coal mine, except that the storage operator shall give notice to the department of the name of each political subdivision and county in which the operator maintains and operates a gas storage reservoir. In political subdivisions and counties where both gas storage reservoirs and coal mines are being operated, the department may request the storage operator to furnish maps showing geographical locations and outside boundaries of the storage reservoirs. The department shall keep a record of the information and promptly notify the coal operator and the storage operator when notified by them that the coal mine and storage reservoir are within 10,000 linear feet of each other.

§ 3232. Reporting requirements for coal mining operations.

(a) General rule.—A person owning or operating a coal mine shall file with the department a map prepared and sealed by a competent individual licensed as a professional engineer or professional land surveyor under the provisions of the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law, showing the outside coal boundaries of the operating coal mine, the existing workings and exhausted areas and the relationship of the boundaries to identifiable surface properties and landmarks. A person owning or operating an operating coal mine which has been penetrated by a well shall furnish a mine map to the department each year indicating the excavations for the preceding year and the projections for the ensuing year. The map required by this subsection shall be furnished to a person storing or contemplating the storage of gas in the vicinity of operating coal mines, upon written request, by the coal operator, and the person and the department shall thereafter be informed of any boundary changes at the time the changes occur. The department shall keep a record of the information and promptly notify the coal operator and storage operator when notified by them that the coal mine and the storage reservoir are within 10,000

linear feet of each other.

(b) Mines near certain reservoirs.—A person owning or operating any coal mine which is or which comes within 10,000 linear feet of a storage reservoir and where the coal seam being operated extends over the storage reservoir or reservoir protective area shall, within 45 days after receiving notice from the storage operator of that fact, file with the department and furnish to the person operating the storage reservoir a map in the form required by subsection (a) showing, in addition to the requirements of subsection (a), existing and projected excavations and workings of the operating coal mine for the ensuing 18-month period and the location of oil or gas wells of which the coal operator has knowledge. The person owning or operating the coal mine shall, each six months thereafter, file with the department and furnish to the person operating the storage reservoir a revised map showing any additional excavations and workings, together with the projected excavations and workings for the then ensuing 18-month period, which may be within 10,000 linear feet of the storage reservoir. The department may require a coal operator to file revised maps at more frequent intervals if material changes have occurred justifying earlier filing. The person owning or operating the coal mine shall also file with the department and furnish the person operating the reservoir prompt notice of any wells which have been cut into, together with all available pertinent information.

(c) Mines near gas storage reservoirs.—A person owning or operating a coal mine who has knowledge that it overlies or is within 2,000 linear feet of a gas storage reservoir shall, within 30 days, notify the department and the storage operator of that fact.

(d) Mines projected to be near storage reservoirs.—When a person owning or operating a coal mine expects that, within the ensuing nine-month period, the coal mine will be extended to a point which will be within 2,000 linear feet of any storage reservoir, the person shall notify the department and storage operator in writing of that fact.

(e) New mines.—A person intending to establish or reestablish an operating coal mine which will be over a storage reservoir or within 2,000 linear feet of a storage reservoir or may, within nine months thereafter, be expected to be within 2,000 linear feet of a storage reservoir shall immediately notify the department and storage operator in writing. Notice shall include the date on which the person intends to establish or reestablish the operating coal mine.

(f) Misdemeanor.—A person who serves notice as required by this subsection of an intention to establish or reestablish an operating coal mine, without intending in good faith to establish or reestablish the mine, is liable for continuing damages to a storage operator injured by the improper notice and commits a misdemeanor subject to the penalties of section 3255 (relating to penalties).

§ 3233. General gas storage reservoir operations.

(a) General rule.—A person who operates or proposes to operate a storage reservoir, except one filled by the secondary recovery or gas recycling process, shall:

(1) Use every known method which is reasonable under the circumstances for discovering and locating all wells which have or may have been drilled into or through the storage reservoir.

(2) Plug or recondition, as provided in departmental regulations, all known wells drilled into or through the storage reservoir, except to the extent otherwise provided in subsections (b) and (c).

(b) Wells to be plugged.—To comply with subsection (a), wells which are to be plugged shall be plugged in the manner specified in section 3220 (relating to plugging requirements).

(b.1) Wells plugged prior to enactment of section.—If a well located in the storage reservoir area has been plugged prior to April 18, 1985, and on the basis of data, information and other evidence submitted to the department, it is determined that the plugging was done in the manner required by section 3220 or approved as an alternative method under section 3221 (relating to alternative methods) and the plugging is still sufficiently effective to meet the requirements

of this chapter, the obligations under subsection (a) with regard to plugging the well shall be considered to have been fully satisfied.

(c) Wells to be reconditioned.—The following shall apply:

(1) To comply with subsection (a), wells which are to be reconditioned shall, unless the department by regulation specifies a different procedure, be cleaned out from the surface through the storage horizon, and the producing casing and casing strings determined not to be in good physical condition shall be replaced with new casing, using the same procedure as is applicable to drilling a new well under this chapter. In the case of wells to be used for gas storage, the annular space between each string of casing and the annular space behind the largest diameter casing to the extent possible shall be filled to the surface with cement or bentonitic mud or a nonporous material approved by the department under section 3221. At least 15 days prior to reconditioning, the storage operator shall give notice to the department, setting forth in the notice the manner in which it is planned to recondition the well and any pertinent data known to the storage operator which will indicate the condition of the well existing at that time. In addition, the storage operator shall give the department at least 72 hours' notice of the time when reconditioning is to begin. If no objections are raised by the department within ten days, the storage operator may proceed with reconditioning in accordance with the plan as submitted. If objections are made by the department, the department may fix a time and place for a conference under section 3251 (relating to conferences) at which the storage operator and department shall endeavor to agree on a plan to satisfy the objections and meet the requirements of this section. If no agreement is reached, the department may, by an appropriate order, determine whether the plan as submitted meets the requirements of this section or what changes, if any, are required. If, in reconditioning a well in accordance with the plan, physical conditions are encountered which justify or necessitate a change in the plan, the storage operator may request that the plan be changed. If the request is denied, the department shall fix a conference under section 3251 and proceed in the same manner as with original objections. An application may be made in the manner prescribed by section 3221 for approval of an alternative method of reconditioning a well. If a well located within the storage reservoir was reconditioned, or drilled and equipped, prior to April 18, 1985, the obligations imposed by subsection (a), as to reconditioning the well, shall be considered fully satisfied if, on the basis of the data, information and other evidence submitted to the department, it is determined that:

(i) The conditioning or previous drilling and equipping was done in the manner required in this subsection, in regulations promulgated under this chapter or in a manner approved as an alternative method in accordance with section 3221.

(ii) The reconditioning or previous drilling and equipping is still sufficiently effective to meet the requirements of this chapter.

(2) If a well requires emergency repairs, this chapter shall not be construed to require the storage operator to give any notice required by this subsection before making the repairs.

(d) Exception.—The requirements of subsection (a) shall not apply to injection of gas into a stratum when the sole purpose of injection, referred to in this subsection as testing, is to determine whether the stratum is suitable for storage purposes. Testing shall be conducted only in compliance with the following requirements:

(1) The person testing or proposing to test shall comply with section 3231 (relating to reporting requirements for gas storage operations) and verify the statement required to be filed by that section.

(2) The storage operator shall give at least six months' written notice to the department of the fact that injection of gas for testing purposes is proposed.

(3) If the department has objections, the department shall fix a time and place for a conference under section 3251, not more than ten days from the date of notice to the storage operator, at which time the storage operator and department shall attempt to resolve the issues presented. If an agreement cannot be reached, the department may issue an appropriate order.

(e) Failure to execute lawful order.—In a proceeding under this chapter, if the department determines that an operator of a storage reservoir has failed to carry out a lawful order issued under this chapter, the department may require the operator to suspend operation of the reservoir and withdraw the gas until the violation is remedied, in which case the storage operator, limited by due diligence insofar as existing facilities utilized to remove gas from the reservoir will permit, shall:

(1) if possible, remove the amount required by the department to be removed; or

(2) in any event, remove the maximum amount which can be withdrawn in accordance with recognized engineering and operating procedures.

(f) Duty of storage reservoir operator.—The following shall apply:

(1) A person owning or operating a storage reservoir subject to this chapter shall have a duty to:

(i) Maintain all wells drilled into or through the reservoir in a condition, and operate them in a manner, sufficient to prevent the escape of gas.

(ii) Operate and maintain the reservoir and its facilities as prescribed by departmental regulations and at a pressure which will prevent gas from escaping, but the pressure shall not exceed the highest rock pressure found to have existed during the production history of the reservoir or another high pressure limit approved by the department after holding a conference under section 3251 based on geological and production knowledge of the reservoir, its character, permeability distribution and operating experience.

(2) The duty under paragraph (1) shall not be construed to include inability to prevent the escape of gas when gas escapes as a result of an act of God or a person not under the control of the storage operator. In that instance, the storage operator shall have a duty to take action reasonably necessary to prevent further escape of gas. This paragraph does not apply to a well which the storage operator failed to locate and make known to the department.

§ 3234. Gas storage reservoir operations in coal areas.

(a) General rule.—A person operating a storage reservoir which underlies or is within 2,000 linear feet of a coal mine operating in a coal seam that extends over the storage reservoir or the reservoir protective area shall:

(1) Use every known reasonable method for discovering and locating all wells which have or may have been drilled into or through the storage stratum in the acreage lying within the outside coal boundaries of the operating coal mine overlying the storage reservoir or the reservoir protective area.

(2) Plug or recondition, as provided by section 3220 (relating to plugging requirements) and subsection (e), all known wells, except to the extent provided in subsections (e), (f), (g) and (h), drilled into or through the storage stratum and located within the portion of the acreage of the operating coal mine overlying the storage reservoir or the reservoir protective area. If an objection is raised as to use of a well as a storage well and after a conference under section 3251 (relating to conferences), it is determined by the department, taking into account all circumstances and conditions, that the well should not be used as a storage well, the well shall be plugged unless, in the opinion of the storage operator, the well may be used as a storage well in the future, in which case, upon approval of the department after taking into account all circumstances and conditions, the storage

operator may recondition and inactivate the well rather than plug it.

(3) The requirements of paragraph (2) shall be deemed to have been fully complied with if, as the operating coal mine is extended, all wells which from time to time come within the acreage described in paragraph (2) are reconditioned or plugged as provided in section 3220 and subsection (e) or (f) so that, by the time the coal mine has reached a point within 2,000 linear feet of the wells, they will have been reconditioned or plugged in accordance with section 3220 and subsection (e) or (f).

(b) Verified statement.—A person operating a storage reservoir referred to in subsection (a) shall file with the department and furnish a copy to the person operating the affected operating coal mine a verified statement setting forth:

(1) That the map and any supplemental maps required by section 3231(a) (relating to reporting requirements for gas storage operations) have been prepared and filed in accordance with section 3231.

(2) A detailed explanation of what the storage operator has done to comply with the requirements of subsection (a)(1) and (2) and the results of those actions.

(3) Such additional efforts, if any, as the storage operator is making and intends to make to locate all wells.

(4) Any additional wells that are to be plugged or reconditioned to meet the requirements of subsection (a)(2).

(b.1) Order of department.—If the statement required under subsection (b) is not filed by the storage reservoir operator within the time specified by this chapter or the regulations of the department, the department may order the operator to file the statement.

(c) Procedure.—Within 120 days after receipt of a statement required by this section, the department may direct that a conference be held in accordance with section 3251 to determine whether the requirements of section 3231 and subsection (a) have been fully met. At the conference, if any person believes the requirements have not been fully met, the parties shall attempt to agree on additional actions to be taken and the time for completion, subject to approval of the department. If an agreement cannot be reached, the department shall make a determination and, if the department determines any requirements have not been met, the department shall issue an order specifying in detail the extent to which the requirements have not been met and the actions which the storage operator must complete to meet the requirements. The order shall grant as much time as is reasonably necessary to fully comply. If the storage operator encounters conditions not known to exist at the time of issuance of the order and which materially affect the validity of the order or the ability of the storage operator to comply with it, the storage operator may apply for a rehearing or modification of the order.

(d) Notification.—If, in complying with subsection (a), a storage operator, after filing the statement provided for in subsection (b), plugs or reconditions a well, the storage operator shall notify the department and the coal operator affected, in writing, setting forth facts indicating the manner in which the plugging or reconditioning was done. Upon receipt of the notification, the coal operator or department may request a conference under section 3251.

(e) Plugging wells.—In order to meet the requirements of subsection (a), wells which are to be plugged shall be plugged in the manner specified in regulations promulgated under section 3211 (relating to well permits). When a well located within the storage reservoir or the reservoir protective area has been plugged prior to April 18, 1985, and, on the basis of the data information and other evidence submitted to the department, it is determined that the plugging was done in the manner required by section 3220, or in a manner approved as an alternative method in accordance with section 3221 (relating to alternative methods), and the plugging is still sufficiently effective to meet the requirements of this chapter, the requirements of subsection (a) as to plugging the well shall be considered to have been fully satisfied.

(f) Reconditioned wells.—The following shall apply:

(1) In order to comply with subsection (a), unless the department by regulation specifies a different procedure, wells which are to be reconditioned shall be cleaned out from the surface through the storage horizon, and the following casing strings shall be pulled and replaced with new casing, using the procedure applicable to drilling a new well under this chapter:

(i) the producing casing;

(ii) the largest diameter casing passing through the lowest workable coal seam unless it extends at least 25 feet below the bottom of the coal seam and is determined to be in good physical condition, but the storage operator may, instead of replacing the largest diameter casing, replace the next largest casing string if the casing string extends at least 25 feet below the lowest workable coal seam; and

(iii) casing strings determined not to be in good physical condition.

(2) In the case of a well to be used for gas storage, the annular space between each string of casing and the annular space behind the largest diameter casing, to the extent possible, shall be filled to the surface with cement or bentonitic mud or an equally nonporous material approved by the department under section 3221.

(3) At least 15 days before a well is to be reconditioned, the storage operator shall give notice to the department and the coal operator, lessee or owner, setting forth the manner in which reconditioning is planned and pertinent data known to the storage operator which will indicate the current condition of the well, along with at least 72 hours' notice of the date and time when reconditioning will begin. The coal operator, lessee or owner shall have the right to file, within ten days after receipt of the notice, objections to the plan of reconditioning as submitted by the storage operator. If no objections are filed and none are raised by the department within ten days, the storage operator may proceed with reconditioning in accordance with the plan as submitted. If an objection is filed or made by the department, the department shall fix a time and place for a conference under section 3251, at which conference the storage operator and the person having objections shall attempt to agree on a plan of reconditioning that meets the requirements of this section. If no agreement is reached, the department shall, by an appropriate order, determine whether the plan as submitted meets the requirements of this section or what changes should be made to meet the requirements. If, in reconditioning the well in accordance with the plan, physical conditions are encountered which justify or necessitate a change in the plan, the storage operator or coal operator may request that the plan be changed. If the parties cannot agree on a change, the department shall arrange for a conference to determine the matter in the same manner as set forth in connection with original objections to the plan.

(4) Application may be made to the department in the manner prescribed in section 3221 for approval of an alternative method of reconditioning a well. When a well located within the storage reservoir or the reservoir protective area has been reconditioned or drilled and equipped prior to April 18, 1985, and, on the basis of the data, information and other evidence submitted to the department, the obligations imposed by subsection (a) as to reconditioning the well shall be considered to be fully satisfied if it is determined that reconditioning or previous drilling and equipping:

(i) was done in the manner required in this subsection, or in regulations promulgated hereunder, or in a manner approved as an alternative method in accordance with section 3221; or

(ii) is still sufficiently effective to meet the requirements of this chapter.

(5) If a well requires emergency repairs, this subsection

shall not be construed to require the storage operator to give the notices specified herein before making the repairs.

(g) Producing wells.—If a well located within the reservoir protective area is a producing well in a stratum below the storage stratum, the obligations imposed by subsection (a) shall not begin until the well ceases to be a producing well.

(h) Certain other wells.—If a well within a storage reservoir or reservoir protective area penetrates the storage stratum but does not penetrate the coal seam being mined by an operating coal mine, the department may, upon application of the operator of the storage reservoir, exempt the well from the requirements of this section. Either party affected may request a conference under section 3251 with respect to exemption of a well covered by this subsection.

(i) Plugging limitation.—In fulfilling the requirements of subsection (a)(2) with respect to a well within the reservoir protective area, the storage operator shall not be required to plug or recondition the well until the storage operator has received from the coal operator written notice that the mine workings will, within the period stated in the notice, be within 2,000 linear feet of the well. Upon the receipt of the notice, the storage operator shall use due diligence to complete the plugging or reconditioning of the well in accordance with the requirements of this section and section 3220. If the mine workings do not, within a period of three years after the well has been plugged, come within 2,000 linear feet of the well, the coal operator shall reimburse the storage operator for the cost of plugging, provided that the well is still within the reservoir protective area as of that time.

(j) Retreat mining.—If retreat mining approaches a point where, within 90 days, it is expected that the retreat work will be at the location of the pillar surrounding an active storage well, the coal operator shall give written notice to the storage operator, and by agreement, the parties shall determine whether it is necessary or advisable to effectively and temporarily inactivate the well. The well shall not be reactivated until a reasonable period, determined by the parties, has elapsed. If the parties cannot agree as required by this subsection, the matter shall be submitted to the department for resolution. The number of wells required to be temporarily inactivated during the retreat period shall not be of a number that materially affects efficient operation of the storage pool, except that this provision shall not preclude temporary inactivation of a particular well if the practical effect of inactivating it is to render the pool temporarily inoperative.

(k) Exceptions.—The requirements of subsections (a), (l) and (m) shall not apply to injection of gas into a stratum when the whole purpose of injection, referred to in this subsection as testing, is to determine whether the stratum is suitable for storage purposes. Testing shall be conducted only in compliance with the following requirements:

(1) The person testing or proposing to test shall comply with all provisions and requirements of section 3231 and verify the statement required to be filed by that section.

(2) If any part of the proposed storage reservoir is under or within 2,000 linear feet of an operating coal mine which is operating in a coal seam that extends over the proposed storage reservoir or the reservoir protective area, the storage operator shall give at least six months' written notice to the department and coal operator of the fact that injection of gas for testing purposes is proposed.

(3) The coal operator affected may at any time file objections with the department, whereupon the department shall fix a time and place for a conference under section 3251, not more than ten days from the date of the notice to the storage operator. At the conference, the storage operator and the objecting party shall attempt to agree, subject to approval of the department, on the questions involved. If an agreement cannot be reached, the department may issue an appropriate order.

(4) If at any time a proposed storage reservoir being tested comes under or within 2,000 linear feet of an operating coal mine because of extension of the storage reservoir being tested or because of extension or establishment or

reestablishment of the operating coal mine, the requirements of this subsection shall immediately become applicable to the testing.

(l) Storage reservoirs near operating coal mines.—A person who proposes to establish a storage reservoir under or within 2,000 linear feet of a coal mine operating in a coal seam that extends over the storage reservoir or the reservoir protective area shall, prior to establishing the reservoir, and in addition to complying with section 3231 and subsection (a), file the verified statement required by subsection (b) and fully comply with any order of the department in the manner provided under subsection (b) or (c) before commencing operation of the storage reservoir. After the person proposing to operate the storage reservoir complies with the requirements of this subsection and commences operations, the person shall continue to be subject to all provisions of this chapter.

(m) Gas storage reservoirs.—If a gas storage reservoir is in operation on April 18, 1985, and at any time thereafter it is under or within 2,000 linear feet of an operating coal mine, or if a gas storage reservoir is put in operation after April 18, 1985, and at any time after storage operations begin it is under or within 2,000 linear feet of an operating coal mine, the storage operator shall comply with all of the provisions of this section, except that:

(1) the time for filing the verified statement under subsection (b) shall be 60 days after the date stated in the notice filed by the coal operator under section 3232(d) and (e) (relating to reporting requirements for coal mining operations);

(2) the coal operator shall give notice of the delay to the department;

(3) the department shall, upon the request of the storage operator, extend the time for filing the statement by the additional time which will be required to extend or establish or reestablish the operating coal mine to a point within 2,000 linear feet of the reservoir;

(4) the verified statement shall also indicate that the map referred to in section 3231(a) has been currently amended as of the time of the filing of the statement; and

(5) the person operating the storage reservoir shall continue to be subject to all of the provisions of this chapter.

(n) Failure to comply with order.—If, in any proceeding under this chapter, the department determines that an operator of a storage reservoir has failed to comply with a lawful order issued under this chapter, the department may require the storage operator to suspend operation of the reservoir and withdraw the gas from it until the violation is remedied, in which case the storage operator, limited by due diligence insofar as existing facilities utilized to remove gas from the reservoir will permit, shall:

(1) if possible, remove the amount required by the department to be removed; or

(2) in any event, remove the maximum amount which can be withdrawn in accordance with recognized engineering and operating procedures.

(o) Prevention of escape of gas.—In addition to initial compliance with other provisions of this chapter and lawful orders issued under this chapter, it shall be the duty, at all times, of a person owning or operating a storage reservoir subject to this chapter to keep all wells drilled into or through the storage stratum in a condition, and operate the wells in a manner, which is designed to prevent the escape of gas out of the storage reservoir and its facilities, and to operate and maintain the storage reservoir and its facilities in the manner prescribed by regulation of the department and at a pressure that will prevent gas from escaping from the reservoir or its facilities. This duty shall not be construed to include inability to prevent the escape of gas when escape results from an act of God or a person not under the control of the storage operator, except that this exception does not apply to a well which the storage operator has failed to locate and make known to the department. If an escape of gas results from an act of God or a person not under the control of the storage operator, the storage operator shall be under the duty to take any action reasonably necessary to prevent

further escape of gas out of the storage reservoir and its facilities.

§ 3235. Inspection of facilities and records.

(a) General rule.—The person operating a storage reservoir affected by this chapter shall, at all reasonable times, be permitted to inspect applicable records and facilities of a coal mine overlying the storage reservoir or reservoir protective area. The person operating a coal mine affected by this chapter shall, at all reasonable times, be permitted to inspect applicable records and facilities of a storage reservoir underlying the coal mine.

(b) Order.—If a storage operator or coal operator subject to subsection (a) refuses to permit inspection of records or facilities, the department may, on its own motion or on application of the party seeking inspection, after reasonable written notice and a hearing if requested by an affected party, order inspection.

§ 3236. Reliance on maps and burden of proof.

(a) General rule.—In determining whether a coal mine or operating coal mine is or will be within a particular distance from a storage reservoir which is material under this chapter, the owner or operator of the coal mine and the storage operator may rely on the most recent map of the storage reservoir or coal mine filed by the other party with the department.

(b) Accuracy.—Where accuracy of a map or data filed under this chapter is in issue, the person that filed the map or data shall:

(1) at the request of an objecting party, disclose the information and method used to compile the map or data, along with any information available to the person that might affect current validity of the map or data; and

(2) have the burden of proving accuracy of the map or data.

§ 3237. Exemptions and prohibitions.

(a) Inapplicability of chapter to certain coal mines.—This chapter shall not apply to the following types of coal mines:

(1) Strip mines and auger mines operating from the surface.

(2) Mines to which the former act of June 9, 1911 (P.L.756, No.319), entitled "An act to provide for the health and safety of persons employed in and about the bituminous coal-mines of Pennsylvania, and for the protection and preservation of property connected therewith," did not apply in accordance with section 3 of that act.

(3) Mines to which the former act of June 2, 1891 (P.L.176, No.177), entitled "An act to provide for the health and safety of persons employed in and about the anthracite coal mines of Pennsylvania and for the protection and preservation of property connected therewith," did not apply in accordance with section 32 of that act.

(b) Workable coal seams.—Injection of gas for storage purposes in a workable coal seam, whether or not it is being or has been mined, is prohibited.

(b.1) Original extraction.—Nothing in this chapter prohibits original extraction of natural gas, crude oil or coal.

(c) Certain rock formations.—Nothing in this chapter applies to storage of gas or liquids in storage reservoirs excavated in rock formations specifically for storage purposes.

**SUBCHAPTER D
EMINENT DOMAIN**

Sec.

3241. Appropriation of interest in real property.

§ 3241. Appropriation of interest in real property.

(a) General rule.—Except as provided in this subsection, a corporation empowered to transport, sell or store natural gas or manufactured gas in this Commonwealth may appropriate an interest in real property located in a storage reservoir or reservoir protective area for injection, storage and removal from storage of natural gas or manufactured gas in a stratum which is or previously has been commercially productive of natural gas. The right granted by this subsection shall not be exercised to acquire any of the following for the purpose of gas storage:

(1) An interest in a geological stratum within the area of a proposed storage reservoir or reservoir protective area:

(i) unless the original recoverable oil or gas reserves in the proposed storage reservoir have been depleted or exhausted by at least 80%; and

(ii) until the condemnor has acquired the right, by grant, lease or other agreement, to store gas in the geological stratum underlying at least 75% of the area of the proposed storage reservoir.

(2) An interest in a geological stratum within the area of a proposed storage reservoir or reservoir protective area owned directly or indirectly by a gas company or other person engaged in local distribution of natural gas, if the interest to be acquired is presently being used by the gas company or other person for storage of gas in performance of service to customers in its service area.

(b) Construction.—The following shall apply:

(1) This chapter authorizes appropriation within a storage reservoir or reservoir protective area of the following:

(i) a stratum to be used for storage;

(ii) any gas reserve remaining a stratum to be used for storage;

(iii) an active or abandoned well or wells drilled into a stratum to be used for storage; and

(iv) the right to enter upon and use the surface of lands to:

(A) locate, recondition, maintain, plug or replug an active or abandoned well; or

(B) operate a well drilled into or through a stratum to be used for storage.

(2) This chapter does not preclude the owner of nonstorage strata from drilling wells to produce oil or gas from a stratum above or below the storage stratum appropriated by another person, but a person appropriating or holding storage rights may access, inspect and examine the drilling, the completed well, drilling logs and other records relating to drilling, equipping or operating the well in order to determine whether the storage stratum is being adequately protected to prevent escape of gas stored therein.

(3) This chapter does not authorize appropriation of a coal or coal measure, regardless of whether it is being mined, or an interest in the coal mine or coal measure.

(c) Activities through appropriated strata.—A person drilling, operating, using or plugging a well through a stratum appropriated under this chapter shall drill, case, equip, operate or plug it in a manner designed to prevent avoidable escape of gas that may be stored in the storage stratum. Upon violation of this subsection, the court of common pleas of the county where the land in question is situated may compel compliance by injunction or grant other appropriate relief in an action brought by the person storing gas in the storage stratum.

(d) Prerequisites to appropriation.—Before appropriating under this chapter, a person shall attempt to agree with owners of interests in the real property involved as to damages payable for rights and interests to be appropriated, if the owners can be found and are sui juris. If the parties fail to agree, the person shall tender a surety bond to the owners to secure them in the payment of damages. If the owners refuse to accept the bond, cannot be found or are not sui juris, and after reasonable notice to the owners by advertisement or otherwise, the bond shall be presented for approval to the court of common pleas of the county in which the tract of land is situated. Upon the approval of the bond by the court, the right of the person to appropriate in accordance with the provisions of this chapter shall be complete.

(e) Appointment of viewers.—Upon petition of a property owner or a person appropriating under this chapter, the court shall:

(1) appoint three disinterested freeholders of the county to serve as viewers to assess damages to be paid to the property owner for the rights appropriated;

(2) fix a time for the parties to meet;

(3) provide notice to the parties; and

(4) after the viewers have filed their report, fix reasonable compensation for the service of the viewers.

(f) Appeal.—Within 20 days after the filing of a report by viewers appointed under subsection (e), a party may appeal and proceed to a jury trial as in ordinary cases.

(g) Requirements.—Nothing in this section shall relieve a person operating a storage reservoir from the requirements of this chapter.

SUBCHAPTER E ENFORCEMENT AND REMEDIES

Sec.

3251. Conferences.

3252. Public nuisances.

3253. Enforcement orders.

3254. Restraining violations.

3254.1. Well control emergency response cost recovery.

3255. Penalties.

3256. Civil penalties.

3257. Existing rights and remedies preserved and cumulative remedies authorized.

3258. Inspection and production of materials, witnesses, depositions and rights of entry.

3259. Unlawful conduct.

3260. Collection of fines and penalties.

3261. Third party liability.

3262. Inspection reports.

§ 3251. Conferences.

(a) General rule.—The department or any person having a direct interest in a matter subject to this chapter may, at any time, request that a conference be held to discuss and attempt to resolve by mutual agreement a matter arising under this chapter. Unless otherwise provided, conferences shall be held within 90 days after a request is received by the department, and notice shall be given by the department to all interested parties. A representative of the department shall attend the conference and the department may make recommendations. An agreement reached at a conference shall be consistent with this chapter and, if approved by the department, it shall be reduced to writing and shall be effective, unless reviewed and rejected by the department within ten days after the conference. The record of an agreement approved by the department shall be kept on file by the department and copies shall be furnished to the parties. The scheduling of a conference shall have no effect on the department's authority to issue orders to compel compliance with this chapter.

(b) Notification.—When a coal operator is to be notified of a proceeding under this section, the department simultaneously shall send a copy of the notice to the collective bargaining representative of employees of the coal operator.

§ 3252. Public nuisances.

A violation of section 3215.1 (relating to general restrictions), 3216 (relating to well site restoration), 3217 (relating to protection of fresh groundwater and casing requirements), 3218 (relating to protection of water supplies), 3219 (relating to use of safety devices) or 3220 (relating to plugging requirements), or a rule, regulation, order, term or condition of a permit relating to any of those sections constitutes a public nuisance.

§ 3253. Enforcement orders.

(a) General rule.—Except as modified by subsections (b), (c) and (d), the department may issue orders necessary to aid in enforcement of this chapter. An order issued under this chapter shall take effect upon notice, unless the order specifies otherwise. The power of the department to issue an order under this chapter is in addition to any other remedy available to the department under this chapter or under any other law.

(b) Suspension and revocation.—The department may suspend or revoke a well permit or well registration for any well in continuing violation of this chapter, the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law; the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act; any other statute

administered by the department; or a rule or regulation. A suspension order of the department shall automatically terminate if the violation upon which it is based is corrected by the operator to the satisfaction of the department in order to bring the well into compliance with this chapter.

(c) Written notice.—Prior to suspension or revocation of a well permit or registration, the department shall serve written notice on the well operator or its agent, stating specifically the statutory provision, rule, regulation or other reason relied upon, along with factual circumstances surrounding the alleged violation.

(d) Immediate orders.—An order of the department requiring immediate cessation of drilling operations shall be effective only if authorized by the secretary or a designee.

(e) Grievances.—A person aggrieved by a department order issued under this section shall have the right, within 30 days of receipt of the notice, to appeal to the Environmental Hearing Board.

§ 3254. Restraining violations.

(a) General rule.—In addition to any other remedy provided in this chapter, the department may institute a suit in equity in the name of the Commonwealth for an injunction to restrain a violation of this chapter or rules, regulations, standards or orders adopted or issued under this chapter and to restrain the maintenance or threat of a public nuisance. Upon motion of the Commonwealth, the court shall issue a prohibitory or mandatory preliminary injunction if it finds that the defendant is engaging in unlawful conduct, as defined by this chapter, or conduct causing immediate and irreparable harm to the public. The Commonwealth shall not be required to furnish bond or other security in connection with the proceeding. In addition to an injunction, the court in equity may level civil penalties as specified in section 3256 (relating to civil penalties).

(b) District attorney.—In addition to other remedies in this chapter, upon relation of the district attorney of a county affected, or upon relation of the solicitor of a municipality affected, an action in equity may be brought in a court of competent jurisdiction for an injunction to restrain a violation of this chapter or rules and regulations promulgated under this chapter or to restrain a public nuisance or detriment to health.

(c) Concurrent penalties.—Penalties and remedies under this chapter shall be deemed concurrent. Existence or exercise of one remedy shall not prevent the department from exercising another remedy at law or in equity.

(d) Jurisdiction.—Actions under this section may be filed in the appropriate court of common pleas or in Commonwealth Court, and those courts are hereby granted jurisdiction to hear actions under this section.

§ 3254.1. Well control emergency response cost recovery.

A person liable for a well control emergency is responsible for all response costs incurred by the department to respond to the well control emergency. In an action before a court of competent jurisdiction, the department may recover all its response costs, including the cost of regaining control of the well, controlling the perimeter of the well site, preparing water sprays, establishing trenches or dikes to capture runoff fluids and providing the resources and equipment needs for the incident.

§ 3255. Penalties.

(a) General violation.—A person violating a provision of this chapter commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not more than \$300 or to imprisonment of not more than 90 days, or both. Each day during which the violation continues is a separate and distinct offense.

(b) Willful violation.—A person willfully violating a provision of this chapter or an order of the department issued under this chapter commits a misdemeanor and, upon conviction, shall be sentenced to pay a fine of not more than \$5,000 or to imprisonment of not more than one year, or both. Each day during which the violation continues is a separate and distinct offense.

(c) Authority.—The department may institute a prosecution against any person or municipality for a violation of this chapter.

§ 3256. Civil penalties.

In addition to other remedies available at law or in equity for a violation of this chapter, a rule or regulation of the department or a departmental order, the department, after a hearing, may assess a civil penalty regardless of whether the violation was willful. The penalty shall not exceed \$50,000 plus \$2,000 for each day during which the violation continues. In determining the amount, the department shall consider willfulness of the violation, damage or injury to natural resources of this Commonwealth or their uses, endangerment of safety of others, the cost of remedying the harm, savings resulting to the violator as a result of the violation and any other relevant factor. When the department proposes to assess a civil penalty, it shall notify the person of the proposed amount of the penalty. The person charged with the penalty must, within 30 days of notification, pay the proposed penalty in full or file an appeal of the assessment with the Environmental Hearing Board. Failure to comply with the time period under this section shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. The civil penalty shall be payable to the Commonwealth and collectible in any manner provided at law for collection of debts. If a violator neglects or refuses to pay the penalty after demand, the amount, together with interest and costs that may accrue, shall become a lien in favor of the Commonwealth on the real and personal property of the violator, but only after the lien has been entered and docketed of record by the prothonotary of the county where the property is situated. The department may at any time transmit to the prothonotaries of the various counties certified copies of all liens. It shall be the duty of each prothonotary to enter and docket the liens of record in the prothonotary's office and index them as judgments are indexed, without requiring payment of costs as a condition precedent to entry.

§ 3257. Existing rights and remedies preserved and cumulative remedies authorized.

Nothing in this chapter estops the Commonwealth or a district attorney from proceeding in a court of law or in equity to abate pollution forbidden under this chapter or a nuisance under existing law. It is hereby declared to be the purpose of this chapter to provide additional and cumulative remedies to control activities related to drilling for, or production of, oil and gas in this Commonwealth, and nothing contained in this chapter abridges or alters rights of action or remedies existing, or which existed previously, in equity or under common or statutory law, criminal or civil. Neither this chapter, the grant of a permit under this chapter nor an act done by virtue of this chapter estops the Commonwealth, in exercising rights under common or decisional law or in equity, from suppressing a nuisance, abating pollution or enforcing common law or statutory rights. No court of this Commonwealth with jurisdiction to abate public or private nuisances shall be deprived of jurisdiction in an action to abate a private or public nuisance instituted by any person on grounds that the nuisance constitutes air or water pollution.

§ 3258. Inspection and production of materials, witnesses, depositions and rights of entry.

(a) General rule.—The department may make inspections, conduct tests or sampling or examine books, papers and records pertinent to a matter under investigation under this chapter to determine compliance with this chapter. For this purpose, the duly authorized agents and employees of the department may at all reasonable times enter and examine any involved property, facility, operation or activity.

(a.1) Preoperation inspections.—The operator may not commence drilling activities until the department has conducted an inspection of the unconventional well site after the installation of erosion and sediment control measures. The department may conduct follow-up inspections of well sites and related activities to determine compliance with the act.

(b) Access.—The owner, operator or other person in charge of a property, facility, operation or activity under this chapter, upon presentation of proper identification and purpose either for inspection or to remediate or otherwise respond to a well control emergency, by agents or employees of the department, shall provide free and

unrestricted entry and access. Upon refusal, the agent or employee may obtain a search warrant or other suitable order authorizing entry and inspection, remediation or response. It shall be sufficient to justify issuance of a search warrant authorizing examination and inspection if:

(1) there is probable cause to believe that the object of the investigation is subject to regulation under this chapter; and

(2) access, examination or inspection is necessary to enforce the provisions of this chapter.

(c) Witnesses.—In any part of this Commonwealth, the department may subpoena witnesses, administer oaths, examine witnesses, take testimony and compel production of books, records, maps, plats, papers, documents and other writings pertinent to proceedings or investigations conducted by the department under this chapter. Upon refusal to obey a subpoena by any person and on application of the department, a court may enforce a subpoena in contempt proceedings. Fees for serving a subpoena shall be the same as those paid to sheriffs for similar services.

(d) Deposition.—The department or a party to a proceeding before the department may cause the deposition of a witness who resides in or outside of this Commonwealth to be taken in the manner prescribed by law for taking depositions in civil actions.

(e) Witness fee.—Witnesses summoned before the department shall be paid the same fees as are paid to witnesses in courts of record of general jurisdiction. Witnesses whose depositions are taken under this chapter, and the officers taking those depositions, shall be entitled to the same fees as those paid for like services in court.

(f) Purchasers.—Upon request, a purchaser of oil or gas shall provide the department information necessary to determine ownership of facilities from which the purchaser obtained oil or gas. The information shall be kept confidential for a period of five years, and the department may utilize it in enforcement proceedings. The department may request information under this section only when a well does not comply with section 3211(h) (relating to well permits).

§ 3259. Unlawful conduct.

It shall be unlawful for any person to:

(1) Drill, alter, operate or utilize an oil or gas well without a permit or registration from the department as required by this chapter or in violation of rules or regulations adopted under this chapter, orders of the department or a term or condition of a permit issued by the department.

(2) Conduct an activity related to drilling for, or production of, oil and gas:

(i) contrary to this chapter, rules or regulations adopted under this chapter, an order of the department or a term or condition of a permit issued by the department; or

(ii) in any manner as to create a public nuisance or adversely affect public health, safety, welfare or the environment.

(3) Refuse, obstruct, delay or threaten an agent or employee of the department acting in the course of lawful performance of a duty under this chapter, including, but not limited to, entry and inspection.

(4) Attempt to obtain a permit or identify a well as an orphan well by misrepresentation or failure to disclose all relevant facts.

(5) Cause abandonment of a well by removal of casing or equipment necessary for production without plugging the well in the manner prescribed under section 3220 (relating to plugging requirements), except that the owner or operator of a well may temporarily remove casing or equipment necessary for production, but only if it is part of the normal course of production activities.

§ 3260. Collection of fines and penalties.

Fines and penalties shall be collectible in a manner provided by law for collection of debts. If a person liable to pay a penalty neglects or refuses to pay after demand, the amount, together with interest and costs that may accrue, shall be a judgment in favor of the

Commonwealth on the person's property, but only after the judgment has been entered and docketed of record by the prothonotary of the county where the property is situated. The department may transmit to prothonotaries of the various counties certified copies of all judgments, and it shall be the duty of each prothonotary to enter and docket them of record in the prothonotary's office and index them as judgments are indexed, without requiring payment of costs as a condition precedent to entry.

§ 3261. Third party liability.

If a person other than a well operator renders a service or product to a well or well site, that person is jointly and severally liable with the well owner or operator for violations of this chapter arising out of and caused by the person's actions at the well or well site.

§ 3262. Inspection reports.

The department shall post inspection reports on its publicly accessible Internet website. The inspection reports shall include:

(1) The nature and description of violations.

(2) The operator's written response to the violation, if available.

(3) The status of the violation.

(4) The remedial steps taken by the operator or the department to address the violation.

SUBCHAPTER F

MISCELLANEOUS PROVISIONS

Sec.

3271. Well plugging funds.

3272. Local ordinances.

3273. Effect on department authority.

3273.1. Relationship to solid waste and surface mining.

3274. Regulatory authority.

§ 3271. Well plugging funds.

(a) Appropriation.—Fines, civil penalties and permit and registration fees collected under this chapter are appropriated to the department to carry out the purposes of this chapter.

(b) Surcharge.—To aid in indemnifying the Commonwealth for the cost of plugging abandoned wells, a \$50 surcharge is added to the permit fee established by the department under section 3211 (relating to well permits) for new wells. Money collected as a result of the surcharge shall be paid into a restricted revenue account in the State Treasury to be known as the Abandoned Well Plugging Fund and expended by the department to plug abandoned wells threatening the health and safety of persons or property or pollution of waters of this Commonwealth.

(c) Orphan Well Plugging Fund.—The following shall apply:

(1) A restricted revenue account to be known as the Orphan Well Plugging Fund is created. A \$100 surcharge for wells to be drilled for oil production and a \$200 surcharge for wells to be drilled for gas production are added to the permit fee established by the department under section 3211 for new wells. The surcharges shall be placed in the Orphan Well Plugging Fund and expended by the department to plug orphan wells. If an operator rehabilitates a well abandoned by another operator or an orphan well, the permit fee and the surcharge for the well shall be waived.

(2) The department shall study its experience in implementing this section and shall report its findings to the Governor and the General Assembly by August 1, 1992. The report shall contain information relating to the balance of the fund, number of wells plugged, number of identified wells eligible for plugging and recommendations as to alternative funding mechanisms.

(3) Expenditures by the department for plugging orphan wells are limited to fees collected under this chapter. No money from the General Fund shall be expended for this purpose.

§ 3272. Local ordinances.

Except with respect to ordinances adopted under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, and the act of October 4, 1978 (P.L.851, No.166),

known as the Flood Plain Management Act, all local ordinances and enactments purporting to regulate oil and gas well operations regulated by this chapter are superseded by this chapter. No ordinances or enactments adopted under the Pennsylvania Municipalities Planning Code or the Flood Plain Management Act may contain provisions which impose conditions, requirements or limitations on the same features of oil and gas well operations regulated by this chapter or that accomplish the same purposes as set forth in this chapter. The Commonwealth, by this chapter, preempts and supersedes the regulation of oil wells and gas wells.

§ 3273. Effect on department authority.

This chapter does not affect, limit or impair any right or authority of the department under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law; the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act; the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act; or the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

§ 3273.1. Relationship to solid waste and surface mining.

(a) General rule.—The obligation to obtain a permit and post a bond under Articles III and V of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, and to provide public notice under section 1905-A(b)(1)(v) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, for any pit, impoundment, method or facility employed for the disposal, processing or storage of residual wastes generated by the drilling of an oil or gas well or from the production of wells which is located on the well site, shall be considered to have been satisfied if the owner or operator of the well meets the following conditions:

(1) the well is permitted under the requirements of section 3211 (relating to well permits) or registered under section 3213 (relating to well registration and identification);

(2) the owner or operator has satisfied the financial security requirements of section 3215 (relating to well location restrictions) by obtaining a surety or collateral bond for the well and well site; and

(3) the owner or operator maintains compliance with this chapter and applicable regulations of the Environmental Quality Board.

(b) Noncoal surface mining.—Obligations under the act of December 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining Conservation and Reclamation Act, or a rule or regulation promulgated thereunder, for any borrow area where minerals are extracted solely for the purpose of oil and gas well development, including access road construction, shall be considered to have been satisfied if the owner or operator of the well meets the conditions imposed under subsection (a)(1) and (2) and maintains compliance with this chapter and applicable regulations of the Environmental Quality Board.

(c) Solid Waste Management Act.—This section does not diminish or otherwise affect duties or obligations of an owner or operator under the Solid Waste Management Act. This section does not apply to waste classified as hazardous waste under the Solid Waste Management Act or the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq.).

(d) Definition.—As used in this section and sections 3216 (relating to well site restoration) and 3225 (relating to bonding), the term "well site" means areas occupied by all equipment or facilities necessary for or incidental to drilling, production or plugging a well.

§ 3274. Regulatory authority.

(a) Existing regulations.—The rulemaking for 25 Pa. Code Ch. 78 (relating to oil and gas wells) promulgated at 41 Pa.B. 805 (February 5, 2011), shall apply only to unconventional gas wells.

(b) New regulations.—The Environmental Quality Board shall adopt regulations to implement this chapter.

CHAPTER 33

LOCAL ORDINANCES RELATING TO
OIL AND GAS OPERATIONS

<p><u>Sec.</u></p> <p><u>3301. Scope of chapter.</u></p> <p><u>3302. Definitions.</u></p> <p><u>3303. Local ordinances.</u></p> <p><u>3304. Review by Attorney General.</u></p> <p><u>3305. Civil actions.</u></p> <p><u>3306. Commonwealth Court masters.</u></p> <p><u>3307. Attorney fees and costs.</u></p> <p><u>3308. Sanction.</u></p> <p><u>3309. Provisions of local ordinances.</u></p> <p><u>3310. Applicability.</u></p> <p><u>§ 3301. Scope of chapter.</u></p> <p>The purposes of this chapter are to:</p> <p>(1) Allow municipalities to efficiently regulate oil and gas operations consistent with their authority under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.</p> <p>(2) Foster the expeditious and efficient handling of municipal oil and gas procedures.</p> <p>(3) Clarify the role of all Federal and State agencies and municipal governments with regard to oil and gas development activities.</p> <p><u>§ 3302. Definitions.</u></p> <p>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:</p> <p>"Building." An occupied structure with walls and roof within which individuals live or customarily work.</p> <p>"Environment acts." All statutes enacted by the Commonwealth relating to the protection of the environment or the protection of public health, safety and welfare, that are administered and enforced by the department or by another Commonwealth agency, including an independent agency, and all Federal statutes relating to the protection of the environment, to the extent those statutes regulate oil and gas operations.</p> <p>"Local government." A county, city, borough, incorporated town or township of this Commonwealth.</p> <p>"Local ordinance." An ordinance adopted by a local government that regulates oil and gas operations.</p> <p>"MPC." The act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.</p> <p>"Oil and gas operations." The term includes the following:</p> <p>(1) well location assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing and site restoration associated with an oil or gas well of any depth;</p> <p>(2) water and other fluid storage or impoundment areas used exclusively for oil and gas operations;</p> <p>(3) construction, installation, use, maintenance and repair of:</p> <p>(i) oil and gas pipelines;</p> <p>(ii) natural gas compressor stations; and</p> <p>(iii) natural gas processing plants or facilities performing equivalent functions; and</p> <p>(4) construction, installation, use, maintenance and repair of all equipment directly associated with activities specified in paragraphs (1), (2) and (3), to the extent that:</p> <p>(i) the equipment is necessarily located at or immediately adjacent to a well site, impoundment area, oil and gas pipeline, natural gas compressor station or natural gas processing plant; and</p> <p>(ii) the activities are authorized and permitted under the authority of a Federal or Commonwealth agency.</p> <p>"Permitted use." A use which, upon submission of notice to and receipt of a permit issued by a zoning officer or equivalent official, is authorized to be conducted without restrictions other than those set forth in section 3309 (relating to provisions of local ordinances).</p>	<p><u>§ 3303. Local ordinances.</u></p> <p>(a) General rule.—A local ordinance may only be enacted pursuant to the MPC, the act of March 31, 1927 (P.L.98, No.69), referred to as the Second Class City Zoning Law, or the act of October 4, 1978 (P.L.851, No.166), known as the Flood Plain Management Act, as applicable, and shall provide for the reasonable development of minerals within the local government in accordance with the provisions of section 603(i) of the MPC and this chapter.</p> <p>(b) Limitation.—Except as provided in this chapter, a local ordinance shall not conflict with and shall not regulate oil and gas operations covered by the environment acts, except to the extent that the environment acts provide the authority.</p> <p>(c) Construction.—Nothing in this chapter shall be construed to impair or infringe on the preemption provisions of section 3272 (relating to local ordinances).</p> <p><u>§ 3304. Review by Attorney General.</u></p> <p>(a) Request of owner or operator.—An owner or operator of an oil and gas operation, or any person having the right to royalty payments under a lease of oil or gas mineral rights, may request the Attorney General to review a local ordinance to determine whether it allows for the reasonable development of oil and gas resources in accordance with the provisions specifically addressed in this chapter, the MPC and judicial decisions of the Commonwealth.</p> <p>(b) Preenactment review.—A local government may, prior to the enactment of a local ordinance, request the Attorney General to review the ordinance to determine whether it allows for the reasonable development of oil and gas resources in accordance with the provisions of Chapter 32 (relating to development), the MPC and judicial decisions of the Commonwealth.</p> <p>(c) Time period for review.—Within 120 days of receiving a request under subsection (a) or (b), the Attorney General shall advise in writing the person that made the request whether or not the Attorney General determines that the local ordinance provides for the reasonable development of oil and gas reserves and provide a copy of the written determination to the affected local government.</p> <p><u>§ 3305. Civil actions.</u></p> <p>(a) Attorney General.—The Attorney General may bring an action against a local government in Commonwealth Court to invalidate or enjoin the enforcement of a local ordinance that does not allow for the reasonable development of oil and gas resources.</p> <p>(b) Private right of action.—</p> <p>(1) Notwithstanding any provision of 42 Pa.C.S. Ch. 85 Subch. C (relating to actions against local parties), any person who is aggrieved by the enactment or enforcement of a local ordinance that does not allow for the reasonable development of oil and gas resources in accordance with the provisions of section 3272 (relating to local ordinances) may bring an action in Commonwealth Court to invalidate the ordinance or enjoin its enforcement.</p> <p>(2) An aggrieved person may proceed without first obtaining review of the ordinance by the Attorney General or may proceed after receiving such review if the Attorney General determines that the ordinance fails to comply with this chapter but declines to bring an action under subsection (a).</p> <p>(3) In an action brought relating to the enactment or enforcement of a local ordinance, the determination of the Attorney General made under section 3304 (relating to review by Attorney General) shall become part of the record before the court.</p> <p><u>§ 3306. Commonwealth Court masters.</u></p> <p>(a) General rule.—The Commonwealth Court may promulgate rules for the selection and appointment of masters on a full-time or part-time basis to oversee actions brought under section 3305 (relating to civil actions). A master must be a member of the bar of this Commonwealth. The number and compensation of masters shall be fixed by the Commonwealth Court, and their compensation shall be paid by the Commonwealth.</p> <p>(b) Procedure.—</p>
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(1) The Commonwealth Court may direct that a hearing in an action brought under section 3305 be conducted in the first instance by the master in the manner provided for in this section.

(2) Upon the conclusion of a hearing before a master, the master shall transmit written findings and recommendations for disposition to the president judge. Prompt written notice and copies of the findings and recommendations shall be given to the parties to the proceeding.

(3) The findings and recommendations of the master shall become the findings and order of the Commonwealth Court upon written confirmation by the president judge. A rehearing may be ordered by the president judge at any time upon cause shown.

§ 3307. Attorney fees and costs.

In an action brought under section 3305 (relating to civil actions), the court may do any of the following:

(1) If the court determines that the local government enacted or enforced a local ordinance with willful or reckless disregard for the limitation of authority established under State law, it may order the local government to pay the plaintiff reasonable attorney fees and other reasonable costs incurred by the plaintiff in connection with the action.

(2) If the court determines that the action brought by the plaintiff was frivolous or was brought without substantial justification in claiming that the local ordinance in question was contrary to the requirements of this chapter or Chapter 32 (relating to development), it may order the plaintiff to pay the local government reasonable attorney fees and other reasonable costs incurred by the local government in defending the action.

§ 3308. Sanction.

If the Attorney General, the Commonwealth Court or the Supreme Court determines that a local ordinance fails to provide for the reasonable development of oil and gas resources, the local government enacting or enforcing the local ordinance shall be immediately ineligible to receive any funds collected under Chapter 23 (relating to drilling impact fee). The local government shall remain ineligible to receive funds under Chapter 23 until the local government amends or repeals its local ordinance in accordance with this chapter.

§ 3309. Provisions of local ordinances.

In order to allow for the reasonable development of oil and gas resources, a local ordinance must, in addition to complying with this chapter, Chapter 32 (relating to development), the MPC and judicial decisions of the Commonwealth:

(1) Allow well and pipeline location assessment operations, including seismic operations and related activities conducted in accordance with all applicable Federal and State laws and regulations relating to the storage and use of explosives throughout every local government.

(2) Impose conditions, requirements or limitations on oil and gas operations that are no more stringent than similar conditions, requirements or limitations imposed on construction activities for other land development within the zoning district where the oil and gas operations are situated.

(3) Impose conditions, requirements or limitations on the height of permanent structures, setbacks from property lines, screening and fencing, lighting and noise relating to oil and gas operations that are no more stringent than similar conditions, requirements or limitations imposed on industrial uses or what is allowed within the particular zoning district within the local government where the oil and gas operations are situated or stipulated in or set forth in State statute or regulations pertaining to oil and gas operations.

(4) Have a review period for permitted uses that does not exceed 30 days for complete submissions or that exceeds 120 days for conditional uses.

(5) Authorize oil and gas operations, other than activities in or at impoundment areas, compressor stations and processing plants, as a permitted use in all zoning districts.

(5.1) Notwithstanding section 3215 (relating to well location restrictions) the oil and gas operations under paragraph (5) may be prohibited, or permitted only as a conditional use within a residential district where a well site cannot be placed so that the wellhead is at least 500 feet from any existing building. In a residential district, all of the following apply:

(i) A well site may not be located so that the outer edge of the well pad is closer than 300 feet from an existing building.

(ii) Except as set forth in paragraph (5) and in this paragraph, oil and gas operations, other than the placement, use and repair of oil and gas pipelines, water pipelines, access roads or security facilities, may not take place within 300 feet of an existing building.

(6) Authorize impoundment areas used for oil and gas operations as a permitted use in all zoning districts, provided that the edge of any impoundment area shall not be located closer than 300 feet from an existing building.

(7) Authorize natural gas compressor stations as a permitted use in agriculture and industrial zoning districts and as a conditional use in all other zoning districts, if the natural gas compressor building meets the following conditions:

(i) is located 750 feet or more from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and

(ii) does not exceed a noise standard of 60dba at the nearest property line or the applicable standard imposed by Federal law, whichever is lesser.

(8) Authorize natural gas processing plants as a permitted use in an industrial zoning district and as conditional uses in agricultural zoning districts, if the natural gas processing plant buildings meet the following conditions:

(i) Unless there is a waiver by the owner of the building or adjoining lot, the natural gas processing plant building is located at the greater of:

(A) at least 750 feet from the nearest existing building; or

(B) at least 200 feet from the nearest lot line.

(ii) The noise level of the natural gas processing plant at the property line does not exceed the lesser of:

(A) a noise standard of 60dba; or

(B) the applicable standard imposed by Federal law.

(9) Impose restrictions on vehicular access routes for overweight vehicles only as authorized under 75 Pa.C.S. (relating to vehicles) or the MPC.

(10) Does not attempt to impose limits or conditions on subterranean operations or hours of operation.

§ 3310. Applicability.

This chapter shall apply to the enforcement of local ordinances existing on the date of this section and to the enactment or enforcement of local ordinances enacted on or after the effective date of this chapter.

Section 3. The addition of 27 Pa.C.S. Ch. 33 Subch. B is a continuation of the former act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land." The following apply:

(1) Except as otherwise provided in 27 Pa.C.S. Ch. 33 Subch. B, all activities initiated under the former act of December 15, 1955 (P.L.865, No.256) shall continue and remain in full force and effect and may be completed under 27 Pa.C.S. Ch. 33 Subch. B. Resolutions, orders, regulations, rules and decisions which were made under the former act of December

15, 1955 (P.L.865, No.256) and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 27 Pa.C.S. Ch. 33 Subch. B. Contracts, obligations and agreements entered into under the former act of December 15, 1955 (P.L.865, No.256) are not affected nor impaired by the repeal of the former act of December 15, 1955 (P.L.865, No.256).

(2) Except as set forth in paragraph (3), any difference in language between 27 Pa.C.S. Ch. 33 Subch. B and the former act of December 15, 1955 (P.L.865, No.256) is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administrative interpretation and implementation of the former act of December 15, 1955 (P.L.865, No.256).

(3) Paragraph (2) does not apply to 27 Pa.C.S. §§ 3301, 3302(b)(3) and 3305.

Section 4. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 27 Pa.C.S. Ch. 33.

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

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of 58 Pa.C.S. Ch. 32.

(4) The act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act, is repealed.

Section 5. The addition of 58 Pa.C.S. Ch. 32 is a continuation of the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act. The following apply:

(1) Except as otherwise provided in 58 Pa.C.S. Ch. 32, all activities initiated under the Oil and Gas Act shall continue and remain in full force and effect and may be completed under 58 Pa.C.S. Ch. 32. Orders, regulations, rules and decisions which were made under the Oil and Gas Act and which are in effect on the effective date of section 2(2) of this act shall remain in full force and effect until revoked, vacated or modified under 58 Pa.C.S. Ch. 32. Contracts, obligations and collective bargaining agreements entered into under the Oil and Gas Act are not affected nor impaired by the repeal of the Oil and Gas Act.

(2) Except as set forth in paragraph (3), any difference in language between 58 Pa.C.S. Ch. 32 and the Oil and Gas Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Oil and Gas Act.

(3) Paragraph (2) does not apply to the addition of 58 Pa.C.S. §§ 3203, 3211, 3212.1, 3215, 3215.1, 3216, 3218, 3219.1, 3222, 3225, 3252, 3253, 3254.1, 3256, 3258, 3262, 3272 and 3274.

(4) It is not the intent of the General Assembly to change, repeal or otherwise affect any of the provisions of the act of December 18, 1984 (P.L. 1069, No. 214), known as the Coal and Gas Resource Coordination Act, or to change, repeal or otherwise affect any of the provisions of the act of January 26, 2011 (P.L.7, No.2), entitled "An act amending the act of December 18, 1984 (P.L.1069, No.214), entitled 'An act requiring coordination of coal mine and gas well operators; authorizing Department of Environmental Resources enforcement powers; and providing penalties,' further providing for definitions, for permits, for permit application, for minimum distance between gas wells, for well class designation and for coordination of gas

well drilling through active coal mines; providing for a pillar support study; and further providing for plugging gas wells penetrating workable coal seams, for penalties and for validity of other laws," which amended the Coal and Gas Resource Coordination Act.

Section 5.1. The addition of 58 Pa.C.S. § 3215(g)(2) shall expire three years after the effective date of this act.

Section 6. This act shall take effect in 60 days.

On the question,

Will the House agree to the amendment?

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

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

This amendment makes a number of text changes to be consistent with the definitions contained in the underlying bill. The amendment attempts to make clear the precise point from which the setback from the wellbore to a public water source will be measured in order to avoid unnecessary restrictions and confusion.

The amendment also seeks to make clear the precise land features and development features – for boundary of disturbed areas and from the well from which setbacks to wetlands will be measured in order to avoid confusion and unnecessary restrictions on development – and requires the Environmental Quality Board to develop criteria for the Department of Environmental Protection to follow when conditioning permits based on its impact upon public resources.

The amendment also holds the department accountable by requiring DEP to bear the burden of proof in defending its actions and to ensure that the conditions it elects to prescribe can withstand scrutiny in their being necessary to protect against any harmful impact.

The amendment also adds a requirement that the EQB establish procedures for adjudicating any compensation claims by affected landowners who are deprived of any right to produce their oil and gas as a result of the application of any well permit conditions. This is intended to protect private property owners from losing their property without compensation; ensures the safety, security, lighting, and noise provisions of the underlying bill, and that DEP-revised well casing and cementing regulations promulgated in 2010 apply only to unconventional gas wells.

It also revises—

Mr. DERMODY. Mr. Speaker? Mr. Speaker?

The SPEAKER. Will the gentleman suspend.

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

Mr. DERMODY. Mr. Speaker, I had previously made a motion that this amendment was out of order because the certificate was improperly filed and would not be in order until tomorrow, and I sent this I believe, Mr. Speaker, today, and it is with rule 21(c).

The SPEAKER. Would the gentleman approach the dais, please.

The House will come to order.

PARLIAMENTARY INQUIRY

The SPEAKER. The minority leader, Mr. Dermody, is recognized, for a parliamentary inquiry, I believe?

Mr. DERMODY. That is correct, Mr. Speaker.

Mr. Speaker, I would like to make a parliamentary inquiry as to whether or not the language of the certificate that was filed on this amendment was specific enough to satisfy and comply with rule 21(c)?

The SPEAKER. The Speaker appreciates the gentleman's inquiry and would, for the members' information, cite the pertinent part of rule 21 which deals with this subject, "If the amendment cannot be submitted in accordance with the above paragraph because it is still being prepared by the Legislative Reference Bureau, the member must provide the Office of the Chief Clerk with a statement, by the above-noted 2:00 P.M. deadline, prepared by the member containing the factual content of said amendment along with certification from the Legislative Reference Bureau that the amendment was submitted to the Legislative Reference Bureau for drafting prior to the above-noted 2:00 P.M. deadline." Just for the clarification of the members, that is what the rule says.

This is a subject that has come up before, and it is a problem that has occurred on both sides of the aisle with the description being a little less than what many of us would prefer to have made available to us. I would, admittedly, say that this is due to our process, it is due to members asking for amendments in a rushed fashion, and so we all have some blame for what I would characterize as less than adequate information provided in these descriptions. However, this subject has come up since— This rule, the basics of this rule, has been in place since 1993, and periodically this has come up, and it has been the past precedent of the House since that period of time to try to work through this inadequacy.

And so to answer your question, I would say that I agree that the description is weak. I would suggest that that is probably true with amendments that have been filed from members on both sides of the aisle, so I am certainly not pointing the finger at any one person here. I think we can point it at all of us at some point in time, but I would be inclined to say that in my opinion, in terms of the question, that the amendment is in order in that regard.

Mr. DERMODY. Thank you, Mr. Speaker.

The SPEAKER. For the information of the members, in discussion with the minority leader, it would be the intention of the Chair that I will be sending a letter to all of our respective staff along with the members restating this rule and putting more emphasis on these descriptions being more substantive and more adequately reflecting the content of the amendment. As I said, I appreciate the minority leader's understanding of this situation. It is something that happens on both sides of the aisle, and it does not serve us well in terms of preparing for amendments as we reach the floor, but the Speaker's Office will seek to enforce a more accurate and substantive description on the certificates.

The gentleman, Mr. Baker, was recognized on the amendment.

The gentleman may proceed.

Mr. BAKER. Thank you, Mr. Speaker.

The amendment also revises the local ordinance uniformity provisions in a couple of ways. First, it provides for an ACRE-type (Agriculture, Communities and Rural Environment) process by permitting a party to request the Attorney General to review a local ordinance to determine whether it allows for the reasonable development of oil and gas, and allows well and

pipeline location assessment and oil and gas operations, other than compressor stations, as a permitted use in all zoning districts, but allows the ordinance to prohibit or permit them as a conditional use in residential districts after meeting certain requirements. The amendment also sets zoning requirements for compressor buildings and processing plants.

The new requirements will apply to the enforcement of local ordinances existing on the date of this section and to the enactment or enforcement of local ordinances on or after the effective date.

And lastly, should the Attorney General, Commonwealth Court, or the Supreme Court determine that a local ordinance fails to provide for the reasonable development of oil and gas activities, the local government would be ineligible to receive funds collected through the fee and will remain ineligible until the local government adopts a revised ordinance.

Thank you, Mr. Speaker.

PARLIAMENTARY INQUIRY

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

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

Mr. VITALI. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman may state his inquiry.

Mr. VITALI. I note that in this amendment, the first thing it does is deletes the first 127 pages of HB 1950. So my question is, what effect would this have on the amendments we have filed but not yet considered?

The SPEAKER. If the language in this amendment, especially that language that is deleted from the bill, that is stricken from the bill, would affect an amendment that has not been considered previously by the House, then the member would have the opportunity to have that amendment redrafted to the amendment that is before us.

Mr. VITALI. Understood. Okay. Thank you.

If I may continue on interrogation, or if I may request interrogation of the maker of the amendment?

The SPEAKER. On the amendment, the gentleman from Delaware County, Mr. Vitali, is recognized and he seeks to interrogate the maker of the amendment. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. VITALI. So we can say this is a gut-and-replace amendment. Would that be a fair characterization, essentially terminating the contents of HB 1950 and inserting a new set of provisions? Would that be safe to say?

Mr. TURZAI. Mr. Speaker?

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

Mr. TURZAI. If at all possible, I would like to be able to answer that question. Is that appropriate?

Mr. BAKER, could you defer that to me?

Mr. BAKER. Mr. Speaker, I yield to the majority leader.

The SPEAKER. The gentleman from Tioga has yielded. The gentleman, Mr. Turzai, may respond to the interrogation.

Mr. TURZAI. No, it is not. Let me explain in detail what the Baker bill does with respect to HB 1950 in terms of the changes from the underlying bill with respect to the amendment. The key change, the key change between the good gentleman from

Tioga County's amendment, 6347, and the underlying bill deals with the issue of how do we balance local zoning ordinances and restriction ordinances with a need for uniformity and consistency. In HB 1950, there was language that called for uniform standards across the State. Keep in mind, when we do a texting ban, a texting ban is, to a certain extent, a statewide standard that no municipality can change.

Now, there were many folks, both within the chamber and outside of the chamber, that felt that there needs to be a more balanced approach with respect to the local zoning ordinance. So the provision that is provided for in A6347 is actually more towards local ordinance and not a complete uniformity standard. It is a more balanced approach. It is an approach that is also being pursued by our colleagues over on the Senate side of the Capitol, and it is a result of negotiations between the townships association and members of the Marcellus employment community. This local zoning ordinance change relating to oil and gas operations—

Mr. DERMODY. Mr. Speaker?

The SPEAKER. The gentleman will suspend.

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

Mr. DERMODY. Mr. Speaker, I believe the question was whether or not this was a gut-and-replace amendment, which the certificate states that it is; and two, whether or not if it is, that we will be able to file our amendments or given time to timely file them. I believe the dissertation we are hearing right now has nothing to do with answering the gentleman's question.

The SPEAKER. I believe the gentleman is mistaken. The gentleman from Delaware had made a parliamentary inquiry relative to the gut and replace. That question was answered, apparently to his satisfaction, at which point in time he sought recognition on the amendment, the substance of the amendment. And the gentleman, Mr. Turzai, has been answering his first question on the substance of the amendment. We clearly were on the amendment.

Mr. VITALI. If I can just simply restate my question. My question is, is this a gut-and-replace amendment? That was the only question on the floor so far. I am being patient with the majority leader, but I had a series of other questions specifically. I was not asking for a general explanation of the bill. I simply was going to ask if this were a gut-and-replace amendment – that is what is on the floor – and then I was going to ask some other questions which were my areas of inquiry. So that is where we are. I am going to be patient, but the question on the floor now is, is this a gut-and-replace amendment? And when that is answered, I will go on to my next question.

Mr. TURZAI. If I might, Mr. Speaker?

The SPEAKER. The gentleman, Mr. Turzai, may respond to the interrogation.

Mr. TURZAI. "Gut and replace" is a colloquial term that is often used, but the vast majority of the underlying bill, HB 1950, the vast majority of HB 1950 is contained in amendment 6347. The differences are essentially related to increased protection under local ordinances under the compromise legislation that was drafted for local ordinances – balance versus a uniformity standard.

Essentially, HB 1950 is contained in the 6347 amendment in significant entirety, with the exception of this particular language and some additional provisions that were offered in addition to what the underlying bill had of HB 1950.

So to the extent that this is a complete overhaul of HB 1950, that is not accurate. The fact of the matter is, there is a provision that is more geared toward local ordinance protection under the amendment, and there are some additional provisions that have been added that I would be glad to get into, but the fact of the matter is, the vast majority of HB 1950 is exactly the same in A6347, with the most significant change being in the provision that deals with local ordinances. And there is more respect or more deference to local ordinances in A6347 than there would have been under the uniformity provision of HB 1950.

Mr. VITALI. Okay. My next question, I guess it is to the maker of the amendment, but the majority leader certainly is welcome to step in.

In the bill in chief it is my understanding that the impact fee imposed had essentially about a 1-percent effective rate. Now, it was a tax rate of effectively 1 percent in the bill in chief, which this struck out because it struck out the first 127 pages. Now, does the Baker amendment, does amendment 6347 maintain that same 1-percent effective tax rate?

The SPEAKER. Is the gentleman from Tioga, Mr. Baker, going to respond?

Mr. BAKER. Mr. Speaker, I am yielding to the majority leader at his request.

The SPEAKER. The gentleman, Mr. Turzai, is recognized in response to interrogation.

Mr. TURZAI. With respect to the impact fee assessment, it is exactly the same in A6347 as it is in HB 1950.

Mr. VITALI. Okay. Thank you.

Now, with regard to the distribution, as I recall HB 1950 kept almost all of the revenues from this impact fee to local governments, none going to the General Fund; none going – is that still the case?

Mr. TURZAI. With respect to the distribution of the impact fee, A6347 is identical to HB 1950.

Mr. VITALI. In HB 1950, I recall a provision near the beginning where a percentage, perhaps 25 percent, of the Oil and Gas Fund was diverted to the Environmental Stewardship Fund, and I note that was stricken in this bill. Does the amendment, 6347, retain that diversion of 25 percent, I believe, from the Oil and Gas Lease Fund to the Environmental Stewardship Fund?

Mr. TURZAI. A6347 is identical to HB 1950 with respect to the use of the oil and gas lease funds putting it towards environmental programs. Yes; it is the exact same language.

Mr. VITALI. Okay. Amendment 6347 dealt with certain setback requirements, setback requirements from water sources which would result in drinking water setback from streams, setback from wetlands; I believe those figures were 1,000, 300, and 300 respectively. Does A6347 maintain the same setback requirements as HB 1950?

Mr. TURZAI. Yes. As you know, the underlying bill, HB 1950, is designed to increase regulatory protection for our citizens and the environment, and all of those protections, including the setbacks that you referenced, remain identical in A6347 as they are in HB 1950.

Mr. VITALI. The preemption of local zoning provisions near the end of this bill, it is my understanding that there is a variance with regard to this specific provision. It is, rather than a total preemption, there is a modification in A6347. Could how local zoning rules are affected or local zoning and other rules be affected, could they be explained once more?

Mr. TURZAI. A significant change and the primary change in A6347 versus the underlying HB 1950 is additional protections for local communities with respect to the zoning issue. HB 1950 had a complete uniformity standard. It is akin to the language that exists under Ohio law, the HB 1950 legislation. It is stating, much like, by analogy, the texting ban, that any regulation with respect to the development of unconventional well natural gas would in fact have to be done on a State level.

We have in A6347 provided a change that is the same as that put forth in the chamber across the Capitol in the Senate that provides a balance between State and local, and it was primarily devised with the townships association and members of the employment community at the table. This is, essentially, a local ordinance may be enacted pursuant to the Pennsylvania Municipalities Planning Code, the Second Class City Zoning Law, or the Flood Plain Management Act, and must provide for the reasonable development of natural gas as provided in the MPC.

So this is a balanced approach, and it is designed to provide more protections or balance with respect to local communities vis-a-vis the State. That is the most significant change between A6347 and the underlying HB 1950. It is added protections for the local communities.

Mr. VITALI. Under A6347, for example, would local communities have a right to pass ordinances relating to noise, lighting, dust?

Mr. TURZAI. Yes.

Mr. VITALI. Would local municipalities have the right to pass ordinances with regard to setbacks from certain features in the municipality?

Mr. TURZAI. Yes.

Mr. VITALI. Would they have a right to regulate the location of the drill pad within the municipality?

Mr. TURZAI. Yes.

Mr. VITALI. Have any of the groups that represent the associations – the boroughs, the township supervisors, the township commissioners, the county commissioners – have any of them, and I do not mean offhand statements, I mean formally in the form of a letter with regard to this language specifically, A6347, endorsed, have any of those groups specifically and in writing endorsed amendment 6347?

Mr. TURZAI. Dated November 15 of 2011, from the Pennsylvania Association of Townships, the language indicates that the language that is being offered in the 6347 amendment "to Chapter 33 is a more reasonable approach" than that set forth in the underlying bill of HB 1950, quote, unquote. It does state that "This language will establish statewide uniformity...while requiring that permanent operations meet the same local standards that all others must comply with within the host municipality," quote, unquote.

Mr. VITALI. Okay. That said, I am concerned about what maybe is not said. I mean, if one thing is more reasonable than another, that does not necessarily mean that more reasonable thing is in fact desirable or more worth endorsing; it just may be the lesser of two evils.

Now, I am going to ask my question again: Have any municipal groups endorsed, in writing, this language? Yes or no?

Mr. TURZAI. I would consider that language to be an endorsement. Now, you may not and that is a subjective determination. But I read you the exact language to be specific

to what the PSATS (Pennsylvania State Association of Township Supervisors) sent out, and I stand by that language that the Baker amendment "is a more reasonable approach" to that in the existing bill and that the language "...will establish statewide uniformity in construction of the site while requiring that permanent operations meet the same local standards that all others must comply with within the host municipality."

Mr. VITALI. I do not have what you are reading, but anywhere in that document does it say the words "ask for a 'yes' vote," "ask for support," "endorse"? Any language that we are used to dealing with when we see letters from groups supporting? Any of that language in that letter you are reading or any other document you are aware of?

Mr. TURZAI. The word "endorsed" is not in this document. The language that I read is in the document.

Mr. VITALI. "Asked to vote 'yes,' " is that there?"

Mr. TURZAI. There is no opposition to the bill – I mean, no opposition to the amendment in the language. The language that I read is essentially the part that specifically addresses this amendment. It is clear that they believe that it is a more favorable approach than HB 1950, and from my perspective, that constitutes an endorsement.

Mr. VITALI. Thank you, Mr. Speaker. That concludes my interrogation. I would like to speak on the amendment.

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

Mr. VITALI. Mr. Speaker, I think in effect a 1-percent fee, tax, whatever you want to call it, is an absolute slap in the face of the citizens of Pennsylvania who want to see drillers pay their fair share. Mr. Speaker, the Commonwealth needs the revenue from drilling. We have cut basic ed, higher ed, by almost a billion dollars, but we are letting the drillers go scot-free.

Mr. Speaker, in every major gas-producing State, they are imposing a significant fee or tax, but not Pennsylvania. Texas's rate is 7.5 percent, yet this effectively, the Baker amendment, amendment 6347, is 1 percent. West Virginia is 6 percent effectively. Higher rates are in Colorado, Wyoming, Louisiana, all 5 percent and above, and this is a 1-percent insult to the citizens of Pennsylvania.

Mr. Speaker, we have to listen to the people we represent. They are not calling for this. They are calling for the drillers to pay their fair share. Mr. Speaker, you have drilling companies like Anadarko whose revenues throughout the country were in the area of \$10 billion in 2010 – \$10 billion in 2010 in revenues, Mr. Speaker, and we are refusing, we are refusing to impose a tax or a reasonable fee on our drillers.

Mr. Speaker, this is all being driven by, this is all being driven by a twisting, a twisting of words, trying to maintain a no-tax pledge and being beholden to the Americans for Tax Reform. This is all a convolution that goes against the citizens of Pennsylvania.

Mr. Speaker, we need these moneys; we need these moneys for environmental programs. Growing Greener is running out of funds. It is an extremely popular program. It is a program that benefits all 67 counties in Pennsylvania, that helps protect the environment, Mr. Speaker, and this does not do enough.

Mr. Speaker, the setback requirements in this bill are way too weak. I believe the setback requirements are a thousand feet from water supplies, the water supplies that the people we represent have to drink. And two recent studies have come out and said that water contamination from these wells could extend

up to 3,000 feet, and we are only setting back wells a thousand feet. Mr. Speaker, the people of this State deserve better.

Mr. Speaker, we are only keeping these drill well pads 300 feet from streams. We are only keeping them 300 feet from wetlands. Mr. Speaker, in the event of a spill, and we have seen these spills and accidents and so forth, that does not give us enough buffer, that does not give us enough buffer to prevent these toxic chemicals and drilling renderings and other toxic materials produced by drilling. It does not give us enough buffer to keep them out of our waterways, Mr. Speaker.

Mr. Speaker, with regard to local zoning, current law is entirely adequate and should not be modified. Under existing law, under existing law, local communities have some control. They do not have the right to prevent drilling, because case law is clear: Drilling must be allowed; every use must be allowed in every municipality. So municipalities now cannot prevent drilling, but they do have a right to regulate health and safety and they do have a right to put reasonable ordinances in to protect the quality of life and safety of the community.

The language with regard to local zoning is unnecessary, and I think it was quite telling, quite telling with regard to the majority leader in his statements that there is no endorsement of these groups. Nor did I hear endorsements of other groups who have come out in opposition, like the various environmental groups who are charged with protecting our water.

Mr. Speaker, we can do better; we can do better than this. We need to protect our water. We need to protect our communities. We need to raise reasonable amounts. We need to get fair amounts from drillers. Mr. Speaker, this is not, this is not what the people of Pennsylvania are calling for.

I understand this is just one step in a process, but we have to send a message to the Senate. We have to send a message to the Senate as to what we are willing to agree to and what we are not willing to agree to, and to suggest by a "yes" vote on this that we are willing to agree to a 1-percent tax is sending the entirely wrong message in this negotiating process.

I urge a "no" vote on A6347. Thank you.

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

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. With all due respect, we certainly will have an opportunity to get into the details of the underlying bill, but let us just be clear about what the vote on the Baker amendment in and of itself does. The vote on the Baker amendment is that, with respect to the underlying bill, if you are for straight preemption or straight uniformity, then I suspect you might vote against the 6347 amendment. If you are looking for a balanced approach that takes into account locals versus State, tries to preserve a good balance with respect to those standards, then I would argue that you would be in favor of A6347.

In addition, let us be honest with respect to the issue of the industry. I suspect some folks, perhaps even the good gentleman from Delaware County – perhaps – would prefer that there was not any development of natural gas in the State of Pennsylvania and that, along with it, all the good jobs, all the investment of capital, all the downstream opportunities, the ability to get natural gas at low prices, to be able to allow manufacturers to flourish, they would all be gone – perhaps. But what the good citizens of Pennsylvania want and what this General Assembly is doing today is providing balance. We want good private-sector jobs that are allowing so many aspects, areas in

our State to grow and to bring good-paying positions to Pennsylvania citizens, while at the same time providing a balance that there is protection for our citizens and our environment.

This particular proposal, it increases regulatory approaches for safety. It provides Oil and Gas Lease Fund moneys to go to environmental programs. But it also says we want private-sector job opportunity in Pennsylvania, we want the economy to flourish, and that is why we have been able to put together a balanced approach. And this amendment adds one more component: It is a balanced approach to the State versus local concerns about regulation, and we think that it is a very commonsense approach.

With all due respect to the other side, we have been in the minority for the last 4 years, and no balanced approach was ever put on the table or accomplished, and this is the opportunity to do it. I would ask for a "yes" vote on A6347.

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

On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

May I interrogate the prime sponsor of the amendment, please?

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

Ms. MUNDY. Thank you, Mr. Speaker.

On page 75 of the bill—

Mr. BAKER. Of the bill or the amendment?

Ms. MUNDY. I am sorry; the amendment. Line 17 talks about "reasonable development of minerals." Is the word "minerals" defined anywhere in current law with regard to gas and oil, or is it anywhere in your amendment or in the underlying bill, 1950?

Mr. BAKER. Could you stipulate as to the line on page 75?

Ms. MUNDY. Line 17.

Mr. BAKER. Thank you.

Yes; it is my understanding that that is clearly defined within the Municipalities Planning Code.

Ms. MUNDY. I do not believe that is true, and in fact I believe there is a court case pending – is it in Susquehanna County? – that calls into question whether natural gas and oil are minerals or not. I do not believe that the word "minerals" is defined anywhere within the Oil and Gas Act, and I believe that that issue is working its way through the courts right now. And I certainly do not want oil and gas defined as minerals. I certainly do not want this bill to encompass coal or other topics.

The SPEAKER. Excuse me. Is the lady still under interrogation or debating the amendment?

Ms. MUNDY. Well, I guess I would ask a further question of the maker of the amendment.

The SPEAKER. The lady is in order.

Ms. MUNDY. Can you point to the definition that you are talking about in the Municipalities Planning Code, in the Oil and Gas Act, or anywhere else? Can you be specific as to where I might find that definition?

Mr. BAKER. The underlying bill and this amendment reference and refer back to the Municipalities Planning Code.

Ms. MUNDY. Well, then can you show me in the Municipalities Planning Code where the word "minerals" is defined and whether that includes oil and natural gas?

Mr. BAKER. It is my understanding that the term "minerals" was defined about 130 years ago in a court case, and that you referenced Susquehanna County, and it is my understanding that that issue is on appeal and that the precedent that was set 130 years ago is the definition, obviously, that we are relying upon.

Ms. MUNDY. It is my understanding, and please correct me if you disagree or can point to some specific information that says I am wrong, that the current definition of "minerals" does not include oil and natural gas. Are you trying to change that in this amendment?

Mr. BAKER. No.

Ms. MUNDY. Then why would you refer to the "development of minerals" when that does not include oil and natural gas in current law?

Mr. BAKER. Would you kindly indulge me for one minute.

Ms. MUNDY. Sure.

Mr. BAKER. Okay; just to answer your question and to clarify it.

Within the Municipalities Planning Code, it does specifically reference natural gas: " 'Minerals,' any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore,..." et cetera, et cetera, "and crude oil and natural gas."

Ms. MUNDY. Mr. Speaker, may I speak on the amendment, please?

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

Ms. MUNDY. Mr. Speaker, I think it is very unclear the way this bill is drafted as to whether we are referring to oil and natural gas only or all of the other items that were referenced by the maker of the amendment himself. I thought we were only dealing with oil and natural gas, especially when it comes to local ordinances. Now I find that we are talking about all kinds of other minerals, not just oil and natural gas.

I do not like the way this amendment is drafted. And believe me, that is not the only reason I would vote against it, but it is certainly a very good reason to be skeptical as to what is trying to be done here, and I would urge a "no" vote on what I believe is a very poorly drafted piece of legislation.

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 Allegheny County, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I am encouraged by so many aspects of this amendment. I think it makes a lot of important improvements to the bill, and I nonetheless do have some questions that I am hoping the sponsor of the amendment might be able to assist with.

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

Mr. MAHER. Thank you, Mr. Speaker.

A little bit ago this chamber unanimously approved amendment 6118 to provide for the public's right to know about certain reports that are to be filed by producers or operators. I am unable to find that same protection of the Right-to-Know Law in your amendment. Can you point me to it, because I may genuinely have missed it in trying to work my way through this.

Mr. BAKER. A very good question, and I believe that is a procedural question that is better directed to the Speaker's rostrum, and I would defer to either the Speaker or the Parliamentarian.

Mr. MAHER. I am sorry; I was not asking a procedural question, my good friend. I was just asking, does your amendment embrace that right-to-know protection?

Mr. BAKER. I understand. No, that language was not in my amendment, Mr. Speaker.

Mr. MAHER. Thank you, Mr. Speaker.

On page 75 where it gets to the role that the Attorney General plays with respect to evaluating the appropriateness of local ordinances, you mentioned that you were modeling it on the ACRE program, and when I look at the statute for the ACRE program, I see that the Attorney General may bring an action, can step forward as a plaintiff.

In your amendment, my reading is that instead of bringing an action, the Attorney General makes the determination, and I do not see any provision for that determination to be appealable. Is there an appeal provision here somewhere?

Mr. BAKER. That provision is an opportunity for the Attorney General to decide whether in fact a particular ordinance, similar to the ACRE, is legal, appropriate. There is still recourse to the courts, obviously, but this is an effort to avoid that litigation and additional costs.

Mr. MAHER. Thank you, Mr. Speaker.

I am not an attorney, and I know you are not an attorney, so you may want to defer to someone else on this question.

As I read this amendment, the Attorney General would be the judge, jury, and executioner, would be the sole person who makes the decision about whether or not a community's adopted local ordinance is reasonable or not. Is there any other area of Pennsylvania law where the Attorney General is empowered to be the judge, jury, and executioner?

And again, I understand you are not an attorney, I am not an attorney, so it may be that we will need to defer to an attorney. But I am not aware of anyplace else where, in Pennsylvania, we empower the Attorney General to take up a matter of his own volition, to decide whether it is in bounds or out of bounds, and inflict damages on a community.

Mr. BAKER. Well, first, to try to answer your question, I do not necessarily agree with the characterization "judge, jury, and executioner." However, what this simply allows is for the Attorney General to make a determination, and if an individual or a party does not like that determination, then there is always recourse in the court.

There is also a process where a master can make a determination with regard to the appropriateness of a particular ordinance. So again, it is somewhat similar in trying to avoid litigation and costs, trying to get a legal opinion and ruling to avoid unnecessary costs and expenses to parties concerned.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my interrogation. I would like to return to the amendment.

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

Mr. MAHER. I thank God that Pennsylvania is blessed with this rich natural resource of natural gas. It is such a wonderful gift, and it should be harvested. The existence of this pool of Marcellus has already served to help drive the price of natural

gas down from more than \$13 an Mcf (1,000 cubic feet) to less than 3 1/2 bucks an Mcf, and that is good. The jobs this industry creates in Pennsylvania; that is good. The riches that have come to many of our friends and neighbors by their good fortune to live by or own property that is blessed with this resource is wonderful. That is all great and needs to be protected, and so does our environment, so does our water, and I think this amendment goes a very long way in accomplishing those goals. But I also believe that our local communities that have invested serious time and study and trouble to develop reasonable ordinances need to be respected.

Now, in the ACRE law, because of a concern that some communities were adopting zoning intended to drive out agriculture, the Attorney General is empowered to step forward as a plaintiff, to step into the shoes of the farmer and say, you deserve to be protected. But when he steps into their shoes, he needs to go to a court and he needs to argue the point. Our current Governor as Attorney General was a hero to the people of Pennsylvania who were interested in agriculture, because he did this and he did this well. But this amendment does not set up that paradigm. This amendment says, whoever is the Attorney General can make up their own mind absent any court and can inflict monetary harm on a community based upon what that individual, that one person, believes is reasonable. And this amendment makes no provision for that decision to be appealed in any way, shape, or form. This strikes me as a very dangerous disregard of due process, and I cannot support it.

And frankly, if it were to become law like this, I am rather certain the courts would deem it to be unconstitutional. And I am not going to make the motion about constitutionality, but I am going to ask you to consider, do you want to establish a precedent that Attorneys General or prosecutors on any level can, by themselves, take up a question, make their decision, inflict the punishment, without involving the courts, without the parties having a right to be heard in an open setting? I do not. And I appreciate all the hard work that has gone into this amendment, and again, I think it has done an awful lot of good things, but that is a bridge too far. I cannot go there.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

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 would like to interrogate the maker of the amendment.

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

Mr. BARBIN. I was also interested in the same question that has been raised by the prior speaker, and it is a question of local preemption. And the rules with regard to your amendment are a little bit different than the law today, and I was wondering, I was reading page 74 of your amendment, and on page 74 it defines what oil and gas operations are. Under your bill, does the township lose the right to write a local ordinance with regard to reasonable restrictions on compressor stations? Because in the current law, while you cannot interfere with the drilling, up to now a local ordinance that was specified for a compressor station would require a variance to be granted by the local township. It appears, under your language of page 74, that now any equipment that is used for a natural compressor station will be preempted.

Mr. BAKER. This authorizes natural gas compressor stations as a permitted use in agricultural and industrial zoning districts and as a conditional use in other zoning districts with certain conditions.

Mr. BARBIN. So my question is, does your amendment change the law as regards to the local township's ability to use zoning to determine where and how compressor stations will be sited and, you know, similar regulations?

Mr. BAKER. It does not change. They can still pursue that, sir.

Mr. BARBIN. Well, the definition says that compressor stations are included within natural oil and gas operations, and on page 78 it says that if you meet certain conditions, you must – you must – authorize it. Now, that is a difference from the local law. Now it is up to the township to decide this, and it appears, when you take page 74 and page 78, that you are taking away that right from the local townships.

Mr. BAKER. The short answer is the local townships still have that ability, sir.

Mr. BARBIN. Okay. Well, then could you explain to me page 78, line 27 through line 38, because what it seems to say to me is that if you have a compressor station and you meet those two conditions, the township is required to authorize that under the model permitting process, and that would be a change.

Mr. BAKER. Again, this is not a major shift from current law.

Mr. BARBIN. All right. So it is your opinion that if you are required to site a compressor, that is the same thing as having a variance under local law.

Mr. BAKER. The bill authorizes them; it does not mandate them, sir.

Mr. BARBIN. Well, no, that is where I would have to disagree with you. On line 8 of the same page, page 78, it says notwithstanding section 3215, it may be prohibited or permitted only if it meets the conditions, and then it sets forth the conditions. So now if you meet those two conditions, it must be permanent, and that is not the law now.

Mr. BAKER. You are referencing the residential zone. This is a conditional use.

Mr. BARBIN. Okay. I guess, Mr. Speaker, on the bill, or on the amendment?

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

Mr. BARBIN. Thank you.

I respectfully disagree with the maker of the amendment. I do believe this causes a problem under local zoning law as it currently exists. And while it is an attempt to modify some of those problems under local zoning law, this does create a problem with something that generally the townships have been able to zone themselves.

Now, there are a lot of other reasons that I would agree that this is a change in the law. I believe we should be moving in this direction because natural gas should be used, but it ought to be used in a manner like Governor Pinchot would have used our forests. If we do this correctly, if everybody gets to take a look at the rules and discuss them, then we will have good rules, and the water will be safe and we will have all the benefit of the resources.

The problem with this amendment is, it was never reviewed in a committee. For the first time, we are seeing it on the floor in a replacement amendment, and we do not even have a statement from the local township supervisors that they would

agree to this provision. So until we do, I am going to have to say this provision does usurp some of the powers of the local townships, and I will have to vote against this 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 Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this amendment.

First, Mr. Speaker, with respect to the preemption issue, the majority leader quoted from the PSATS letter a particular portion of a particular sentence indicating that PSATS felt that this amendment is "a more reasonable approach." Let me share with you some of the other comments in that same letter where PSATS says, "We continue to have issues with Section 3272..."; where PSATS says, "While PSATS would prefer that local communities retain their existing authority..."; where PSATS says, "But, Section 3272 needs to be amended..." to protect local ordinances. All of that is in the letter, and in fact the letter nowhere says that PSATS supports this amendment or that they support HB 1950. So the selective reading of that one particular phrase does not indicate that our township supervisors support this amendment or this bill.

In addition, Mr. Speaker, there are a host of reasons why we should be against this bill. The amendment is basically the same as the underlying bill, just as the majority leader said.

This amendment would allow some counties the option of assessing and collecting an impact fee with an embarrassingly low 1-percent maximum tax rate per well. This amendment does not force these huge out-of-State drilling companies to pay their fair share, and it does not adequately address the many statewide impacts of drilling activity, including environmental threats.

This amendment would benefit only a relative few within the Marcellus Shale region, with little to no benefit for the rest of the State.

This amendment fails to protect public health, safety, and the environment because it includes inadequate environmental regulations and a pitifully low bonding requirement.

This amendment lacks transparency and accountability, representing a giant step backwards in our efforts to reform government operations in Pennsylvania.

This amendment provides no incentives for the out-of-State oil and gas drillers to create jobs for Pennsylvania workers.

And again on the preemption issue, Mr. Speaker, I agree entirely with the majority chairman of the Agriculture Committee in his analysis of the comparison of this preemption language to ACRE. Those of you that supported ACRE, as I did, know that this is in no way akin to ACRE. As pointed out by the majority Agriculture chairman, it is completely different in that, and it is the single biggest reason why this amendment should be rejected.

In addition, Mr. Speaker, I want to address the majority leader's comments concerning whether this amendment is a gut-and-replace amendment. Amendment A06347, on lines 3 to 5, says, and I am quoting the actual amendment. I would like you to pay attention to this and tell me how this is not a gut-and-replace amendment. It says, "Amend Bill, page 1...pages 2 through 127...by striking out all of said...pages...." Now, the bill is 127 pages long. If we are striking out all of page 2 through 127 pages, how are we not gutting and replacing that?

Now, the majority leader says that the amendment only changes preemption, which is contained in chapter 33, beginning on page 73. So if that is the case, then why are we simply restating page 1 through page 73? Why are we simply restating that? I will tell you why: because it guts all of the other good bipartisan amendments that you voted for here today. That is the fact. That is why gut-and-replace amendments are just plain wrong.

No one in this chamber, no one in this chamber can vote for this amendment with a straight face and say that they voted and supported those half dozen bipartisan amendments that passed here yesterday and earlier today. You simply cannot say you were for those amendments if you vote for this amendment. This amendment guts them and replaces them. It is a gut-and-replace amendment, Mr. Speaker. You have to vote against this 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 Mercer County, Mr. Stevenson.

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

Over the last several days as this issue has continued to blossom and heat up, I have received many e-mails, as I am sure most of my colleagues have, regarding a concern about whether or not the Marcellus legislation that was moving forward would limit local government's ability to address the issue as it impacts them. Certainly I think we all agree, or many of us agree, that this bill and the way it is drafted is a good idea in that we are addressing the Marcellus issue here in Pennsylvania in a timely way. I think further, I think it is important that as we address that issue, we allow counties and local municipalities to make decisions as it affects them as the industry moves into their area and allows those local officials to address the impacts that they feel from the drilling.

However, until this amendment came forward, many of our local officials at the township and local municipal level felt that they did not have a voice in local zoning and land use ordinances and how the drilling would affect them as the industry moved into their area. For those reasons, I commend the gentleman from Tioga for this amendment, particularly the way that this amendment addresses the local officials and how they can then look at their local ordinances.

As he indicated earlier, this amendment revises the local ordinance uniformity provision in two ways. First, it provides for an ACRE-type process by permitting a party to request the Attorney General to review a local ordinance to determine whether it allows for the reasonable development of oil and gas. Secondly, it allows well and pipeline location assessment and oil and gas operations, other than compressor stations, as a permitted use in all zoning districts, but it allows the ordinance to prohibit or permit them as a conditional use in residential districts after meeting certain requirements. Therefore, it leaves the authority with the local municipality, and I think that is something that addresses many of the concerns I have heard over the past several days or the past week.

I am very pleased to see that this amendment addresses those issues, and once again I commend the gentleman from Tioga for the amendment and ask for your support for it. Thank you.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. White.

Mr. WHITE. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

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

Mr. WHITE. Thank you, Mr. Speaker.

Mr. Speaker, I have a couple of questions in regards to the abilities of what a municipality would or would not be able to do under this amendment.

Would a township or a borough be able to mandate fencing or netting around an impoundment under this bill?

Mr. BAKER. Provided that it is no more stringent than the State standard.

Mr. WHITE. Mr. Speaker, what is this current State standard under your bill?

Mr. BAKER. The relevant section and page number is 31, section 3215.1, regarding security fencing – clearly enumerated. It involves lighting as well, other matters.

Mr. WHITE. And, Mr. Speaker, they could not do anything more stringent than what was already put in under this language then?

I will rephrase that, Mr. Speaker. They would not be able to mandate fencing or any additional security measures that were not already prescribed under this bill. Is that correct?

Mr. BAKER. I believe we are in agreement.

Mr. WHITE. Okay.

Mr. Speaker, in this amendment, is there any provision in here for additional safety provisions or zones around schools?

Mr. BAKER. If it is something that the State does not speak to, then they do have the ability to do it. It does impose conditions, requirements, or limitations on height, setbacks, screening, fencing, lighting, and noise that are no more stringent than those similarly imposed on industrial uses, those imposed within the zoning district where the operations are situated or provided in State statute or regulations pertaining to oil and gas operations.

Mr. WHITE. So then, Mr. Speaker, under that scenario, absent any other State statute dealing with schools, a school building would be treated as any other structure under this bill?

Mr. BAKER. Okay; if the State does not speak to that particular issue and the local municipality desires to pursue that, then they may do so. Now, if someone feels that a determination was inappropriate or incorrect, they can request the Attorney General to review that decision.

Mr. WHITE. Well, Mr. Speaker, I am a little confused then, because based on what you just said, if there are no provisions for additional safety around a school, and a municipality cannot enact anything more stringent than existing regulations, would not by definition any restriction be more stringent?

Mr. BAKER. I think we have a misunderstanding there, because the State, assuming that the State has not spoken to that issue, that issue is open, a determination can be made with respect to restriction, and they then can therefore pursue that if they so desire.

Mr. WHITE. Well, Mr. Speaker, what confuses me is this says that all drilling activities are a permitted use. If drilling is a permitted use and you could drill a well next to a school, what recourse would a municipality have to be able to restrict it?

Mr. BAKER. This bill does not speak to schools.

Mr. WHITE. So because the bill does not speak to schools, they are treated just like every other structure. Is that correct?

Mr. BAKER. They can enhance their standards if they so desire to pursue that at the local level.

Mr. WHITE. And for the purposes of legislative intent, as the maker of the amendment, you are saying that because this amendment does not specify a school, are you saying that there is some sort of special standard that a township could then apply?

Mr. BAKER. No; it is open to the local determining municipality.

Mr. WHITE. But, Mr. Speaker, if any local ordinance cannot be more stringent than what has been prescribed in this bill, how could any municipality regulate it?

POINT OF ORDER

Mr. TURZAI. A point of order, Mr. Speaker.

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

Mr. TURZAI. Sir, it has been asked and answered. You do not get to continue, I would submit to the Speaker, to continue to reask the same question when it has been answered. The fact of the matter is, with respect to this, a local municipality can specifically do something with respect to a school if it so wants under the proposal that has been put forth by Representative Baker. This is not an opportunity to try to harass another member. The answer is on the table.

Mr. WHITE. Mr. Speaker?

The SPEAKER. The Speaker thanks the gentleman for his point of order.

Mr. WHITE. A point of order, Mr. Speaker.

The SPEAKER. The Speaker would agree that the question was being asked over a couple of different ways, a couple of different times, and I am certainly willing to give some leeway. I would ask the member to, you know, seek the direct question, and at some point you have to accept the answer, even if it is not the way or what you want.

The gentleman may proceed under interrogation.

Mr. WHITE. Thank you, Mr. Speaker. And I think the majority leader may have just actually framed my question, and the question is this: The majority leader just said a local municipality can do something in regards to a school. My question is, under the provisions of this bill, what is that something?

Mr. BAKER. Mr. Speaker, I think I have answered this question at least a half a dozen times. Where there is no standard, a municipality is then free to adopt such standard.

Mr. WHITE. Thank you, Mr. Speaker.

And one more question: What happens in a municipality where there is no zoning or there are no zoning districts established?

Mr. BAKER. They can create one, as long as they follow State law.

Mr. WHITE. I understand, Mr. Speaker, but my question is, this allows certain uses based on zoning classifications, but there are municipalities out there that have drilling that do not have zoning. And I just simply, for clarification purposes, want to know, how would those areas be addressed?

Mr. BAKER. All the setbacks in the legislation then would apply.

Mr. WHITE. Mr. Speaker, so if there is no zoning in an area, would a municipality be free to make a determination of what the setback should be arbitrarily, or—

Mr. BAKER. If the State is silent on a particular issue, then the school municipality is free to pursue their own. There is no restriction.

Mr. WHITE. So, Mr. Speaker, under that theory, in order to avoid having to comply with these standards, if a township simply wanted to make their own more stringent one, they would simply just abolish their zoning map?

Mr. BAKER. No. They would still have to comply with the other portion of what is already set forth in the other part of the law.

Mr. WHITE. Thank you, Mr. Speaker.

Mr. Speaker, on the amendment.

The SPEAKER. The gentleman may proceed, on the amendment.

Mr. WHITE. Thank you, Mr. Speaker.

I have had the privilege since my time in the legislature to represent one of the most active Marcellus Shale drilling regions in Pennsylvania, in Washington County. In addition to extensive drilling activity, I also have a lot of the industry companies headquartered in my district, and I am here to say to my colleagues and to those watching across the State, Marcellus Shale is a good thing for Pennsylvania. There is no denying it.

Washington County, where I represent, is the fourth fastest growing county in terms of jobs in America. That is something we take pride in, and there is no doubt it is directly attributable to Marcellus Shale. People in my district are working, landowners are receiving royalty payments, and we are experiencing an economic boom that has alluded a lot of other parts of the Commonwealth and of the country, and I am grateful for all of that. But with those riches, we have also had the ability and the opportunity to have a firsthand view of what this process is really all about.

About a year ago, 18 municipalities in my legislative district came together and we formed a co-op of municipalities in Washington County, Allegheny County, and Beaver County as kind of a municipal government answer to groups like the Marcellus Shale Coalition, and our missions ran parallel. We wanted to figure out ways to promote natural gas development in the Marcellus Shale and do it responsibly and do it in a very, very proper way. We have held public hearings, we have had statewide interest groups come in, and we have done exactly what the industry has tried to do, which is increase awareness and education in a very nonpartisan way. Our co-op is made up of Democrats, Republicans – it does not matter. I can tell you from speaking with all of them and having sat in on numerous local meetings all throughout my legislative district, this is a big issue, this issue of local preemption and the ability of local governments to have their own level of control.

One of the things that I found when I first started talking with my local governments is, despite what you may hear in the rhetoric, local governments, at least in my area, did not want to ban or abolish or overly restrict drilling; they just wanted some level of accountability. It is not even about control. At the end of the day, it is about accountability. They worked with the industry in a lot of places; they passed ordinances. And it is funny, because the same arguments we heard from the natural gas industry about consistency and uniformity across the board confounded municipal officials in Washington County. A conditional-use ordinance that was totally workable, according

to the industry, in one township was deemed unacceptable and subject to litigation in the next township over, and they were virtually the exact same thing.

So this environment of lack of consistency and lack of uniformity cannot be placed solely on the hands of the local governments. More than anything, local municipal officials want to get this figured out and they want to be able to move on, but this is not the answer. When you have a true conflict between people, the solution should never be just to cut one side out of the process, and that is exactly what we are doing here. We are not only taking away local control; we are taking away local accountability.

And let me tell you something: When I talk about this group of local elected officials and all of my constituents who say that we need this local control, the majority of them are leaseholders. They are directly benefiting from the Marcellus Shale. They get it. They realize that we can still have the financial impact but be responsible in the way we handle it. This does not have to be and absolutely should not be an all-or-nothing proposition, and anybody that tells you otherwise is simply spewing propaganda.

This bill takes away local control. It takes away local accountability. It stifles our local governments from making reasonable, open, transparent decisions based on the needs of an individual community. I do not know how many of my colleagues here represent areas where there are compressor sites being built within 750 feet of somebody's house when that person does not even own the mineral rights, but let me tell you something: That is not for the good of the community, and it is certainly not good for the community when you can do it without any public hearing, without any level of conditions being placed whatsoever. We are just simply allowing people to come in and take over our communities and have no say about the outcome whatsoever, and that is just absolutely wrong.

There are a lot of unanswered questions. During the interrogation I asked some questions, and I had to keep asking and reasking because they could not be answered. Because this amendment was brought out in a way that allowed for very little debate, it was not brought out through a committee, we did not have the ability to work out some of these issues. But I know in my area and in areas like South Fayette Township in Allegheny County, one of the biggest issues is drilling around a school. They just broke ground on a brand-new school, which is what we should all be encouraging, and they are worried that there is going to be drilling and compressor stations but within a few hundred feet of it.

Now, the answer that we heard was, well, if a township thinks that that is not a good idea, they should go ahead and enact something. But if you read the amendment, they are handcuffed because they cannot do anything more restrictive than State law. So this sounds like a good idea in theory, but when you look at the practical applications, it is horrible.

And I will finish by making two points. I had this sent to me by a constituent who is a township manager in Washington County yesterday, and it is very short. But what it said was, "I found a FAQ page on the Governor's website today and thought this below question and answer were very interesting," and the question was, from the Governor's Web site, "What do I do if my local government has cited me for code violations that I do not agree with?" And the Office of the Governor said, "Regrettably, your borough council has the sole legal authority to regulate parking, trash dumping, and" – wait for it – "zoning

in your community, as these are not issues handled at the state level. Therefore, we suggest you contact your borough council directly with your concerns or attend their next public meeting to see if they can address these matters on your behalf." Well, if this amendment passes into law, everything that the Governor said that this person should do flies out the window. They cannot go to their borough council meeting because the borough is going to say, sorry, we are preempted by State law; there is nothing we can do. So you cannot have it both ways. And all things being equal, it confounds my basic common sensibilities that we would say that we cannot get involved with where your trash is picked up, because that is a local issue, but we are going to allow a compressor site to be put 700 feet from your house in the name of uniformity.

This is a bad amendment; this is a bad idea. And for those of you that have not had this in your districts yet, if you do not realize it now, you will, because I have been dealing with this for 5 years, and I would have to be out of my mind to vote for this. All we hear over and over again about Marcellus Shale as a way to kind of justify anything we want to do is, well, we cannot kill the goose that lays the golden eggs. No one is saying we are trying to kill the goose. The goose can still lay the golden eggs. The only difference is, we do not have to let it go to the bathroom all over our lawn in the process.

Vote "no" on this amendment. Thank you, Mr. Speaker.

CONSTITUTIONAL POINT OF ORDER

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

I would like to make a point of order.

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

Mr. FRANKEL. Mr. Speaker, I move that amendment 06347—

The SPEAKER. The gentleman will suspend.

Is the gentleman seeking to make a motion or a point of order?

Mr. FRANKEL. A motion.

The SPEAKER. The gentleman may state his motion.

Mr. FRANKEL. I move that amendment A06347 violates Article I, section 10, of the Pennsylvania Constitution.

The SPEAKER. The gentleman, Mr. Frankel, raises the point of order that amendment A06347 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 Speaker recognizes the gentleman, Mr. Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

Mr. Speaker, the eminent domain clause of Article I, section 10, of the Pennsylvania Constitution provides that private property shall not be taken without just compensation. Mr. Speaker, section 3215 of the amendment provides for well

location restrictions. It provides a general rule regarding how far away wells must be from a building. It also provides an exception to the general rule if a well operator is drilling with the property owner's consent. Inexplicably, however, Mr. Speaker, the amendment provides that if a property owner refuses a well owner's request to drill closer to a building than permitted by law, the well owner can apply for a variance and that the department must – I repeat – must grant the variance. I repeat, Mr. Speaker: If a well owner wants to drill a well 5 feet from a person's home and is unable to obtain the homeowner's consent, the driller can apply for a variance and the department must grant the variance.

Mr. Speaker, this is such an important provision that I will directly point you to the lines of the amendment on page 29, lines 4 through 8, which provide, quote, "If consent is not obtained and the distance restriction would deprive the owner of the oil and gas rights of the right to produce or share in the oil or gas underlying the surface tract, the well operator shall be granted a variance from the distance restriction...."

Mr. Speaker, this is not only a shockingly terrible public policy contained in the amendment, but it is an unconstitutional policy. Mr. Speaker, Article I, section 10, of the Pennsylvania Constitution prohibits the taking of property without just compensation. By allowing a driller to drill 5 feet or even 1 foot from a person's home completely decimates the value of the person's home. Nonetheless, there is nothing in the amendment that would provide the homeowner with just compensation for his property loss.

Mr. Speaker, it is unconscionable. It is unconstitutional to deprive a person of his property without just compensation. Therefore, I ask that my colleagues join me in supporting the motion that this amendment is unconstitutional. Thank you.

The SPEAKER. On the question of constitutionality, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. Mr. Speaker, if I might please yield my time to the good gentleman from Lancaster County. Thank you.

The SPEAKER. On the question of constitutionality, the Speaker recognizes the gentleman from Lancaster County, Mr. Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

I respectfully disagree with the prior speaker regarding this issue, and, Mr. Speaker, the underlying premise is very simple. The only reason that a driller would be on your property and request to get closer to your house is because you have already negotiated a contract with that driller at that time. Any compensation would have been negotiated up front. We could argue whether or not it was good compensation, but the fact remains, Mr. Speaker, that you would in fact have been compensated if they are attempting to move in on your property closer to that issue.

Therefore, I respectfully disagree with the gentleman's assessment and would argue that the amendment as drafted is in fact constitutional. Thank you.

The SPEAKER. On the question of constitutionality, the member is only allowed to debate the motion of constitutionality one time.

On the question of constitutionality, those voting "aye" will vote to declare the amendment to be constitutional; those voting "no" will be voting 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—110

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

NAYS—85

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

NOT VOTING—0

EXCUSED—8

Cruz	Evans, D.	Myers	Staback
Daley	Mustio	O'Brien, D.	Thomas

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the amendment was sustained.

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

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

Mr. ROSS. Thank you, Mr. Speaker.

As a former township supervisor, I was quite interested in the issue of preemption for local municipal zoning and rules and was very encouraged by the negotiations that led to the elements within this amendment.

First of all, let me say something generally about the importance of having some level of uniformity and also having some level of technical expertise to deal with environmental issues that are complicated and to deal with highly technical aspects to do with something like Marcellus Shale drilling.

It is really important to have the necessary background and experience to be able to get good environmental protections developed, and the Department of Environmental Protection, both during this administration and in the previous administration and ultimately in this legislation again, is attempting to find what is the necessary technical issues that need to be covered and to make sure we have protective regulations and law in place to protect the environment.

There are a number of additional elements that are added through this legislation, but we also recognize that there are some technical local zoning issues that normally are handled through zoning ordinances. Now, having said that, it is important to make sure that those issues are covered. They include things such as appropriate separation between a well and buildings, proper recognition of residential areas and the opportunity to protect the houses within those residential areas, noise, and a variety of other elements that will wind up causing problems in the zoning ordinance.

I think that this amendment has done a good job to get standardized procedures and standardized elements into the law that would be covered in many zoning ordinances. I look at this almost as a model ordinance on a large number of the elements that would normally be of concern to anyone who was a township supervisor and had been having to deal with these issues.

I particularly point out the noise ordinance, which is very similar to a standard that we used in my old municipality of 60 decibels at the property line. That would apply, despite comments from a previous speaker, to compressor stations. And 60 decibels, I know, was exactly the standard we used for other noisy industrial uses in my municipality; 60 decibels at the property line. It is about the same as a normal conversation at the property line. So it is a pretty protective and reasonable ordinance standard.

Now, if there are special circumstances within an individual municipality that have not been covered by the generalized standards that we have set forward here today, the municipality has a good procedure to add specific protections that are appropriate for their municipality. They may propose an additional ordinance in an area that has not been covered. They also have the opportunity to get a quick check with the Attorney General's Office to find out if this is going to be an ordinance that should be able to stand scrutiny.

Now, having been a person who actually had to draft some of these ordinances for my municipality, one concern we always had was, okay, we think we are okay, but if we put these ordinances forward, somebody may later come and challenge

us. That implies an expensive court case, and if we fail, it winds up opening up the ordinance and putting us in a very awkward position. So having that initial check with the Attorney General is a good and helpful thing for most municipalities. And if in fact the municipality disagrees with the Attorney General, they still have access to the courts to attempt to assert their rights if they feel strongly enough about it and think the Attorney General was in error. They still have access to the courts.

So I just wanted to say that I think that this has been a good effort to try and address many of the concerns that we typically would have and, in areas where there really are no zoning ordinances, provide some protection for the local people where they perhaps are not getting them currently under existing circumstances. And for that reason, I think that this is definitely an improvement over the situation we have right now. It is more sensitive to local municipal needs rather than a simple, straightforward, complete preemption and is a reasonable and sensible compromise.

For that reason I urge a positive vote on the amendment.

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

On that question, the Speaker recognizes the gentleman from Northampton County, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, would the prime sponsor of the amendment stand for a very brief period of interrogation? I just need clarification on a couple of things.

The SPEAKER. The gentleman indicates he will stand for interrogation, and you may proceed.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, again, it is a rather lengthy amendment. I am just trying to seek clarity on some of the finer points.

As I read this amendment, am I correct in understanding that under this amendment, it would empower the Attorney General to challenge local ordinances?

Mr. BAKER. Only to review them, sir.

Mr. FREEMAN. But does the Attorney General, Mr. Speaker, not have the ability to then bring an action against a local ordinance?

Mr. BAKER. The owner or operator or local government may request the Attorney General to review it.

Mr. FREEMAN. And, Mr. Speaker, after the review process, does not, under your amendment, the Attorney General then have the power to bring action against an ordinance if he feels it does not meet the standard entailed in your amendment?

Mr. BAKER. It is my understanding that he does, or she.

Mr. FREEMAN. Okay. And if a municipality's local ordinance is successfully challenged by the Attorney General, is it then incumbent upon that local government to repeal the ordinance or make alterations?

Mr. BAKER. They can appeal it to the Commonwealth Court. Again, with regard to the Attorney General reviews, civil actions, and sanctions, the Attorney General or any person aggrieved by the enactment or enforcement of a local ordinance that does not allow for the reasonable development of oil and gas resources may bring action in the Commonwealth Court to invalidate or enjoin enforcement of the local ordinance. The court may promulgate rules for the selection and appointment of masters, who must be members of the bar of the Commonwealth, to oversee and hear actions. The findings and recommendations of the master shall become the findings and order of the Commonwealth Court upon written confirmation by

the president judge. The court may order the local government to pay the plaintiff reasonable attorney fees and other costs if it enacted or enforced a local ordinance with willful or reckless disregard for the limitation of authority established under State law. Similarly, the court may order the plaintiff to pay the local government the same if the court determines the action was frivolous or was brought without substantial justification.

If the Commonwealth Court or Supreme Court determines that a local ordinance fails to provide for the reasonable development of oil and gas resources, the local government shall be immediately ineligible to receive any funds collected under chapter 23 until the government amends or repeals its ordinance in accordance with this chapter.

Mr. FREEMAN. So if I may, Mr. Speaker, in other words, under this amendment, if the Attorney General is successful in bringing an action against a local ordinance and the municipality refuses to repeal or alter that ordinance, they then would be ineligible for any of the impact fee funds. Is that correct?

Mr. BAKER. That is correct, sir.

Mr. FREEMAN. Okay. Thank you, Mr. Speaker.

I have concluded my interrogation. If I could please speak on the amendment?

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

Mr. FREEMAN. Mr. Speaker, one of the most egregious parts of the original HB 1950, in my opinion, was the preemption of local ordinances, and I fully intended to vote for any one of the various amendments that were submitted for this bill that would have taken that out of the bill, because I really feel that it was an overreaching. Local zoning and other local ordinances are there to protect the citizens of their community, and they are there under the police powers that we grant to our local municipalities to protect the health, safety, and public welfare. And to have some sort of preemption on that ability really undercuts the ability of our local officials to look out for their communities and their citizens. After going through the provisions of this language as it pertains to local governments, I am not sure we really have made that much of a departure from the preemption. And this is my point: We have established that this empowers the Attorney General to challenge local ordinances, so we bring to bear the full force of the State, the power of Harrisburg and of State government to go after and challenge a local ordinance. We have also established that under this language, a municipality could very well lose its impact fees, which are designed to help that community deal with their own local problems as a result of drilling within their community.

So in essence, this amendment will have a chilling effect on the ability of local governments to enact ordinances that they feel are in the best interests of their citizens and of their community in trying to protect those communities and citizens. The chilling effect will have the same effect as a preemption of local ordinances and will bring to bear in that effort the full power of the State, through the Attorney General's Office and the power of the purse, by refusing to allow them access to the impact fees that this legislation is designed. That has a tremendous chilling effect, and in many respects would have the exact same effect of a preemption of local ordinances.

Much has been made of the analogy to ACRE. I think we need to draw a very clear distinction. At least the intent with ACRE was for the State to intervene on behalf of a small party,

a farmer, in their battle with the local government over an ordinance. This is an attempt, this amendment is an attempt to bring the power of the State to intervene on behalf of a very large and powerful interest, the oil and gas industry, to look out for their interests over a local ordinance. We are bringing to bear the full weight of big government to go after small government in our communities. Now, I know the members of the Republican Party have always said they are against the concept of big government, but this amendment really creates the power of big government to go after, to challenge, and to really restrict the efforts of small government, of our communities to look out for their own best interests through their local ordinances.

And therefore, because of those reasons, as well as the fact that this amendment would basically take out the right-to-know language that the gentleman from Allegheny County was able to insert, I feel this is a wrong move, and I will be voting against the amendment because I think it has in many respects the same impact as the local preemption language of the original bill and has the added negative effect of taking out the right-to-know provisions, which we just previously had put into this bill to provide for a more transparent process. So I urge a "no" vote.

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

On that question, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, regardless of the fact that the certificate for this amendment calls it a gut-and-replace amendment, I would agree with the majority leader that it does not significantly change the underlying bill, and that is why it needs to be defeated.

This amendment is the same as the underlying bill. As we just recently heard from the gentleman from Washington County, he lives in a district as many of us live in districts that are benefiting tremendously from the Marcellus Shale industry. Jobs are being created. There is economic development, and that is all fine, well, and good. But the people of Pennsylvania expect us to protect their environment, to protect their drinking water, for us to promulgate rules and regulations that do just that, and this amendment, this bill, certainly do not do that.

Mr. Speaker, we have heard this amendment does not allow local officials to make decisions. As a matter of fact, it takes that ability away from them. While the amendment appears to attempt to appease the opponents of these draconian local zoning preemption provisions that are in the underlying bill, it does so in such a convoluted way. It is so poorly drafted that it will be impossible for our local elected officials to understand just what they can and cannot do to protect the health, safety, and welfare of their residents.

We will go through some of the sections. Section 3303(a), page 75, lines 12 through 19, appears to give local governments the right to enact ordinances under the Municipalities Planning Code, the Second Class City Zoning Code, and the Flood Plain Management Act. That all sounds very good on the surface; however, this paragraph goes on to say that local ordinances "...shall provide for the reasonable development of minerals within the local government...." Let me repeat, it uses the word "minerals." Everywhere else in chapter 33 regarding local ordinances, the bill uses the phrase "oil and gas operations." The bill even has a very specific definition of what constitutes oil and gas operations. As some of you are probably aware, the law in Pennsylvania for the last 100 years has been neither gas nor

oil is considered a mineral. So you have to ask yourself what this provision really does. Does it allow or require local governments to enact ordinances allowing for reasonable development of oil and gas operations or not? In addition, the amendment appears to give local government some leeway in enacting local ordinances with one hand, but it takes it away with the other.

Again, section 3303(a) suggests the local governments may adopt ordinances under the MPC or the Flood Plain Management Act, but section 3303(c) says that those provisions are subject to 3272. Now, section 3272, page 72, lines 18 to 31, says they cannot adopt ordinances of their own. Are you confused yet? Lines 29 to 31 read, "The Commonwealth, by this chapter, preempts and supersedes the regulation of oil wells and gas wells." That seems to me, Mr. Speaker, to take away control from your local municipalities. So if we follow this circular reasoning in section 3303 back to section 3272, there is only one conclusion: The amendment totally preempts local government zoning ordinances.

You will also note that there is no reference in the above sentence to local ordinances. Does that mean the PUC (Public Utility Commission) cannot regulate gathering lines? If you read the definition of "environment acts" on page 74, and the definition of "oil and gas operations" on page 74, specifically lines 42 through 47, for those of you following along, you can conclude that the smoking ban we recently passed would not apply to natural gas processing plants or facilities. Finally, there are inconsistent uses of the term "oil and gas operations," which is a defined term, and the use of the terms "oil and gas resources" and "oil and gas reserves" in section 3304(b) and (c), respectively, on page 75. These are not defined terms.

Are they all supposed to refer to the same thing? We do not know. There are also inconsistencies and serious questions about what local governments can and cannot do under this amendment. For instance, section 3272 says that ordinances enacted under the Municipalities Planning Code and the Flood Plain Management Act are exempted from the preemption provisions. However, section 3301, which sets out the scope of chapter 33, only refers to the municipalities, to the MPC Act with no reference to the Flood Plain Management Act, and section 3303(a) refers to the MPC, the Flood Plain Management Act, and the Second Class City Zoning Law. So which is it?

It is absolutely critical that our local governments understand what they can and cannot do under this law because they could be forced to pay attorney's fees if they get sued by drilling companies over the enactment of any ordinance. They will also lose their share of whatever local impact fee is passed by this General Assembly. It is clear, for all the reasons I just described, that this amendment would be a nightmare for our local governments. It would be a nightmare for the people of Pennsylvania. It is drafted poorly. It does not help. It does not protect the people of Pennsylvania adequately in any way, and it ought to be defeated, Mr. Speaker. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

The question is, will the House agree to the bill?

On that question, the Speaker recognizes the gentleman from Lehigh County, Mr. Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

I have been listening very attentively to the remarks made by a number of the members directed towards page 74 of the amendment, the review procedure by which the Attorney General and his plenary power are invoked, and to take issue

with one of the statements made by my colleague from the Lehigh Valley, the gentleman from Northampton County, who characterized this legislation as one investing power and the Attorney General to step in on behalf of solely large corporations, in reading under section 3304(a) that "An owner or operator of an oil and gas operation, or any person having the right to royalty payments under a lease of oil or gas mineral rights...." That is the individual property owner within those municipalities. It has been characterized that this is somehow legislation geared towards allowing the Attorney General to come in and somehow unilaterally invalidate a locally drafted ordinance, but in fact it is the property owner, the individual, the member of that community who has an interest in having gas exploration commence in that area, who has just as much of a vested right as anyone else in that community, who can request the Attorney General to conduct a review of the propriety of the ordinance to ensure that there is not some kind of discriminatory impact against that individual property owner's interests.

So I would hasten to add that this is not just something crafted for big business, but it is the individual members, the individual Pennsylvania citizen who has the right to challenge an ordinance that would be enacted to the detriment of that member of the community, and furthermore, that the review by the Attorney General is not some kind of one-sided review, but that the Attorney General has to conclude whether there was the allowance for the reasonable development of oil and gas within the municipality by that ordinance. And secondly, that is in opposition to what was earlier characterized by my friend and colleague whom I admire very much, the gentleman from Allegheny, Mr. Maher, who somehow said that this is a unilateral power given to the Attorney General. These are legal actions which still must be adjudicated by the Commonwealth Court, and an appeal right is provided to the Supreme Court as well. And last but not least, if in fact it is found that the oil and gas company or the individual property owner pursued a frivolous action challenging the local ordinance, then there is the right for the municipality to recover attorney's fees against that plaintiff.

So I think there are a number of safeguards built into this. There are obviously aspects of this amendment which are far beyond what I, in a very limited capacity, can address, but in regard to the powers of the Attorney General, the intervention capacity, and the right of appeal, I do think that there has been a mischaracterization, and therefore, would recommend the members do vote in favor of the Baker amendment.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

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

I rise in support of amendment 6347. I rise in support of A6347 for the farmer who has the ability to actually get private property capital from the development of a natural gas well on his property and so that he can go out and buy new farm equipment and improve that; and for the welder that is being hired as a result of this new industry coming to Pennsylvania; and for those new truckers that are actually making sure that they are delivering product; and for the restaurant owners who are seeing wealth across this State because people are enjoying an economic boom; the architects who are developing many of the sites; or the Pennsylvania contractors that are doing much of

the work and building; or the pipe manufacturer, including the largest steel company in the world, who is based right here in Pennsylvania; or the individuals that are putting in the pipe into the ground to make it happen.

Not only that, I am for the consumers. I am for the consumers all throughout this Pennsylvania that are allowed to get lower natural gas, a cleaner fossil fuel than other fuels. We are also for good environment, safe environment, safe citizenry. So guess what? Under this particular amendment and the underlying bill, there are now setbacks that are provided that were not there before. It increases setbacks from streams, water wells, buildings, and public water supplies, and it enhances the Department of Environmental Protection to deny, suspend, or revoke a permit. It makes sure that there is 24-hour notice to DEP before there is commencing of certain critical activities. It requires the Department of Environmental Protection to approve a water management plan and enables the Environmental Quality Board to promulgate regulations for safety. It requires conditions relating to security, lighting, noise, and odor.

The fact of the matter is, this is a bill that actually increases safety requirements throughout the State of Pennsylvania, for all of its citizens and environments. It establishes bond amounts based upon the length of a wellbore, with a cap of \$250,000. It requires inspection of erosion and sedimentation control measures prior to drilling. It requires inspection reports to be posted online. These are all important environmental safety provisions. And the idea that this particular bill is not being used to protect the environment: As drafted, money from the Oil and Gas Lease Fund will be put into the Environmental Stewardship Fund; money from the Oil and Gas Lease Fund will be put into the Hazardous Sites Cleanup Fund; money from the Oil and Gas Lease Fund will be put into the Forest Reserves Municipal Financial Relief Law. And yes, there is an impact fee. And, yes, there is an option to the counties to enact it, but that is appropriate, because an impact fee is designed to make sure that what is being done by the industry is in fact compensated for in a fair and reasonable manner, particularly to the local communities. And with respect to protecting our local communities and their ability to govern, this particular amendment says that there is a compromise that balances local communities with State regulation. It allows for private-sector job creation, flourishing economy balanced by safety to the citizenry and to the environment.

It is easy to vote "no." It is easy not to get things accomplished. But we have a responsibility to govern, and when you govern, you balance interests, and this particular proposal balances interests. I applaud the maker from Tioga County for this very, very reasonable amendment.

I would urge everybody to please vote "yes."

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

On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

I urge this House to vote "no." We need to send a message to the Senate. We need to send a message that in future negotiations, this House is not going to roll over for a 1-percent impact fee. That is a joke. That is a joke. That does not treat the taxpayers of Pennsylvania fairly. We have to say no to this and send a message to the Senate: An agreement will not be reached by having Pennsylvania have one of the lowest, the lowest taxes on Marcellus drilling. One percent is a joke compared – as we

mentioned before, everyone has in their inbox what other States are charging. You will see Texas at 7 1/2 percent; you will see West Virginia at 6 percent; you will see Wyoming, Louisiana, all these States higher, higher percentages than this. This is a joke.

Mr. Speaker, the majority leader calls this a jobs issue. That is just not right. That is just not right, Mr. Speaker. Mr. Speaker, there is nothing to back that up. I remember we did a policy hearing in York County and we had a fellow from EQT, a drilling company that drills both in Pennsylvania and West Virginia, side by side, two States, 6-percent drilling tax in West Virginia, no tax in Pennsylvania. They are putting in more wells in West Virginia than in Pennsylvania. Mr. Speaker, we asked him the question point-blank, this gentleman, this representative from EQT: If we imposed a comparable tax to West Virginia, would that affect what you are doing in Pennsylvania? And he said no. I think everyone knows that, Mr. Speaker. This is not a jobs issue. The jobs are going to be here whether we have a 6-percent tax or not because this gas is not going anywhere. It is good gas. It is plentiful gas. It is gas accessible to the markets, and this gas will be extracted, Mr. Speaker. The question is, are we going to have this as a giveaway to the drillers or not? This is not going to affect jobs, Mr. Speaker. The jobs to extract this gas will be had.

Mr. Speaker, another problem with the majority leader's theory with regard to jobs is he is not looking at the other side of the coin. Mr. Speaker, a recent Penn State study, I believe it was in the fall of 2010, indicated for every million dollars, every hundred million dollars in revenues collected through the severance tax, that could produce about 1300 to 1900 jobs, both in the public and private sector, if the Commonwealth used that for both employment, public employment and contracts. So the revenues we could get from this tax, an increased tax, would translate into jobs. Mr. Speaker, another study showed that we laid off, because of these budget cuts we made to public schools and higher ed and our colleges, we laid off thousands of school-related employees; 14,000, I believe is the figure – 14,000. Mr. Speaker, if you look at Pennsylvania's unemployment rate and you look at the nation's unemployment rate and you look a little bit below the surface, you are going to see a lot of that employment is coming from the public sector, and it is coming from the public sector because we failed to raise and spend the revenue we need to get us out of this recession.

POINTS OF ORDER

Mr. TURZAI. Point of order. It is not about the budget, Mr. Speaker. Point of order.

The SPEAKER. The gentleman will suspend.

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

Mr. SACCONI. Point of order, Mr. Speaker.

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

Mr. SACCONI. Mr. Speaker, the gentleman from Delaware County is not speaking on the amendment. He is speaking on, he is speaking falsely on the school budget and a number of other issues that we have heard over and over again—

Mr. DERMODY. Mr. Speaker?

The SPEAKER. The gentleman—

Mr. SACCONI. —and I would like to—

Mr. DERMODY. Mr. Speaker?

Mr. SACCONI. —ask him to get back onto the amendment, please.

The SPEAKER. The gentleman stated his point of order.

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

Mr. DERMODY. I believe it was out of order to be suggesting that the gentleman was speaking falsely about anything here today, Mr. Speaker.

The SPEAKER. Commenting on the two points of order that have been raised, the Speaker would agree that the gentleman was getting astray from the actual amendment but was trying to give him a little leniency, given the nature of the issue before us.

As to the second point of order, it was not the Speaker's interpretation that the gentleman was questioning the belief of the previous member, but that he believed it to be false information. So I am not sure that it was necessarily impugning the member as much as his opinion. I appreciate the minority leader's point of order, would caution the members to refrain from characterizations of another member's statement or questioning their opinion of how they view the issue before us.

Does the gentleman, Mr. Dermody, seek further point of order?

Mr. VITALI. I am just waiting for your go-ahead to proceed. Thank you, Mr. Speaker.

I mean, just by way of explanation, the majority leader talked about the various farmers and all the rest with regard to jobs created, and I was simply trying to make the point—

The SPEAKER. The gentleman will suspend.

I believe I stated that I was giving leeway and would try to be fair in that regard. I would probably suggest the member was getting there, but certainly, you are still in order on the amendment.

Mr. VITALI. Okay. Thank you, Mr. Speaker.

I would also suggest that this bill could be, as I stated previously, could be stronger. I do not think the setback requirements are sufficient as far as the footage from drinking water supplies. The bill is at 1,000 feet; I think 2,500 is much more safe. Setbacks from wetlands should be more, 300 to 500. Setbacks from streams and so forth could be more.

Mr. Speaker, I do not think the environmental protections here go nearly as far enough. I do not think that the modifications of existing law with regard to local government are necessary and I think are in fact hurtful to local government. Mr. Speaker, I think for many reasons, this is a bill that should, an amendment rather, that should not be supported, and I encourage a "no" vote. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

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

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, the majority leader talked about all the things that this bill does that are better than what we currently have. That is because we currently have nothing – nothing. And I am sure that in the past few days some of you that intend to vote for this have decided that, hey, something is better than nothing, and you have been cajoled and coerced by people telling you that it is really imperative that something get done. And you all sat in a room and decided collectively that, you know, all for one, one for all; if we do it, things will be good. Well, guess what? The public is not buying it.

When you start having constituents coming back into your district offices saying, why is this occurring in my district; when you start having township officials coming back into your district saying, why is this happening in our town; when you start having organizations going begging for dollars because there are no funds, it will be great that you all have convinced yourselves that the public is buying this, but they are not. And so, from a purely political standpoint, there is a part of me that says, go have at it; but from a governing standpoint, this is not even punting. This is fumbling.

This does nothing for the citizens of Pennsylvania, and I would encourage a "no" vote. 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 Philadelphia County, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

I just wanted clarification on the previous dialogue with the member from Allegheny referencing to false statements. I thought that it was inappropriate for members to make those kinds of accusations against another member, and I request, Mr. Speaker, that those remarks be stricken from the record as clearly being inappropriate.

The SPEAKER. The gentleman will suspend.

The Speaker has instructed the Parliamentarian to review the remarks, and we will address that at a later point.

Mr. ROEBUCK. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—110

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

NAYS—85

Barbin	DeLuca	Kavulich	Payton
Bishop	DePasquale	Keller, W.	Petrarca
Boback	Dermody	Kirkland	Preston
Boyle, B.	DeWeese	Kortz	Quinn
Boyle, K.	DiGirolamo	Kotik	Ravenstahl
Bradford	Donatucci	Kula	Roebuck
Brennan	Fabrizio	Longiatti	Sainato
Briggs	Frankel	Maher	Samuelson
Brown, V.	Freeman	Mahoney	Santarsiero
Brownlee	Galloway	Mann	Santoni
Burns	George	Markosek	Shapiro
Buxton	Gerber	Matzie	Smith, K.
Caltagirone	Goodman	McGeehan	Smith, M.
Carroll	Haluska	Mirabito	Sturla
Cohen	Hanna	Mullery	Vitali
Conklin	Harhai	Mundy	Wagner
Costa, D.	Harkins	Murphy	Waters
Creighton	Hornaman	Neuman	Watson
Curry	Hutchinson	O'Brien, M.	Wheatley
Davidson	Johnson	Parker	White
Davis	Josephs	Pashinski	Youngblood
DeLissio			

NOT VOTING—0

EXCUSED—8

Cruz	Evans, D.	Myers	Staback
Daley	Mustio	O'Brien, D.	Thomas

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

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

The SPEAKER. The House will be at ease for a couple of minutes.

The House will come to order.

LEAVE OF ABSENCE CANCELED

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

CONSIDERATION OF HB 1950 CONTINUED

BILL PASSED OVER TEMPORARILY

The SPEAKER. HB 1950 will be over temporarily. We will be coming back to it.

SUPPLEMENTAL CALENDAR A

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 169, PN 2694**, entitled:

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, further providing for legislative intent, for definitions, for games of chance permitted and for prize limits, for limits on sales, for distributor licenses, for registration of manufacturers, for regulations, for licensing of eligible organizations and for special permits; providing for club licensees; further providing for revocation of licenses, for local option, for advertising and for penalties; and making editorial changes.

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

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

I wonder if the primary sponsor would stand for brief interrogation?

The SPEAKER. The lady indicates she will stand for interrogation. You may proceed.

Mr. CLYMER. Mr. Speaker, the proposal says that there is going to be an increase in the number of law enforcement officials; namely, the Bureau of Liquor Control Enforcement who are under the jurisdiction of the Pennsylvania State Police. What are those numbers? What type of an increase are we looking at?

Ms. DELOZIER. Thank you, Mr. Speaker.

The bill in and of itself does not increase the number of LCE officers or PSP officers that are involved with enforcement of this issue.

Mr. CLYMER. Who will do the enforcement of this expanded small games of chance?

Ms. DELOZIER. Those that were responsible for enforcing it when put into place in 1988, primarily the State Police dealing with the Liquor Control Enforcement officers. Those that have always done it over the last 20-some years will continue to do that in the same manner in which they have handled it in the past.

Mr. CLYMER. Thank you.

Mr. Speaker, I am just trying to work something out in my mind about the increase in the weekly prizes. It jumps from \$5,000 to \$30,000. So let us assume that a licensed club accumulates, in a 7-day period, \$30,000. They have that \$30,000 – how are they going to distribute it? Is that going to be a prize, a \$30,000 prize that they are allowed under the law? How are they going to divide it?

Ms. DELOZIER. Thank you, Mr. Speaker.

The club makes the decision as to exactly how they go about raising their funds. Certainly, it could be a one-time drawing during the week for the full amount, but in most cases, it will be

small increments that lead up to whatever threshold it ends up being that week. It certainly does not have to go to the threshold, and many of our clubs across the State will be very much below the maximum, and there are some that certainly will go to the limit, but it is up to the club as to how to handle it, and in most cases will be in smaller increments.

Mr. CLYMER. Well, here is the problem that I have: Let us assume it is \$15,000; tell me how that is going to be broken down. I want to know, you have \$15,000 sitting in the clubhouse, in the club, and I am curious as to how that is going to be broken out. Are you going to give out \$1,000? Do you think the licensed club is going to give out \$5,000, which they can under the weekly prize? Are they going to give out \$6,000? I am just curious, because you have an enormous amount of money within this organization that received a small games of chance, and that is important because we want to make sure there is integrity and honesty within the system. So now let us go to \$15,000; how are they going to break that down? You say in small increments, so what do you think they are going to do, \$5,000 in that week? They are going to give out \$5,000?

Ms. DELOZIER. Thank you, Mr. Speaker.

When I say small increments, it could be anything from a \$25 pull tab, \$50, \$100. There could be a larger type of drawing, as you mentioned, at possibly \$1,000. But what I would point out is the fact that also in this bill is increased amount of enforcement, increased amount of accountability, and everything that is sold within these clubs is accountable and is recorded so that when they are audited, when they are reporting what they have earned to the Department of Revenue, each and every prize – at any level, whether it be a \$5, \$10, \$25, \$1,000 – each and every prize is recorded, is accountable, and those that are looking at the records will have full accountability as to what was given out and at what time and to whom.

Mr. CLYMER. Thank you.

We will come back to that issue a little bit later, but I want to continue on this issue of the amount of dollars that a licensed club can obtain.

Now, obviously the \$30,000 a week was put in there because there are a number of clubs that can do \$30,000 a week. Is that correct? Am I correct in my assessment, \$30,000 a week?

Ms. DELOZIER. Some of the clubs certainly can get to that level, but like I mentioned, there are many that do not even do the threshold that we have now at five.

Mr. CLYMER. But we do not know that. We are just assuming that of the 3,000 licensed clubs that can qualify for small games of chance, it is your estimate, it is your estimate that there are some that are going to reach \$30,000, but you do not know how many are going to reach that \$30,000 threshold. Is that correct?

Ms. DELOZIER. Correct. Yes, we would not know offhand what clubs are going to reach 30 and what are not.

Mr. CLYMER. Okay.

Ms. DELOZIER. Also, I just want to differentiate, we are talking about those, when we talk about these clubs, are the ones with liquor licenses. We are not talking about the local PTOs (parent-teacher organizations) or the baseball teams or those types of small games of chance with licenses.

Mr. CLYMER. No, we are talking about liquor license organizations; that is correct.

Now, can this liquor license— They get a small game of chance. In addition to \$30,000 weekly, can they also do a prize of \$50,000 monthly? Can they do a prize of \$50,000 monthly?

Ms. DELOZIER. They are allowed to do one monthly drawing; yes.

Mr. CLYMER. Of \$50,000, up to \$50,000?

Ms. DELOZIER. Up to, correct.

Mr. CLYMER. Can the same organization get a special permit whereby they can have three additional drawings? A special permit, some of them can get three in a year and some can get five in a year. Is that correct?

Ms. DELOZIER. Yes, it is, sir.

Mr. CLYMER. Okay. Now, in addition to all the things we said, now they have this special permit. Let us assume that they can get three special permits. How much in prize money can they accumulate under that one special permit? How much money are they able to accumulate?

Ms. DELOZIER. The special permit is the maximum of \$100,000. A lot of that was determined primarily because in some cases, when folks are having a golf tournament or something like that and they have a prize that is much more, for a hole-in-one-type thing, the car is obviously of much more worth than a \$25 pull tab. So the capability of them, in that threshold of \$100,000 was established.

Mr. CLYMER. So then, just as a review, liquor license that gets a small games of chance can do a maximum up to \$30,000, \$30,000 a week. It can do an additional \$50,000 monthly. It can ask for a special permit, three special permits – some can get up to five; we will go with three. And under each of those special permits, they can do \$100,000 under small games of chance. Is that correct?

Ms. DELOZIER. I am sorry, Mr. Speaker; can you just repeat the question again? I could not quite hear you.

Mr. CLYMER. So what we are looking at is that—

The SPEAKER. The gentleman will please suspend. If the members could kindly hold the conversations down just a little bit. In interrogation, the members are having trouble hearing each other.

The gentleman may proceed.

Mr. CLYMER. Thank you, Mr. Speaker.

I am just trying to kind of put this in a box here. So it is conceivable, and it is reality, that a liquor license organization can go up to \$30,000 in weekly prizes. They can go up to \$50,000 in a monthly prize, and then they can request special permits, three special permits, we will go with the minimum number, at which time they can do \$100,000 under each special permit. Is that correct?

Ms. DELOZIER. The thresholds of which you stated are correct, but there is a statement in the bill that limits the clubs to \$100,000 per month in total. So while you mentioned all the thresholds, they were correct in the stipulation, they could not do all of that in one month.

Mr. CLYMER. Okay. Could they do the monthly, we will say the monthly prizes are \$30,000, the weekly prizes are \$30,000, and if they do \$30,000 each of those months and they have reached the amount that they can go, they cannot do a monthly raffle or a monthly prize. Is that correct?

Ms. DELOZIER. Right. It could be any combination of whether the weekly \$30,000 or a one-time-type of raffle, but the bottom line is that the most that they could raise per month is \$100,000.

Mr. CLYMER. That is quite a bit of money. But anyway, another issue that we had talked about previously is the vertical wheel game. That is a very interesting one and one that I have some concern about, and that is, in the vertical wheel game,

which as we discussed previously, it is very similar to the one that they have in the casinos. Now, you take this vertical wheel game, and according to the bill, you can put chips on it, you can put a ticket on it, you can put cash on it, and the concern that I had is with the chip. Since the chip is, you can buy the chips I guess from whomever is selling them within the club. You can buy a \$1 chip, a \$2 chip, a \$5 chip. Is that correct?

Ms. DELOZIER. Yes, sir; sure. That is a possibility, depending on how they set it up.

Mr. CLYMER. Okay. So this is really big-time gambling if you really understand how this operation works, because a spin of the wheel, you can have four or five people playing or more depending on the board that is in front. Within 2 or 3 minutes you have a spin, then you have another spin, so you are paying out money back and forth, and my question then is, how do you control that? How do you know how much is being paid out? And of course, the losses are going to be self-evident to the losers. So how do you know, how are you going to control that money?

Ms. DELOZIER. Well, the answer that I would give you is the fact that the capabilities of them raising money, and you mentioned that it is a large sum of money, still goes towards the threshold in which they are accountable for. The accountability of the game in and of itself, it is sold by a distributor, therefore, that accountability comes into play with the chips, and the recordkeeping that is kept by the clubs holds them accountable for the types of payouts that they do have. You are saying per chip; there is certainly not a name on each chip, but there is the capability of the clubs being accountable for the types of payouts that come from that game.

Mr. CLYMER. I understand that they can be held accountable, but it leads to a lot of temptation. We will just move on, Mr. Speaker.

Mr. Speaker, the bill says that in purchasing a monthly drawing, the chance may not be sold for more than \$1, and no more than one per customer. Now, is that correct?

Ms. DELOZIER. Yes, it is.

Mr. CLYMER. How are you going to monitor to make sure that when you are selling maybe 25,000 tickets in a month that only one person is buying and they are only paying \$1? How do you know they are not going to ask for 10 tickets and give you \$10?

Ms. DELOZIER. Well, in and of itself, the capability of the clubs to be held accountable – for them to buy a ticket, just like anywhere else, the name of those that are buying the tickets would be attributed to the particular game that they are buying or the particular ticket that they are buying. To a point, we have to trust, we have the officers within the clubs that have been bonded, that have been background-checked, are being held accountable, and I think for what is happening in the clubs, and I think that that in and of itself is the capability of us understanding that they know the ramifications if they do not abide by the law. The law is in place. They will follow the law, and we have those that are enforcing the law to make sure that they do. So the capability of the accountability I think is very strong, and they are required to make sure that they have that information when audited.

Mr. CLYMER. Mr. Speaker, we know that the bill says that the owners and all those associated with the licensed club cannot gamble except for a raffle. Why is there exception to the raffle? Why can they buy tickets for the raffle? It says in the bill that the owners are prohibited from gambling on any other type

of, on the various types of small games of chance, but I read in the bill that it says that the exception is for the owners, that they can purchase a raffle ticket. Why is that?

Ms. DELOZIER. Overall, dealing with the issues, again it comes back to the accountability for all of the games. The likeliness with a raffle, the chances of the drawing being taken and having their name pulled were so much lower that the capability they would be on the same level playing field. With many of the other games, they are responsible for pulling the number, for picking the winner. In a raffle, they are not personally responsible for choosing who is the winner, and therefore, the capability of us making sure that they did not have any extra capability of making them the winner, the raffle allowed them to be on fair playing ground as everyone else entered into the game.

Mr. CLYMER. Mr. Speaker, I have finished my interrogation.

I thank the gentelady for her request. I would like to speak on the bill.

The SPEAKER. The gentleman is in order on the bill and may proceed.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, obviously the members are going to make their own decisions on this, but I just want to share some insights, that is all.

This is a major expansion of gambling. You are talking about hundreds, potentially hundreds of thousands, perhaps millions of dollars, because you have 3,000 clubs. And when you increase the cash prize from \$5,000 weekly to \$30,000, more clubs that are eligible may decide they are going to become eligible because of the large prizes that are now being available.

Mr. Speaker, I know that the gentelady has said that they have law enforcement. If it is the same enforcement that they have now, we are in serious trouble, because you know and I know that the locals and others are not going to crack down on these clubs unless there is a serious, serious problem. Underage is 18. You cannot gamble under age 18. You heard my questions about the \$1, one ticket per person. That is totally unenforceable, as is the selling a ticket to an underage person. You are just not going to be able to do that, and since, as I said before, there is no significant increase in the number of law enforcement agencies, this could be serious trouble.

We talked about the fact, about accountability and that they have to keep records. Well, that is a good effort. That is a good-faith effort, but I do not think it is going to work. It will work in some cases, but I do see an increase in crime and in people abusing the system. I hate to say it, but it is a possibility when you have large caches of cash floating around from week to week.

And the other thing that concerns me, and I did not quite get the answer, is if the organization gets, say, \$15,000 a week, how are they going to disburse that? Are they going to keep \$7,000, \$8,000 and then say, we are going to use the other \$7,000 for 30 percent for expenses and 70 percent for charitable uses? It is confusing, and because there is no really tight oversight – once a year they have to submit their records – I am telling you, Mr. Speaker, we are allowing ourselves to walk into a lot of trouble because of this issue. And then we have people spending, now this is, as I said, it is going to increase the dollars that are going to be spent, multiple thousands and thousands of dollars, and in a tough economy, is this the right way to go? I know the argument is going to be, well, we have to help these

organizations; they do so much for charity. I think this is really going beyond the pale, and we all appreciate the clubs and the organizations and what they do to help many of our nonprofit groups; certainly we applaud them for that. But at the same time we do not want this law to be so abused that it creates more problems, unintended consequences, than what we are looking at.

So, Mr. Speaker, I for one am going to be a "no" vote on HB 169. Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

The question is, shall the bill pass finally?

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

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

I rise in support of HB 169. The Local Option Small Games of Chance Act, established in 1988, recognized that certain nonprofit organizations needed to be able to raise funds for the promotion of charitable or civic purposes by having small games of chance. The act established the rules, regulations, and guidelines necessary for the conducting of those small games of chance. The reality is, it is now 2011. Over 20 years have passed. The law needs modernization.

The fact of the matter is, the good lady from Cumberland County has increased enforcement mechanism in this reform bill. It is supported by the Pennsylvania Federation of Fraternal and Social Organizations, the Pennsylvania Association of Nationally Chartered Organizations, the Veterans of Foreign Wars. The fact of the matter is, this is an opportunity to provide balance and to allow our nonprofits to be able to raise money on a very small scale, in appropriate parameters. I myself was not supportive of the expansion of gambling on a significant scale under the prior administration. On two occasions, with the good gentleman from Bucks County, I stood firm against those measures, and many of the amendments I supported for making sure that those were better bills than they were. On this, however, I do not think you can equate the two. This is an opportunity to modernize the Local Option Small Games of Chance to help our nonprofits, to help our veterans, and in addition, it is designed to provide increased law enforcement.

I applaud the maker of the underlying bill. I would urge people to please vote "yes."

The SPEAKER. The question is, shall the bill pass finally?

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. On that question, the Speaker recognizes the gentleman from Chester County, Mr. Lawrence.

Mr. LAWRENCE. Thank you, Mr. Speaker.

In the interest of time and the late hour, I will submit my comments for the record. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

Mr. LAWRENCE submitted the following remarks for the Legislative Journal:

Mr. Speaker, I rise in opposition of HB 169.

With all due respect to the fire companies, fraternal organizations, and nonprofits that run small games of chance to raise funds for the benefit of worthy community causes, I must state for the record that this is an expansion of gambling in the Commonwealth. All too often, those who participate in the local bingo games, drawings, etc., are those who can least afford it. We as a society have come to depend

upon those with often limited financial means to finance various charitable causes via small-time community gambling operations. This is sad and inappropriate on many levels.

This legislation takes the existing small games of chance law and increases the jackpots that can be offered. As previously stated, this is an expansion of gambling in the Commonwealth, and I therefore ask for a "no" vote.

Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

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

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, small games of chance was passed by this General Assembly in 1988. I do not think there are too many of us in this room this evening who were around in 1988 – maybe a couple – but certainly, the vast majority of us were not here. Mr. Speaker, for the first time in 23 years, we have the opportunity to upgrade and update our small games of chance law, increase the prize limits that have not been increased in 23 years.

And, Mr. Speaker, I think this is a good moment for the General Assembly. Mr. Speaker, there is room for a lot of optimism tonight, because although this House has passed versions similar to this bill in previous legislative sessions, it has never been able to make it all the way through the process, or there has always been some trouble in the Senate. The good news is, the Senate has passed its version of a small games of chance bill, and while there are some differences, the differences are not, in my opinion, insurmountable. So, Mr. Speaker, I am optimistic, very hopeful that with the action that we will take tonight and the fact that the Senate has passed its own version, that we will be able to send small games of chance legislation to the Governor for his signature.

And before I sit down, I just really want to commend the gentlelady, the prime sponsor of the bill from Cumberland County, who has done an excellent job working this piece of legislation, negotiating with many different and disparate groups. And because of that effort that she has put in, I think we are in a very good position to, for the first time since 1988, get a bill to the Governor to improve our small games of chance. So I ask for a "yes" vote.

On the question recurring,
Shall the bill pass finally?

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

The following roll call was recorded:

YEAS—184

Adolph	Evankovich	Kotik	Reed
Baker	Evans, J.	Kula	Reese
Barbin	Everett	Longiotti	Reichley
Barrar	Fabrizio	Maher	Roae
Bear	Farry	Mahoney	Rock
Benninghoff	Fleck	Major	Roebuck
Bishop	Frankel	Maloney	Ross
Bloom	Freeman	Mann	Sabatina
Boback	Gabler	Markosek	Saccone
Boyle, B.	Galloway	Marshall	Sainato
Boyle, K.	Geist	Marsico	Samuelson
Bradford	George	Masser	Santarsiero
Brennan	Gerber	Matzie	Santoni

Briggs	Gergely	McGeehan	Saylor
Brooks	Gibbons	Metzgar	Scavello
Brown, R.	Gillen	Miccarelli	Schroder
Brown, V.	Gillespie	Micozzie	Shapiro
Brownlee	Gingrich	Millard	Simmons
Burns	Goodman	Miller	Smith, K.
Buxton	Grell	Milne	Smith, M.
Caltagirone	Grove	Mirabito	Sonney
Carroll	Hackett	Moul	Stephens
Causer	Hahn	Mullery	Stern
Christiana	Haluska	Mundy	Stevenson
Cohen	Hanna	Murphy	Sturla
Conklin	Harhai	Murt	Swanger
Costa, D.	Harhart	Neuman	Tallman
Costa, P.	Harkins	O'Brien, M.	Taylor
Cox	Harper	O'Neill	Tobash
Culver	Harris	Oberlander	Toepel
Curry	Heffley	Parker	Toohil
Daley	Helm	Pashinski	Truitt
Davidson	Hennessey	Payne	Turzai
Davis	Hess	Payton	Vereb
Day	Hornaman	Peifer	Vitali
Deasy	Johnson	Perry	Vulakovich
DeLissio	Josephs	Petrarca	Wagner
Delozier	Kampf	Petri	Waters
DeLuca	Kauffman	Pickett	Watson
DePasquale	Kavulich	Preston	Wheatley
Dermody	Keller, F.	Pyle	White
DeWeese	Keller, M.K.	Quigley	Williams
DiGirolo	Keller, W.	Quinn	Youngblood
Donatucci	Killion	Rapp	
Dunbar	Kirkland	Ravenstahl	Smith, S., Speaker
Ellis	Knowles	Readshaw	
Emrick	Kortz		

NAYS—12

Aument	Creighton	Godshall	Krieger
Boyd	Cutler	Hickernell	Lawrence
Clymer	Denlinger	Hutchinson	Metcalfe

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

* * *

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

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

The House proceeded to third consideration of **HB 1140, PN 1242**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of aggravated assault.

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

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

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

The following roll call was recorded:

YEAS—196

Adolph	Dunbar	Kirkland	Rapp
Aument	Ellis	Knowles	Ravenstahl
Baker	Emrick	Kortz	Readshaw
Barbin	Evankovich	Kotik	Reed
Barrar	Evans, J.	Krieger	Reese
Bear	Everett	Kula	Reichley
Benninghoff	Fabrizio	Lawrence	Roae
Bishop	Farry	Longiotti	Rock
Bloom	Fleck	Maher	Roebuck
Boback	Frankel	Mahoney	Ross
Boyd	Freeman	Major	Sabatina
Boyle, B.	Gabler	Maloney	Saccone
Boyle, K.	Galloway	Mann	Sainato
Bradford	Geist	Markosek	Samuelson
Brennan	George	Marshall	Santarsiero
Briggs	Gerber	Marsico	Santoni
Brooks	Gergely	Masser	Saylor
Brown, R.	Gibbons	Matzie	Scavello
Brown, V.	Gillen	McGeehan	Schroder
Brownlee	Gillespie	Metcalfe	Shapiro
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causer	Grove	Miller	Stephens
Christiana	Hackett	Milne	Stern
Clymer	Hahn	Mirabito	Stevenson
Cohen	Haluska	Moul	Sturla
Conklin	Hanna	Mullery	Swanger
Costa, D.	Harhai	Mundy	Tallman
Costa, P.	Harhart	Murphy	Taylor
Cox	Harkins	Murt	Tobash
Creighton	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.,
DiGirolamo	Keller, W.	Quinn	Speaker
Donatucci	Killion		

NAYS—0

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

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

* * *

The House proceeded to third consideration of **HB 439, PN 2732**, entitled:

An Act prohibiting certain licensees from knowingly employing illegal aliens; and imposing sanctions.

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

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.
The question is, shall the bill pass finally?

On that question, the Speaker recognizes the lady from Philadelphia County, Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

Mr. Speaker, you may remember we discussed this bill yesterday in the context of an amendment, which the maker of the bill, the individual from Butler, attempted to improve it and sharpen the scope. And in the discussion, you may remember, I said in my opinion he did not achieve his goal. And so the bill in its final form, even as amended, I believe is completely unacceptable and ought to be rejected by all of us, and certainly would be rejected by the people of this State if they had understanding of what the gentleman, the maker of the amendment, had in mind.

The bill prohibits a licensee from knowingly, and we have a problem and those of you who practice law at all or have been involved in the criminal law courts know that we have a series of cases, we have a lot of definitions of what we mean by "knowingly" in criminal law, but I do not believe we have any definition and there certainly is not one in this bill of what "knowingly" actually means. So we may have a person, we hypothetically would have a person, in real life – if this should, heaven forbid, pass – we will have a real person who has a license, he or she is a barber or a cosmetologist, a doctor, a nurse, a physical therapist, any number of, an architect, and knowingly, whatever that means, would engage, employ somebody who is here without documents. Probably something that a wise person would not do deliberately, but many people will do not even really knowing what that person is. And that person, or in the case of a hospital, where we might have somebody, let us say, in the housekeeping department, who is here without papers, that hospital could be shut down under this bill. A medical person could lose his or her license. It could be revoked.

Under questioning yesterday, we learned that these licenses will not be suspended, they will be revoked. We will be depriving people – many people, perhaps; I fear many people –

of the right to earn a living, of the fruits of an education and their own business activity, their own desire to have a productive life and to support themselves and their family, for an infraction which really they have no idea that they have committed in many, many if not all of the cases. I have so many problems with this bill. It is really hard to know where to get started, but some of my questions might be, and I am not going to interrogate because the hour is late and I really despair of getting any answers that would elucidate the bill, but, Mr. Speaker, ask yourself what course of action would a licensing board or a commission take to determine that the licensee is aware that he or she has employed an undocumented resident. The bill does not specify which entity connected to the licensing board or the commission would be responsible for making an inquiry into someone's immigration status with the Federal government. If you remember, the board, the people who have given the license or keep up the standards of this particular profession or occupation, must check with the Federal government whether someone who is suspected to have been here is here with or without papers. But how exactly is that done and who does it? Is it an agent with the Department of State's Bureau of Enforcement and Investigation? Would it be an agent from the Department of State's Professional Compliance Office? Would it be an attorney in the Department of State's legal office?

The bill aims to severely punish licensees in the Commonwealth and strip them of the ability to practice their profession or their occupation. Its effects are widespread and far-reaching. This could possibly have a devastating effect on small and big business in the Commonwealth. Should a hospital lose its institutional license because it employed a contractor who happened to have an undocumented worker on the staff, that entire hospital could close. Everybody who is in that hospital would lose their job. The medical services, which I am sure are essential to the community in which this hospital is located, would cease. Everybody would be put out of work, put out of services, lose the medical, whatever medical security they may have. And this bill is a job killer. This is a bill which will have economic devastation in this State very comparable to what is happening in the agricultural sectors in States like Alabama and Colorado.

I do not know why we are committing economic suicide here, because that is what we are doing if we vote for this bill. We already have a higher unemployment rate than most, than the average across the United States. What are we trying to do, have the highest unemployment rate in the country? I mean, if that is what you really want to do, I think this is absolutely the way to go. I am not going to get into the details, real-life things that happen to people, your barber, somebody is taking care of your kids at home. You are a doctor; you have a housekeeper. You ask the nanny or the housekeeper to come to your office and deliver something, to take something from your office home on his or her way to work; that person is not documented or that person started out with documents and they expired, and the Federal government is so slow in renewing those papers that for some period of time, which might be extended, that individual has no papers. But this is not the fault of the individual; this is the fault of the Federal government that cannot keep up with the work of supplying people with the papers they need to have the documents. So are we going to close a whole hospital because the Federal government cannot get papers to one person in a housekeeping department? And everybody on this floor says

they want to provide jobs for the people of Pennsylvania. I do not really believe that our voters are delusional. They understand quite well what is going on here, and this is a job killer, this bill. This is a dream shatterer, and this is something that will cause this State to go in even worse of an economic tailspin than we are already in.

I would like to make one further argument. You may have noticed, and I think most people on this floor understand why, but for the benefit of anybody outside of this floor that may be interested in this debate, that lawyers are not included in this scheme. Now, we know on the floor, the reason is that lawyers are controlled by the court, not by the Department of State's bureau of professional licensure and occupations, and the court will not stand for us regulating lawyers. So lawyers can hire anybody, and truthfully, if I were a licensee and had a problem with somebody who, for instance, had papers that lapsed, I might ask my lawyer to put that person temporarily on his or her payroll, because lawyers do not qualify under this for deprivation of license. Furthermore, anybody who has a license is going to be using lawyers much, much more than they are now because they are treading on very, very thin ice with anybody that they hire, because you do not come to ask for a job and have stamped on your forehead, "I have no papers." So who really knows? Very difficult to find these things out. What happens if somebody falsifies papers? Who is supposed to take the responsibility for that?

But anyhow, to get back to lawyers. First of all, lawyers will not be deprived of their license to practice, and second of all, lawyers will have many more clients. Now, people know that I am a lawyer, and if I did not believe so strongly in good public policy, I would be for this bill. This is welfare for lawyers. My lawyer friends are going to love this bill once it gets into practice, but it is really terrible public policy.

I implore people who care about jobs in this State, who want to reverse the spin-down into joblessness that we seem to be sliding down faster and faster in Pennsylvania, reject this bill. There is a problem with people here who do not have papers, but the way to cure it is not to cut our heads off. This is craziness.

Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Will the sponsor of the bill rise for brief interrogation?

The SPEAKER. The sponsor of the bill is actually on leave today. Is there someone else the gentleman would choose to interrogate?

Mr. STURLA. Well, I guess maybe if somebody could answer the question that I have. I will posit the question, and if somebody wants to answer it they can.

My understanding of this bill, at least as I read it, is that if I employ somebody as a professional, that it is illegal. But as I see most of what goes on where there is even a question about illegality as it deals with professionals or whether they are hiring somebody or having somebody work for them, in most cases, it is those people that work with a lot of people that really do not have a whole lot of money to start with. And most of the time, what ends up happening is – I will use the example of a dentist because we were talking about dentists yesterday – somebody shows up at the dentist's office and they say, "Hey, I do not have any money to pay for dental services, but I have a

really bad toothache." And the dentist says, "Well, can you go outside and clean up outside my office?" The guy says yes. The dentist says, "Then I will pull your tooth." Now, technically, he is not employed, and I guess the question I have is, is barter considered employment? Because if it is not, I will just make sure as a professional that I never actually pay anybody any cash; I will exchange services with them. I do not know whether it is covered under this bill or not, but I would be curious to know.

The SPEAKER. The Speaker recognizes the gentleman from Allegheny County as a volunteer to answer the question posed by the gentleman from Lancaster County, and therefore, under interrogation, the gentleman, Mr. Maher, is recognized.

Mr. MAHER. Thank you, Mr. Speaker.

I am not certain I have the answer to the question, but I am always fascinated to learn about the gentleman's district. I am not sure it is a question that is going to come up in many parts of the State, but I would suggest to the gentleman that an independent contractor is an independent contractor, regardless of the form of payment, that we come back to the question of was it knowingly hiring someone who happens to be in this country illegally.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

The gentleman, Mr. Sturla, is still in order on the amendment.

Mr. STURLA. Thank you, Mr. Speaker.

The SPEAKER. On the bill; excuse me.

Mr. STURLA. Thank you.

Mr. Speaker, I would invite the gentleman as well as any other member that is interested in seeing what real Pennsylvanians are like in this State to come visit my district. I would be glad to show them around any day.

In terms of the issue of employment, if me exchanging services with somebody is considered employment in this State, then there is a whole lot of workers' comp that is not getting paid somewhere in this State, because there are a whole lot of services that get traded between professionals themselves and a whole lot of other people in this State. And so I guess I would question whether or not the gentleman's response is actually correct.

And I think there is a gaping loophole, thank goodness, in this legislation, because if this ever were to become law, it would have a devastating effect on the over 800,000 professionals in this State that do business multiple times every single day in this State who would be threatened with the possible loss of their livelihood if they mistakenly hired someone who by yesterday's account are rampantly abundant in this State. So it is not isolated incidences as was purported by an earlier speaker who responded to me. The gentleman yesterday said this is going on everywhere and in such rampant proportions that it needed to be stopped and stopped immediately if we ever wanted to save our State and the nation.

And so I would hope that we would defeat this bill and also defeat the notion behind this bill, which is that you punish those people that are professionals in this State that have worked very hard and long to achieve a status that helps make our economy run in this State. So thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

I do not think I am going to change anyone's mind on this topic, but I would like, for the benefit of my own constituents, to be able to put on the record why I think this bill is a very bad idea.

I have said before and I believe strongly that immigration enforcement is a Federal issue. It is a Federal issue. The Feds should do it and they should pay for it. We do not have the resources in Pennsylvania to meet our State obligations, and yet we continually bring up bills that will impose on the citizens of Pennsylvania the costs of immigration enforcement. I think that that is a foolish way to proceed.

Professional licensure boards in Pennsylvania have no expertise in immigration law. I do not believe that they currently have the ability to investigate illegal immigration claims or the hiring of illegal immigrants, and I strongly believe that if they are charged with this responsibility, it can only have one result, and that is to dramatically increase the cost of being licensed in Pennsylvania. The fees to be licensed will have to increase to truly do what we are asking them to do, and those costs will be passed on to the patients of our doctors, our dentists, our architects. They will pass those costs along.

This really is a terrible idea. I do not know why we would want to turn our licensure boards into the enforcers of immigration law in Pennsylvania. You know, it really reminds me of a bill that we had before us many years ago now that would have required our employers in Pennsylvania to collect credit card debt; not their responsibility, and it is not the responsibility of our boards of professional licensure to enforce immigration law. I know that immigration and illegal immigration is a hot topic. I know that there are things we could do and we should do. E-Verify, I am all for that, but immigration is a Federal issue. They should do it; they should pay for it, and turning our boards of professional licensure into the enforcement of immigration law is foolish.

Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

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

Mr. BARBIN. Thank you, Mr. Speaker.

I rise in support of HB 439 on final passage, and I do so for the reason that the prohibition here is just like the prohibition that we are looking for with E-Verify. We have passed it before. It has now come out of committee. I believe E-Verify will do more good for the Commonwealth, for this bill. But the issue with this bill is not whether E-Verify is better; the only issue for this bill is whether or not it will make people accountable.

The question, the prohibition under this statute says that a licensee who knowingly employs or permits employment of an unauthorized alien is subject to sanction. Now, what has been lost in this whole discussion is what "knowingly" means. Knowingly means that the person who does the act knows with a practical certainty that that person is an illegal alien. That is not a negligent standard. It is not a gross negligent standard. It is a criminal standard. It says you have got to know, but if you know, then you lose your license.

Now, if we are going to tell people, with E-Verify, that 35,000 aliens are in our construction industry and are keeping Pennsylvanians from working, then we ought to be able to do the same thing with somebody who holds a professional license, because if we are not willing to say to the professional licensee that we have had enough, that if you absolutely know, you

cannot hire this person, and there is a good reason for that. People are losing their unemployment compensation benefits and they are not being extended. People will start using these jobs if we give them a chance. If we do not and instead we allow licensees, professionals, to continue to employ aliens, then we have a problem. So the only question is, would you rather have someone who is a resident in Pennsylvania and needs the job or would you rather have an alien?

Now, if someone makes a mistake, there is no way the State Department, when they bring these cases, is going to allow that case to go forward, because the standard is practical certainty. Because it is practical certainty, I am going to vote for this bill.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the lady from Delaware County, Mrs. Davidson.

Mrs. DAVIDSON. Thank you, Mr. Speaker.

I was wondering – I recognize that the author of the bill is on leave – but I was wondering if my very, very good friend, the gentleman from Butler County, would stand for a brief moment of interrogation?

The SPEAKER. The very, very good friend from Butler County indicates he will stand for interrogation. The lady may proceed.

Mrs. DAVIDSON. Based on the amendment that was offered by the gentleman, Mr. Speaker, yesterday, which I did support because I believe it moved the legislation in the right direction, but some statements that were made that I just need clarity on, which was, there were some hypotheticals about the definition of "employment," and there were some hypotheticals about whether or not someone mowing the grass as sort of an independent contractor would qualify as employment under this particular legislation. So would that person that is mowing the grass or washing windows that would not be a W-2 employee, would that qualify as employment under this particular legislation?

Mr. METCALFE. The intent of the legislation is to ensure that individuals are not hiring illegal aliens instead of Pennsylvanians, Americans, or resident aliens who are able to work here. The way that the language is drafted, it would certainly exclude any hiring that would be done outside of what is connected to that professional licensee's business. So based on our discussions yesterday with the amendment, if somebody was hiring someone to cut their grass at their home, if it was a personal hiring rather than connected to their business, then it would not be included, but if they were hiring that individual knowingly to cut their grass at their dental practice office, then it would be included.

Mrs. DAVIDSON. Okay. Just to make sure I understand what you just said, Mr. Speaker, that person that would be mowing the lawn, mowing the grass, or cleaning windows at the professional office, the dental office, or whatever that professional office would be, even though they are not a W-2 employee, that would still qualify as a violation of the law if that person – if this law was passed into law – if that person was an illegal alien even though they are technically an independent contractor just doing a job from time to time and not a W-2 employee?

Mr. METCALFE. If the individual who hired them hired them knowing that they were an illegal alien and not legally allowed to work here, yes.

Mrs. DAVIDSON. Thank you, Mr. Speaker.

That concludes my interrogation. On the bill.

The SPEAKER. The lady is in order on the bill.

Mrs. DAVIDSON. While I voted for the amendment, Mr. Speaker, of my very, very good friend, the gentleman from Butler County, I cannot support this bill in its present form because it includes independent contractors as stated by the gentleman, and therefore it would subject, it would very clearly subject law-abiding, taxpaying citizens under professional licensure in the Commonwealth to possible smear campaigns of criminality, waged by competitors or others with a grudge, accusing them of hiring an illegal alien under very small and limited circumstances. There is no age requirement to qualify that professional to this litigation and the loss of their license. So if a young man 17 years old, 16 years old, comes to a dental office and says, "Can I wash your windows? Can you pay me a certain amount of money?" The person does that and then finds out that they are now being subject to having their license permanently revoked, permanently revoked for giving \$20, \$100 to somebody for washing the windows of their business that may have been a teenager in the neighborhood. They do not know whether they are documented or not.

But then you subject the board of professional licensure to investigate whether or not this person knew, this doctor who just paid somebody \$100 to wash their windows, employed them, you subject the board to have to do an investigation in an area of law that they clearly may not be qualified. You are now asking this board to do something that they have never done before, and after all of that the law still – after revoking the license of numerous people if this would become law who are taxpayers, employers, job creators; you have revoked their license and make them unable to provide a living for themselves and employ the people in the community – after you have done all of that, you have not done a single thing to address undocumented immigrants. They are still here. All you have done is penalized someone who has a professional license – a job creator, a law-abiding citizen, a taxpayer – to this overwhelming litigation against them and subject to the revoking of their license.

And so I cannot support this bill, Mr. Speaker, because it is overly punitive, it is vague in its application, it subjects our citizens to this kind of over-the-top scrutiny, and does absolutely nothing, absolutely nothing to address the undocumented immigrant situation in the Commonwealth of Pennsylvania. So I will be voting "no," and I urge my colleagues to do the same.

The SPEAKER. The Speaker thanks the lady.

The question is, shall the bill pass finally?

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

Mr. VITALI. Thank you, Mr. Speaker.

I rise in opposition to this bill.

I think the bill is overbroad and poorly drafted.

Mr. Speaker, I was in the State Government hearing and had the opportunity to interrogate the maker of the bill, and under interrogation he admitted quite freely that if, for example, someone who ran the kitchen department, let us say, at Harrisburg Hospital hired an illegal alien to work in the kitchen, that would subject Harrisburg Hospital and its thousands of employees to have the license revoked and those employees put out of business.

Mr. Speaker, the same would apply to a college. If some maintenance person at Harrisburg Area Community College hired someone they knew to be illegal to cut the grass, that would subject Harrisburg Area Community College to the revocation of their license. That is what this bill would do if we let it go into effect, Mr. Speaker.

The bill is poorly drafted because it does not deal with first offense, it does not deal with an increasing fine, it does not deal with a limited suspension, greater suspension. It simply says "shall revoke," period. That is really not the way properly drafted legislation should read, Mr. Speaker.

Mr. Speaker, let me just read to you comments of the Pennsylvania Farm Bureau in a letter to Representative Metcalfe on July 25, 2011. This applied to a whole host of bills relating to immigration, not only this one but others of the same ilk, "In summary, Farm Bureau strongly recommends that the General Assembly not move forward any state legislation attempting to address the issue of illegal immigration without a complete and thorough analysis of adverse impacts the legislation may cause to the Pennsylvania economy, and more specifically to Pennsylvania agriculture." That was signed by John Bell, the government affairs counsel. They are not in support of this legislation for the reasons stated and others.

The ACLU (American Civil Liberties Union) points out certain problems with this legislation. It says, quote, "HB 439 fails to specify the procedures governing investigation, enforcement and remedies by the licensing bodies." That is not in this bill. It should be before we do anything further with it. It says, "The bill levels a heavy sanction on a business for a single offense of hiring an ineligible worker. It is essentially the death penalty for a business to lose its license." Mr. Speaker, again, just poorly drafted legislation. This group also goes on to say that "HB 439 is pre-empted by federal immigration law."

Mr. Speaker, this is simply not a good idea. It is poorly drafted. Perhaps if it were tailored better, it is something that I could support, but in its current form I urge a "no" vote. Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Northampton County, Mr. Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I rise to raise several concerns about this legislation. Yesterday as we were debating the amendments, I went to the Web site of the Pennsylvania Department of State to check out exactly how many licensing boards there are, and yes, within the Department of State we have a Bureau of Professional and Occupational Affairs. Under the jurisdiction of that bureau, there are 29 professional and occupational licensing boards and commissions. Now, this bill as drafted would apply to all 29 of those licensing boards and all the people who submit applications to get a license to those licensing boards. We have heard that that number is 800,000 Pennsylvanians. Now, you can go to the computer and check out that list for yourself, but just think about this when I read just a dozen of these boards. This bill could apply to all accountants in Pennsylvania, potentially; architects, barbers, engineers, funeral directors, real estate agents, dentists, doctors, nurses, pharmacists, social workers, veterinarians.

Now, in committee we asked a lot of questions: Well, how would this apply? Would this apply to every single person who submits an application for a nursing license or is it on a case-by-case basis or is it not known? If we go to the fiscal note

— each of you has a copy of the fiscal note — according to the Pennsylvania Department of State, this legislation would increase the bureau's workload, but it is hard to speculate on exactly how many actions for revocation of licenses would be resulting from this legislation, but it could impact all 29 of those areas and definitely increase the bureau's workload.

Well, what resources do we give the Pennsylvania Department of State to conduct this new, this new responsibility? Well, you could get out a copy of your State budget and it might surprise you to note that the House majority actually cut the budget for the Department of State this year. There are a couple of different components. There is the Federal funding, which has declined; there are some one-time funding for the Reapportionment Commission, but not counting that one-time Reapportionment Commission funding, the Pennsylvania Department of State budget was cut from \$8 million — this is State funding — \$8,496,000 to \$8,426,000. That is about a 1-percent cut. Now remember, the Pennsylvania Department of State has to keep track of many different areas — this bureau of licensing that I mentioned, elections, notaries, the Corporation Bureau, the State Athletic Commission, the Bureau of Charitable Organizations — all for \$8.4 million, which was cut this year, and now all of a sudden this legislation has broad new responsibilities to investigate these complaints.

Several speakers have mentioned some of the possible problems. Is it possible that a competitor might file a frivolous request for an investigation? If there are two funeral directors in town, then one could make an allegation that the other one might have hired an unauthorized alien; if there are two dentists in town — you get the picture.

Also, the legislation says that it only applies if you knowingly hire an unauthorized alien but does not give any guidance on exactly how the Department of State should make that determination with a budget that is less than last year.

When I was 17 years old, I remember there was a giant snowstorm in Pennsylvania, over 20 inches of snow, and I went out and shoveled some snow for some folks in the neighborhood. One of the folks that hired me was the local funeral director, about two blocks from my house, and I remember shoveling his snow. I remember he paid me \$20, which I thought was pretty good back in 1978, and I also remember that he did not, he did not ask me for my immigration status. Now, if this becomes law and that funeral director or any funeral director in Pennsylvania, if a funeral director in Pennsylvania wants to hire some kid to shovel the snow and the possible penalty, if you hire an unauthorized alien, the possible penalty is a lifetime loss of your license to be a funeral director — you would lose your profession for the rest of your life — I think you are going to ask for immigration papers for every possible person who comes to shovel your snow, rake your leaves, trim the bushes, clip the hedges. It really is a mountain of paperwork that we would be putting on all of these accountants, architects, barbers, engineers, funeral directors, etc., if they wanted to protect themselves from a possible lifetime loss, permanent revocation, of their license.

A couple final points: One, we have talked about how this bill could apply to possibly 800,000 people in Pennsylvania, 800,000 people who might face a lifetime loss of their license, but it does not apply to everyone else in Pennsylvania. It does not apply to businesses in Pennsylvania if a business would hire an unauthorized alien; it does not apply to lawyers in Pennsylvania; it does not apply to retail establishments; it does

not apply to utilities; K to 12 education; churches. So many areas of our State this does not apply to. It only applies to those 29 professions that are subject to licensing by the Pennsylvania Department of State.

Finally, are we not really talking about a Federal responsibility to enforce immigration law in our country? And here with this legislation we are taking what should be a Federal responsibility and placing it on the Pennsylvania Department of State, an agency with a budget of \$8.4 million in State funding. Without knowing how many investigations and how much of a workload this would cost for the Department of State, it is possible that all of the other functions of the Department of State could grind to a halt if this responsibility becomes overwhelming. The truth is we do not know tonight how much of a workload it would be, but we do know that it could apply potentially to 800,000 people, 800,000 licenses that are subject to renewal with the Pennsylvania Department of State.

So a lot of unanswered questions about this legislation, and asking – relatively, in the scheme of our State budget, that \$8.4 million, the Pennsylvania Department of State is one of the smaller agencies of our State government – asking that agency to take on what should be a Federal responsibility raises many questions, and I encourage a "no" vote. Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Schuylkill County, Mr. Knowles.

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

Mr. Speaker, any licensed professional who knowingly hires an illegal alien should lose their license. That is really the long and the short of it.

Illegal aliens are a problem where I come from. The illegal alien invasion is a problem where I come from. I have heard hypotheticals about illegal aliens cutting the grass, about illegal aliens shoveling snow, but let us talk a little bit about the reality of life. The area where I come from, illegal aliens have been charged with murder, bus loads of illegal aliens have been hauled off from job sites, illegal aliens have been stopped by local police and they have had two ACCESS cards in their wallet, with \$100 bills in their wallet – and by the way, neither of those ACCESS cards are in their names.

So illegal aliens and the illegal alien invasion is a serious problem where I come from, and I would ask my colleagues to vote for HB 439. Thank you very much.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the lady from Philadelphia, Ms. Josephs, for the second time.

Ms. JOSEPHS. Well, I am sorry I am going to turn this—I understand it is my second time. I will not ask to speak a third time, but I very much object to the inflammatory, unsubstantiated remarks made by the speaker before me, and I ask the Speaker to please listen when these kinds of inflammatory and unsubstantiated remarks are being made.

Yes, of course people who are here without papers do commit the crimes, but the majority of crimes that are committed in this country are made by people who are citizens. The great majority of crimes are done by people who are citizens in this country, and if you want me to substantiate that, I can do it.

Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On the question, the Speaker recognizes the gentleman from Allegheny County, Mr. Kortz.

Mr. KORTZ. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this bill. My colleague from Bucks County yesterday summed it up quite well when he said we needed to have the E-Verify system first. We are putting the cart before the horse.

I am against the illegal aliens. I think it is a problem in this country, and I would like to address it. However, we are hindering people if we pass this legislation. We truly need E-Verify first and then we can take the steps forward, and I just believe right now this is not the right bill to do. Thank you, Mr. Speaker.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the gentleman from Butler County, Mr. Metcalfe.

Mr. METCALFE. Thank you, Mr. Speaker.

I rise to ask for support of HB 439. This legislation is directed at one of the magnets that actually draws illegal aliens to Pennsylvania. The estimated numbers are about 140,000 illegal aliens here, costing the State about \$1.4 billion per year. If you shut off access to jobs, if you shut off access to public benefits, they would self-deport. It has been proven in other States. It is happening around the country in other States. This is one step in that direction. We have a package of bills. This is the first bill that we are running to actually discourage individuals from hiring illegal aliens. Nobody that has a professional license should be hiring an illegal alien, and if they do so knowingly, as one of the former speakers said, they should have their license removed to conduct business still.

So, Mr. Speaker, I would ask for an affirmative vote for HB 439.

The SPEAKER. The question is, shall the bill pass finally?

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. May I have some order, Mr. Speaker; just some order, Mr. Speaker.

To the members of this General Assembly—

The SPEAKER. The gentleman will suspend a minute.

Mr. TURZAI. I am sorry, sir.

The SPEAKER. Sometimes silence brings silence.

The gentleman may proceed.

Mr. TURZAI. To the members of the General Assembly, I do support HB 439. I would like to make it clear, though, that I probably have a perspective that is somewhat different than what has been articulated today. I do not think that this issue needs to be as divisive as some are making it out to be. To be honest with you, every human being has dignity and worth, no doubt at all. The fact of the matter is, we have a wonderful, just, fair country. I am the grandson of four immigrants, like many of you, to this nation, four grandparents – two from the country of Hungary, two from the country of Ireland. My wife's mother, as I indicated in a prior discussion, was born in Italy herself. It is a country that has open gates to people of all nationalities and backgrounds, religions. It is a wonderful country in that regard. There is, however, a process that allows for legal immigration, and many individuals have taken advantage of that great opportunity to come into the United States of America. I myself often think on a Federal level that the visas should be expanded

to bring in those who want to escape tyranny or who want to come just to make a better life, but you have to have an appropriate system with respect to that.

And in addition, if you completely countenance a process that does not take regard to a fair system, a balanced system of bringing in individuals, you begin to hurt, to a certain extent, job opportunities for others in this country. The folks on a bipartisan basis who have supported a series of recommendations to help make sure that the issue promotes legal immigration and a process that is designed to promote legal immigration worked together to put together a series of bills.

I think you are correct that E-Verify is an important bill, and there are some nuance differences with respect to what E-Verify piece of legislation we move. That is significantly under discussion. We had a bill, HB 439, which is sponsored not by the good gentleman from Butler, but a good gentleman from Allegheny County, who is, unfortunately, excused today, and this particular bill is designed to make sure that employment in a particular area, if you do something knowingly, that there is a penalty with respect to it.

Now, we narrowed this bill with an amendment, an amendment that many of us sought to work together so that we could bring bipartisan support for HB 439. The original bill was broad and indicated that if you hired somebody who was illegal in a knowing fashion, even if it was in your home or circumstances beyond the employment context, that you in fact could suffer serious consequences. This was narrowly tailored to address just the specific employment situation when you are an employer and you knowingly hire somebody who has not made use of the legal immigration process. The idea is to promote some balance.

I applaud all immigrants, because we were all immigrants at some point to this nation, and I want you to know that people of all backgrounds, race, religion, ethnicity, should have a free and fair opportunity to succeed in the greatest country, in America. We need to do it, however, in a process that allows for reasonable growth and that allows our American citizens to take advantage of any job opportunity that is available.

I would ask for your support of this particular bill given the fact that we amended it yesterday to make it a much more narrowly tailored approach.

I also want to indicate to the good gentleman from Bucks County, to the good gentleman from Allegheny County, both on the other side of the aisle, that I agree we need to get the E-Verify. That will become a priority. It has been a priority. We just had not been able to address some nuance differences, but we will.

I would ask everybody, please, for a positive vote in the spirit of promoting legal immigration, an opportunity for all people in the greatest nation on earth. Thank you.

On the question recurring,
Shall the bill pass finally?

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

The following roll call was recorded:

YEAS—122

Adolph	Evankovich	Knowles	Rapp
Aument	Evans, J.	Krieger	Readshaw
Baker	Everett	Lawrence	Reed
Barbin	Farry	Longietti	Reese
Barrar	Fleck	Major	Reichley
Bear	Gabler	Maloney	Roac
Benninghoff	Galloway	Marshall	Rock
Bloom	Geist	Marsico	Ross
Boback	Gibbons	Masser	Saccone
Boyd	Gillen	Metcalfe	Sainato
Brooks	Gillespie	Metzgar	Saylor
Brown, R.	Gingrich	Miccarelli	Scavello
Burns	Goodman	Micozzie	Schroder
Carroll	Grell	Millard	Simmons
Causser	Grove	Miller	Sonney
Christiana	Hackett	Milne	Stephens
Clymer	Hahn	Mirabito	Stevenson
Costa, D.	Harhai	Moul	Swanger
Cox	Harhart	Mullery	Tallman
Creighton	Harris	Neuman	Taylor
Culver	Heffley	O'Neill	Tobash
Curry	Helm	Oberlander	Toohil
Cutler	Hess	Payne	Truitt
Day	Hickernell	Peifer	Turzai
Deasy	Hornaman	Perry	Vereb
Delozier	Hutchinson	Petrarca	Vulakovich
DeLuca	Kauffman	Petri	Watson
DiGirolamo	Kavulich	Pickett	White
Dunbar	Keller, F.	Pyle	
Ellis	Keller, M.K.	Quigley	Smith, S., Speaker
Emrick	Killion	Quinn	

NAYS—74

Bishop	Dermody	Kirkland	Ravenstahl
Boyle, B.	DeWeese	Kortz	Roebuck
Boyle, K.	Donatucci	Kotik	Sabatina
Bradford	Fabrizio	Kula	Samuelson
Brennan	Frankel	Maher	Santarsiero
Briggs	Freeman	Mahoney	Santoni
Brown, V.	George	Mann	Shapiro
Brownlee	Gerber	Markosek	Smith, K.
Buxton	Gergely	Matzie	Smith, M.
Caltagirone	Godshall	McGeehan	Stern
Cohen	Haluska	Mundy	Sturla
Conklin	Hanna	Murphy	Toepel
Costa, P.	Harkins	Murt	Vitali
Daley	Harper	O'Brien, M.	Wagner
Davidson	Hennessey	Parker	Waters
Davis	Johnson	Pashinski	Wheatley
DeLissio	Josephs	Payton	Williams
Denlinger	Kampf	Preston	Youngblood
DePasquale	Keller, W.		

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

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

* * *

The House proceeded to third consideration of **HB 149, PN 2574**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for issuance of "In God We Trust" registration plates.

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

(Bill analysis was read.)

The **SPEAKER**. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

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

The following roll call was recorded:

YEAS—196

Adolph	Dunbar	Kirkland	Rapp
Aument	Ellis	Knowles	Ravenstahl
Baker	Emrick	Kortz	Readshaw
Barbin	Evankovich	Kotik	Reed
Barrar	Evans, J.	Krieger	Reese
Bear	Everett	Kula	Reichley
Benninghoff	Fabrizio	Lawrence	Roae
Bishop	Farry	Longietti	Rock
Bloom	Fleck	Maher	Roebuck
Boback	Frankel	Mahoney	Ross
Boyd	Freeman	Major	Sabatina
Boyle, B.	Gabler	Maloney	Saccone
Boyle, K.	Galloway	Mann	Sainato
Bradford	Geist	Markosek	Samuelson
Brennan	George	Marshall	Santarsiero
Briggs	Gerber	Marsico	Santoni
Brooks	Gergely	Masser	Saylor
Brown, R.	Gibbons	Matzie	Scavello
Brown, V.	Gillen	McGeehan	Schroder
Brownlee	Gillespie	Metcalfe	Shapiro
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causer	Grove	Miller	Stephens
Christiana	Hackett	Milne	Stern
Clymer	Hahn	Mirabito	Stevenson
Cohen	Haluska	Moul	Sturla
Conklin	Hanna	Mullery	Swanger
Costa, D.	Harhai	Mundy	Tallman
Costa, P.	Harhart	Murphy	Taylor
Cox	Harkins	Murt	Tobash
Creighton	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	Keller, W.	Quinn	Speaker
Donatucci	Killion		

NAYS—0

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

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

* * *

The House proceeded to third consideration of **HB 849, PN 2731**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions; providing for regulation and operation of neighborhood electric vehicles; and further providing for slow moving vehicle emblem and for operation of vehicle without official certificate of inspection.

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

(Bill analysis was read.)

The **SPEAKER**. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

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

The following roll call was recorded:

YEAS—196

Adolph	Dunbar	Kirkland	Rapp
Aument	Ellis	Knowles	Ravenstahl
Baker	Emrick	Kortz	Readshaw
Barbin	Evankovich	Kotik	Reed
Barrar	Evans, J.	Krieger	Reese
Bear	Everett	Kula	Reichley
Benninghoff	Fabrizio	Lawrence	Roae
Bishop	Farry	Longietti	Rock
Bloom	Fleck	Maher	Roebuck
Boback	Frankel	Mahoney	Ross
Boyd	Freeman	Major	Sabatina
Boyle, B.	Gabler	Maloney	Saccone
Boyle, K.	Galloway	Mann	Sainato
Bradford	Geist	Markosek	Samuelson
Brennan	George	Marshall	Santarsiero
Briggs	Gerber	Marsico	Santoni
Brooks	Gergely	Masser	Saylor
Brown, R.	Gibbons	Matzie	Scavello

Brown, V.	Gillen	McGeehan	Schroder
Brownlee	Gillespie	Metcalfe	Shapiro
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causser	Grove	Miller	Stephens
Christiana	Hackett	Milne	Stern
Clymer	Hahn	Mirabito	Stevenson
Cohen	Haluska	Moul	Sturla
Conklin	Hanna	Mullery	Swanger
Costa, D.	Harhai	Mundy	Tallman
Costa, P.	Harhart	Murphy	Taylor
Cox	Harkins	Murt	Tobash
Creighton	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.,
DiGirolamo	Keller, W.	Quinn	Speaker
Donatucci	Killion		

NAYS—0

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

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

CALENDAR CONTINUED

CONSIDERATION OF HB 1950 CONTINUED

The SPEAKER. The Speaker returns to today's House calendar and returns to the second consideration of HB 1950.

On the question recurring,

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

Ms. PICKETT offered the following amendment No. **A06329**:

Amend Bill, page 35, by inserting between lines 12 and 13 (A06347)

(e.1) Notice.—An operator must provide written notice to the landowner or water purveyor indicating that the presumption established under subsection (c) may be void if the landowner or water

purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady, Ms. Pickett.

Ms. PICKETT. Thank you, Mr. Speaker.

I would again ask my colleagues to give me an affirmative vote on this amendment. It is intended to require the drilling companies to tell our landowners that they may be jeopardizing their presumption of the source of damage, should it occur, if they refuse a water test. Mr. Speaker, I have had a great deal of concern that landowners may not understand that they may be jeopardizing some of their rights when they might refuse to have that water test that is done by the company because they believe they have done one of their own and that is enough. So I would like to have this included in the bill so that I can be sure that our landowners have the opportunity to understand their rights in this area. Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment?

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

Mr. SCHRODER. Thank you, Mr. Speaker.

Would the gentelady rise for just very brief interrogation? Am I recognized to—

The SPEAKER. The Speaker apologizes. Were you asking to interrogate?

Mr. SCHRODER. Yes, sir.

The SPEAKER. I apologize. The lady indicates she will stand for interrogation. You may proceed.

Mr. SCHRODER. As I understand your amendment, and correct me if I am wrong, it is purely a notice to advise the party as to what the risks are if they do not allow or take a certain action. It does not change any existing law. Is that correct?

Ms. PICKETT. That is true. I would just like them to offer that information when they come to the landowner who has a private water well and let them know what the complete picture is regarding the testing of that water.

Mr. SCHRODER. So it is just apprising them of what their rights and/or obligations or risks under existing law are?

Ms. PICKETT. That is correct.

Mr. SCHRODER. Okay. Thank you.

Ms. PICKETT. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—196

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

Boyd	Freeman	Major	Sabatina
Boyle, B.	Gabler	Maloney	Saccone
Boyle, K.	Galloway	Mann	Sainato
Bradford	Geist	Markosek	Samuelson
Brennan	George	Marshall	Santarsiero
Briggs	Gerber	Marsico	Santoni
Brooks	Gergely	Masser	Saylor
Brown, R.	Gibbons	Matzie	Scavello
Brown, V.	Gillen	McGeehan	Schroder
Brownlee	Gillespie	Metcalfe	Shapiro
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causar	Grove	Miller	Stevens
Christiana	Hackett	Milne	Stephens
Clymer	Hahn	Mirabito	Stevenson
Cohen	Haluska	Moul	Sturla
Conklin	Hanna	Mullery	Swanger
Costa, D.	Harhai	Mundy	Tallman
Costa, P.	Harhart	Murphy	Taylor
Cox	Harkins	Murt	Tobash
Creighton	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.,
DiGirolo	Keller, W.	Quinn	Speaker
Donatucci	Killion		

NAYS-0

NOT VOTING-0

EXCUSED-7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

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

Mr. **GEORGE** offered the following amendment No. **A06126**:

Amend Bill, page 34, lines 45 through 51, page 35, lines 1 through 5 (A06347), by striking out all of said lines on said pages and inserting

- (1) except as set forth in paragraph (2):
 - (i) the pollution existed prior to the drilling or alteration activity as determined by a predrilling or prealteration survey;
 - (ii) the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;

- (iii) the water supply is not within 1,000 feet of the well;
 - (iv) the pollution occurred more than six months after completion of drilling or alteration activities; and
 - (v) the pollution occurred as the result of a cause other than the drilling or alteration activity; or
- (2) in the case of an unconventional well:
- (i) the pollution existed prior to the drilling or alteration activity as determined by a predrilling or prealteration survey;
 - (ii) the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;
 - (iii) the water supply is not within 2,500 feet of the well; and
 - (iv) the pollution occurred more than 12 months after completion of drilling or alteration activities.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Clearfield County, Mr. George.

Mr. GEORGE. Thank you, Mr. Speaker.

This amendment modifies the defenses of rebuttable presumption. It will coincide with what we had just done a moment ago with the extended distance and duration provided by the original language of this bill.

I would urge all of us to be supportive of this amendment. Thank you.

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

On that question, the Speaker recognizes the gentleman from Indiana County, Mr. Reed.

Mr. REED. Thank you, Mr. Speaker.

We would ask the members support the gentleman from Clearfield County's amendment. Thank you.

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

The following roll call was recorded:

YEAS-196

Adolph	Dunbar	Kirkland	Rapp
Aument	Ellis	Knowles	Ravenstahl
Baker	Emrick	Kortz	Readshaw
Barbin	Evankovich	Kotik	Reed
Barrar	Evans, J.	Krieger	Reese
Bear	Everett	Kula	Reichley
Benninghoff	Fabrizio	Lawrence	Roae
Bishop	Farry	Longietti	Rock
Bloom	Fleck	Maher	Roebuck
Boback	Frankel	Mahoney	Ross
Boyd	Freeman	Major	Sabatina
Boyle, B.	Gabler	Maloney	Saccone
Boyle, K.	Galloway	Mann	Sainato
Bradford	Geist	Markosek	Samuelson
Brennan	George	Marshall	Santarsiero
Briggs	Gerber	Marsico	Santoni
Brooks	Gergely	Masser	Saylor
Brown, R.	Gibbons	Matzie	Scavello
Brown, V.	Gillen	McGeehan	Schroder
Brownlee	Gillespie	Metcalfe	Shapiro
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.

Carroll	Grell	Millard	Sonney
Causser	Grove	Miller	Stephens
Christiana	Hackett	Milne	Stern
Clymer	Hahn	Mirabito	Stevenson
Cohen	Haluska	Moul	Sturla
Conklin	Hanna	Mullery	Swanger
Costa, D.	Harhai	Mundy	Tallman
Costa, P.	Harhart	Murphy	Taylor
Cox	Harkins	Murt	Tobash
Creighton	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.,
DiGirolamo	Keller, W.	Quinn	Speaker
Donatucci	Killion		

NAYS—0

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

On the question recurring,

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

MOTION TO SUSPEND RULES

The SPEAKER. For what purpose does the lady from Bucks County, Ms. Quinn, rise?

Ms. QUINN. Thank you, Mr. Speaker, and thank you to my colleagues for your attention at this late hour.

The SPEAKER. For what purpose does the lady rise?

Ms. QUINN. I would like to make a motion.

The SPEAKER. The lady may state her motion.

Ms. QUINN. And I will also reiterate my thanks for your attention at this late hour.

I rise to offer amendment A06426, which, if adopted, would raise the amount generated from the impact fee as delineated in HB 1950.

The amendment is not complicated. It ups the ante so that in the course of 10 years, the bill would generate \$250,000 per well. However, my motion is one to suspend the rules because it is not timely filed.

I would appreciate your support on this. We have heard throughout the day a number of comments—

The SPEAKER. Before the lady proceeds, it is the understanding the lady has moved to suspend the rules?

Ms. QUINN. Correct.

The SPEAKER. The lady from Bucks, Ms. Quinn, has moved to suspend the rules for immediate consideration of amendment A06426.

On the question,

Will the House agree to the motion?

The SPEAKER. On that question, the Speaker recognizes the lady, Ms. Quinn.

Ms. QUINN. Thank you, Mr. Speaker.

We have heard a lot of discussion today about HB 1950, and much of what has been voiced has been comments that the bill does not go too far enough in many different ways.

What I offer you right now is an opportunity to correct the fee structure to bring it more in line with what has just been passing out of the – has been under consideration by the Senate. This bill is different than what has been in consideration in the Senate. We have to keep in mind that we have the Oil and Gas Lease Fund included in this.

The SPEAKER. If the lady would suspend.

Would you kindly confine your remarks to the reason why we should suspend the rules and not on the merits of the legislation.

Ms. QUINN. Thank you.

We should suspend the rules so that we can improve HB 1950 to increase the fee structure to generate more money in the 10 years that a fee will be assessed per well. I doubt the members are going to have another opportunity to improve the bill in this way.

The SPEAKER. Has the lady concluded?

Ms. QUINN. Concluded.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—101

Barbin	DeLuca	Kortz	Readshaw
Barrar	DePasquale	Kula	Reichley
Bishop	DeWeese	Longietti	Roebuck
Boback	DiGirolamo	Maher	Sabatina
Boyle, B.	Donatucci	Mahoney	Sainato
Boyle, K.	Fabrizio	Mann	Samuelson
Bradford	Farry	Masser	Santarsiero
Brennan	Frankel	Matzie	Santoni
Briggs	Freeman	McGeehan	Shapiro
Brown, V.	Galloway	Milne	Smith, K.
Brownlee	George	Mirabito	Smith, M.
Burns	Gerber	Mullery	Stephens
Buxton	Gibbons	Mundy	Sturla
Caltagirone	Goodman	Murphy	Taylor
Carroll	Haluska	Murt	Tobash
Clymer	Harhai	Neuman	Toepel
Conklin	Harkins	O'Brien, M.	Truitt
Costa, D.	Harper	O'Neill	Vitali
Costa, P.	Hennessey	Parker	Wagner
Curry	Hornaman	Pashinski	Waters
Daley	Johnson	Payton	Watson
Davidson	Josephs	Petrarca	Wheatley
Davis	Kavulich	Petri	White
Day	Keller, W.	Quinn	Williams
Deasy	Kirkland	Ravenstahl	Youngblood
Delozier			

NAYS—95

Adolph	Fleck	Killion	Quigley
Aument	Gabler	Knowles	Rapp
Baker	Geist	Kotik	Reed
Bear	Gergely	Krieger	Reese
Benninghoff	Gillen	Lawrence	Roae
Bloom	Gillespie	Major	Rock
Boyd	Gingrich	Maloney	Ross
Brooks	Godshall	Markosek	Saccone
Brown, R.	Grell	Marshall	Saylor
Causar	Grove	Marsico	Scavello
Christiana	Hackett	Metcalfe	Schroder
Cohen	Hahn	Metzgar	Simmons
Cox	Hanna	Miccarelli	Sonney
Creighton	Harhart	Micozzie	Stern
Culver	Harris	Millard	Stevenson
Cutler	Heffley	Miller	Swanger
DeLissio	Helm	Moul	Tallman
Denlinger	Hess	Oberlander	Toohil
Dermody	Hickernell	Payne	Turzai
Dunbar	Hutchinson	Peifer	Vereb
Ellis	Kampf	Perry	Vulakovich
Emrick	Kauffman	Pickett	
Evankovich	Keller, F.	Preston	Smith, S.,
Evans, J.	Keller, M.K.	Pyle	Speaker
Everett			

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

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

Mr. MOUL offered the following amendment No. A06322:

Amend Bill, page 1, by inserting before line 1 (A06347)

Amend Bill, page 1, line 9, by inserting after "transfers;" establishing the Keystone Transit Program; providing a transfer of funds from the Oil and Gas Lease Fund to the Department of Environmental Protection for a competitive grant program for the transition of small mass transit bus fleets to compressed natural gas;

Amend Bill, page 1, by inserting between lines 12 and 13 (A06347)

C. Keystone Transit

Amend Bill, page 3, by inserting between lines 18 and 19 (A06347)

SUBCHAPTER C
KEYSTONE TRANSIT

Sec.

3311. Short title of subchapter.

3312. Definitions.

3313. Keystone Transit Program.

§ 3311. Short title of subchapter.

This subchapter shall be known and may be cited as the Keystone Transit Act.

§ 3312. Definitions.

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

"Dedicated compressed natural gas bus." A bus which runs solely on compressed natural gas.

"Department." The Department of Environmental Protection of the Commonwealth.

"Mass transit authority." An operator of regularly scheduled transportation that is available to the general public and is provided according to published schedules along designated published routes with specified stopping points for the taking on and discharging of passengers. The term does not include exclusive ride taxi services, charter or sightseeing services, nonpublic transportation or school bus or limousine services.

"Program." The Keystone Transit Program.

"Small mass transit authority." A mass transit authority located in this Commonwealth that does not exceed 245,000 revenue vehicle hours for two consecutive years.

§ 3313. Keystone Transit Program.

(a) Establishment.—The department shall establish and administer the Keystone Transit Program.

(b) Purpose.—The program is established in order to decrease emissions from mass transit buses by utilizing natural gas as a vehicle fuel.

(c) Transfer of funds.—The State Treasurer shall transfer from the Oil and Gas Lease Fund to the department the sum of \$5,000,000 to fund the program.

(d) Use of funds.—The sum of \$5,000,000 shall be used to fund competitive grants available to small mass transit authorities for the purchase of new dedicated compressed natural gas buses.

(e) Application process.—

(1) A mass transit authority must complete and submit to the department a keystone transit grant application.

(2) Approved applications must obligate the mass transit authority to contract with a private company:

(i) to build exclusively with private funds; and

(ii) to maintain and operate any new compressed natural gas fueling facility necessary to support compressed natural gas buses purchased with funds received under this subchapter.

(3) The term "operate" as used in this subsection shall not include the actual act of fueling buses.

(f) Eligible costs.—

(1) Grant funds received under this subchapter shall be eligible for:

(i) Federally assisted purchases of new dedicated compressed natural gas buses and shall be limited to the total percentage of the State and local match.

(ii) Nonfederally assisted bus purchases and shall be limited to 50% of the total incremental cost of a new dedicated compressed natural gas bus.

(2) The incremental cost shall be capped at \$60,000 for buses which have a gross vehicle weight rating over 26,000 pounds and \$35,000 for buses with a gross vehicle weight rating of 26,000 pounds and under.

(3) Buses with a gross vehicle weight rating of less than 16,000 pounds shall be ineligible.

(4) Priority shall be given to those applications which provide for public access to compressed natural gas vehicle fueling dispensers.

(g) Grant program.—The department shall establish a formula and method for awarding of grants under the program consistent with this subchapter.

(h) Appeal process.—Applicants that are not awarded grants under this subchapter shall not have the right to a hearing or the issuance of an adjudication under section 4 of the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, regarding the department's decision.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Adams County, Mr. Moul.

Mr. MOUL. Thank you, Mr. Speaker.

I would like to read a little excerpt from the Post-Gazette today. It seems awfully fitting to what we are talking about. I had one of these sent to every member earlier, and it says, "For four decades every president back to Richard Nixon has pledged to make the U.S. energy independent, or at least to solve the threat of OPEC (Organization of the Petroleum Exporting Countries) oil dependency. It's not that complicated. Focus on transportation, put a spotlight on heavy-duty trucks and fleet vehicles, and replace the OPEC oil/diesel/gasoline they use with cleaner, lower cost, domestic natural gas.

"It is plentiful....

"It is relatively easy to transport....

"It is cleaner than oil....

"It is cheap...."

And "It is ours...."

Amendment 06322 creates a grant program to assist small transit system conversions to natural gas vehicles, a relatively small amount we are asking for to help spur this industry and get off foreign oil, help clean up our environment, help take some of the pollution out of the air that we breathe.

I would ask all of you for an affirmative vote on this amendment. Thank you.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for interrogation?

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

Mr. VITALI. I apologize for asking you to repeat things you have already said, but the hour is late and the issue is important.

This amendment would transfer money from the Oil and Gas Lease Fund. Is that correct?

Mr. MOUL. That is correct, sir.

Mr. VITALI. And the amount of the transfer would be?

Mr. MOUL. \$5 million.

Mr. VITALI. Would that be annual or one time?

Mr. MOUL. One time, sir.

Mr. VITALI. Okay. Now, could you describe the uses to which this would be put?

Mr. MOUL. This would be money that they could apply for in a competitive grant program to either buy vehicles that are already converted, vehicles that they would like to convert, anything that these small mass transit companies that would need money for in order to switch their fleet over to natural gas. Any uses thereof without the refueling stations, that would be independent.

Mr. VITALI. Who would administer this program?

Mr. MOUL. DEP, sir.

Mr. VITALI. Who would make decisions relating to the awarding of grants?

Mr. MOUL. DEP, through competitive grant system.

Mr. VITALI. Would it be the Secretary of the DEP, would it be a board of sorts? Would it be— How would it work?

Mr. MOUL. I will read right from the legislation, sir. "The department shall establish a formula and method for awarding of grants under the program consistent with this subchapter."

Mr. VITALI. Okay. Thank you, Mr. Speaker.

That concludes my interrogation. I would like to speak on the amendment.

First of all, I would like to salute the maker of the amendment for pursuing goals which certainly are worthy. Despite what people may think, I am not an enemy of natural gas or its development, and I do support the use of natural gas-fueled vehicles. I understand their value.

I regretfully must oppose this amendment. I think the Oil and Gas Lease Fund is not the proper source of moneys for this fund. I think there are many ways to fund this, and this simply is not one of them. The Oil and Gas Lease Fund is public moneys that are generated through the use of our public lands, extracting of resources from our public lands, and are meant to benefit those public lands, meant to be used for programs like open space preservation, farmland protection, conserving our natural lands, acquiring natural lands.

Regrettably, the Oil and Gas Lease Fund now seems to be the answer for every single program that is looking for a funding source, and I do not fault you for this, but this is an increasing trend. I was just speaking with the former DEP Secretary, and he tells me that there are about \$1 billion in unfunded projects in the DCNR (Department of Conservation and Natural Resources). This use of these funds is not in keeping with the spirit of this fund and is not the proper use of this fund, so I regrettably will be asking for a "no" vote. Thank you.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

I rise to support this amendment.

Mr. Speaker, we are spending \$1.2 billion every day on foreign oil, many unfriendly countries that that money goes to. This is an incentive for Pennsylvania to transition into the cleanest burning fossil fuel that we have in America: natural gas.

This is a good idea, it is a smart idea, it is a futuristic idea, and the time has come that we move in this direction. I support 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 Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I likewise rise to oppose the amendment.

Mr. Speaker, while it would be worthwhile to support transit and clean air, it certainly does not make sense to take this money from the Oil and Gas Lease Fund. This money should come from the impact fee. All this does is puts more pressure on DCNR and our State forests. All this does is puts more pressure to lease more State forest ground. If we want to incentivize the use of natural gas, we should have done it with the DiGirolamo and Murt amendment. That amendment addressed this very issue and addressed it in the proper way. We cannot afford to take more money from the Oil and Gas Lease Fund and put more pressure on DCNR to lease more of our State forests. If these dollars are going to be used to – if there are dollars to be used to incentivize natural gas use, they should be coming from the impact fee.

I urge a "no" vote on the Moul amendment. Thank you.

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

On that question, the Speaker recognizes the lady from Montgomery County, Ms. Harper.

Ms. HARPER. Thank you, Mr. Speaker.

Regretfully, I also rise to oppose this amendment. I think the gentleman has a good idea, but we have defeated several attempts to make this fee more robust, and I do not think it is appropriate to pay for the natural gas fleet out of the Oil and Gas Lease Fund. I think instead that money should have come from a more robust fee. Perhaps under the fee that is currently under consideration, the gentleman's idea could be funded by a county that wants to have its own fleet of natural gas cars.

I must also regretfully disagree with my colleague who said this amendment would have anything to do with independence. In fact, what we are doing tonight is carefully crafting a bill that will allow the natural gas industry to continue in Pennsylvania. This amendment does not help that effort. So I will be voting "no," although I think it is a good idea to incentivize natural gas cars. Thank you.

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

On that question, the Speaker recognizes the gentleman from Northampton County, Mr. Samuelson.

Mr. SAMUELSON. Thank you.

I rise to interrogate the gentleman from Adams County.

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

Mr. SAMUELSON. Thank you.

I also think you have a very interesting idea that we should be looking at statewide, trying to encourage compressed natural gas vehicles. However, I noticed the way this amendment is written it would only apply to small mass transit authorities, and there is a definition in here, "...mass transit authority..." less than "...245,000 revenue vehicle hours." How many mass transit authorities in Pennsylvania could actually apply for these grants that you propose?

Mr. MOUL. Mr. Speaker, I do not know exactly how many mass transit authorities we have, but this would apply to everyone except the top three or four that we have in Pennsylvania that exceed this; 37 sounds about right, sir.

Mr. SAMUELSON. Well, representing the Lehigh Valley, I represent one of those top three or four, and if the goal is to have energy independence, to have a program that is targeted at only a few areas of Pennsylvania but not some of the larger areas that do use mass transit, I question why these grants would not apply equally across the State.

Mr. MOUL. My next amendment coming up following this one will address the large mass transits, the ones that exceed those 245,000 revenue hours. Yours would be included, sir.

Mr. SAMUELSON. 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 Armstrong County, Mr. Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

May I speak on the amendment?

The SPEAKER. The gentleman is recognized on the amendment.

Mr. PYLE. Mr. Speaker, this morning in our Transportation Committee hearing we heard repeatedly of the \$3.5 billion hole in the equation for Pennsylvania's roads, bridges, and transit systems. What the Moul amendment, A06322, does is it offers us a chance to feed liquid natural gas, which is currently selling at \$1.83 a gallon, into our buses instead of paying \$3.89 a gallon for dirty diesel fuel, as they currently use.

Mr. Speaker, tremendous funds are poured into our mass transit systems. If we can cut their fuel costs, which is a large part of their operating budget, in half, we might be able to go after some of those bridges, because as logic would dictate, buses need bridges but bridges do not need buses. We seem to have lost that over the last 7 or 8 years. If for no other reason than to save money, to maximize our transportation money, we should vote for the Moul amendment.

I appreciate the gentleman from Lehigh's question about whether or not this would apply to LANta (Lehigh and Northampton Transportation Authority). We have an agreement from Mr. Moul that his next amendment does exactly that. I do not know on the top of my head exactly what the fuel costs for SEPTA (Southeastern Pennsylvania Transportation Authority) are, but it stands to reason the factors should be five to six times the fuel cost of his LANta because the system itself is five or six times larger.

Mr. Speaker, this bill makes so much sense; pardon me, this amendment makes so much sense I am almost afraid to vote for it. Now, on the upside, on the upside the money is not being poured into transportation; excuse me, education, or any of the other people who scream that they have not been funded. This is an appropriate amendment on Mr. Moul's part, Mr. Speaker. I would urge the members to just look at the sheer numbers. We can cut the fuel costs of every qualifying mass transit system in the State in half. I think that sells itself, Mr. Speaker. Please support A06322. Thank you.

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. Mr. Speaker, I rise in opposition to this amendment.

We have been here all day arguing about what we should be doing to protect the Commonwealth's interests and to try to provide a benefit to the citizens of the Commonwealth. Well, we have made a decision. We are going to have a 1-percent impact fee. So Mr. Moul here has; excuse me, the gentleman from Adams County has a very good-intentioned amendment. The problem is, it does not apply across the board, and the reason it does not apply across the board is because we only have a 1-percent impact fee.

Now, there are four countries in the world that have gone from zero natural gas vehicles to 2 million over the last 4 years – Australia, Argentina, Iran, and Brazil. Now, they were able to do it. We could do it. The only thing that is keeping us from doing it is we do not have a real impact fee; we do not want to have a real tax. So instead of having a real tax and having 2 million cars on the road, by having real economic development credits, we are going to pretend like an impact fee of 1 percent is enough, and then to show that we really mean business, we are going to say that one or two transit companies are going to get a couple credits.

Now, if we are going to do this for the benefit of the citizens of the Commonwealth of Pennsylvania, then we ought to have a real impact fee and we ought to have real economic development credits that apply across the board so that the natural gas stays here in Pennsylvania and we actually get some benefit out of it. The way this bill is proposed, we are not going to have any benefit. There is no benefit here. If one or two of these transit authorities get a bus, that is not going to help us and that is wrong, and we could change that tonight just by making this a real impact fee. But if we do not, then I am not in favor of providing camouflage that we are somehow doing something for the benefit of the people of Pennsylvania, because we are not.

PARLIAMENTARY INQUIRY

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

On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman will state his inquiry.

Mr. VITALI. This bill, the bill in chief here, is providing for safety regulations with regard to Marcellus drilling; it is providing an impact fee with regard to Marcellus drilling, but the amendment itself is creating a keystone transportation act, a whole independent program that deals with mass transit agencies. Would this be violative of rule 20, making the bill in chief have two – a different subject as opposed to the protection of Marcellus drilling?

The SPEAKER. Does the gentleman wish to raise the issue of constitutionality?

Mr. VITALI. I do.

The SPEAKER. The gentleman, Mr. Vitali, raises the point of order that amendment—

Mr. VITALI. Mr. Speaker, may I modify that? Rather than a constitutionality, I would move that this violates House rule 20, this amendment.

The SPEAKER. The motion that an amendment violates a rule is not a motion that would be recognized. The gentleman can raise the point—

POINT OF ORDER

Mr. VITALI. A point of order. That is the intent; I apologize.

The SPEAKER. To respond to the gentleman's point of order, in the opinion of the Speaker, the amendment does not violate rule 20. However, the gentleman would have the opportunity to raise the question of constitutionality under Article III, section 3, of the Constitution, which parallels rule 20.

Mr. VITALI. Mr. Speaker, I am going to put that aside for a second and I am going to move to table this motion at this point, table this amendment at this point.

The SPEAKER. I am doing you a favor.

Mr. VITALI. Thank you.

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. The gentleman, Mr. Vitali, I understand you are making a motion to table the amendment?

Mr. VITALI. I am going to withdraw that and make a motion that this amendment is unconstitutional as violative of Article III, section 3, of the Pennsylvania Constitution.

The SPEAKER. The Speaker thanks the gentleman.

The gentleman, Mr. Vitali, raises the point of order that the amendment No. A06322 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 Speaker recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Mr. Speaker, as indicated in earlier discussions on the House floor, the Pennsylvania Constitution requires a single subject. By creating a separate transportation grant program in this amendment in a bill which lays out environmental protections and other fee-raising devices for the Marcellus industry, we are adding a second subject. Those two subjects would make this bill violative of the Constitution. So I would urge that this House find this amendment unconstitutional.

The SPEAKER. The question is on constitutionality.

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

Given that I had the privilege of arguing this issue prior, I would like to provide a little further explanation and hopefully clarification. The gentleman has made a motion that this amendment as drafted would somehow violate the Constitution. To quickly review the key elements of the *PAGE* decision, the Pennsylvanians Against Gambling Expansion individuals, the short version was, as a part of any single bill, you could allocate funds and disburse funds for a purpose related to the bill. You could also allocate funds to an unrelated purpose as long as the funds were disbursed by some other legislation; for example, an appropriation bill, existing funding scheme, something along those lines.

Mr. Speaker, the prior amendments that I argued against clearly fell under the next category, which said you could not allocate and disburse funds for an unrelated purpose. That was the area that the prior amendments sought money for drug and alcohol treatment, for individuals mentally disabled. Those fell outside the rational nexus of the bill.

Mr. Speaker, the gentleman from Adams County under this bill is looking for a tax incentive, if you will, or a grant program under this amendment to incentivize the use of natural gas. Therein lies the direct connection between improving and encouraging the use of the underlying product. The underlying product, and to review the underlying bill in chief, is all about natural gas, a gas impact fee, and the corresponding

appropriations. So this amendment as drafted clearly falls within those boundaries, and I would urge to oppose the motion regarding constitutionality and support the gentleman from Adams County and say that it is constitutional.

Thank you.

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—116

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

NAYS—80

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

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the amendment was sustained.

On the question recurring,

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Markosek.

Mr. MARKOSEK. Thank you, Mr. Speaker.

Mr. Speaker, I think the gentleman is headed in the right direction, and I think it is very proper that we try to find ways to fuel transit fleets with natural gas. However, as has been stated here before and I know he is looking for a grant program, I can tell you as chairman of the Appropriations Committee, many members on our side of the aisle have been searching for plenty of grant programs lately and have not had a whole lot of luck with that. I think this is the wrong fund to take this kind of money out of. And he mentions that this amendment is for \$5 million, and he brought it up, his next amendment, and according to the paperwork that we have, it is about \$7 1/2 million, and that is even for the bigger transit organizations.

I can tell you that one of the reasons that we do not use more gas, natural gas, to fuel transit vehicles, it is not because it is not a good idea, it is not because it is not a clean source of energy, but it is because it would cost us millions and millions and millions of dollars to build the infrastructure to fuel, to supply and fuel these transit vehicles. He is talking about over 30 smaller transit operations, and if you multiply that and in his next amendment, if you add that in the larger transit, which would take care of all the transit in the State, it could easily perhaps even be \$1 billion – \$1 billion just to build the infrastructure to fuel these vehicles. What he is offering here is a pittance, and he is robbing one of the funds that we use for so many other good things and was originally set up to be used for so many other very necessary environmental kinds of uses.

So even if this does pass, it is essentially a drop in the bucket to do what he is really asking to do, which I agree is a good idea, but I would have to respectfully say that his way of trying to solve that problem is woefully short and woefully insufficient and will essentially just rob a very useful fund to do practically nothing for our transit situation in Pennsylvania. Therefore, I think in spite of his good intentions, this bill will not work, and as a result of that, I would ask all members to vote "no."

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 Northampton County, Mr. Samuelson, for the second time.

Mr. SAMUELSON. Thank you, Mr. Speaker.

During my earlier interrogation I asked about why this only applies to small transit agencies, and I was directed to look at

another amendment that applies to large transit agencies. Well, I have done that, and I have noticed that the amendment that is before us now would be grants to small transit agencies and the upcoming amendment would be loans to the large transit agencies. So that is not an equal application of this program, and that causes a concern.

Also, a lot of speakers have talked about that we would be taking the money from a pool of funds that is based on an effective tax rate of about 1 percent, which is less than the State of Texas, with the bill that is progressing here. So in the spirit of the great State of Texas and its Governor, let me just say that I have three reasons for opposing this amendment.

First, it is unequal to treat large transit agencies and small transit agencies differently. Second, we would be taking a combined \$12.5 million from the Oil and Gas Fund, which should be funding our State parks and our State forests and all the other uses to which it has been committed over the years. And third, I can remember, and really, if we are going to have a program like this, it should be in the General Fund budget in the Department of Transportation or the Department of Environmental Protection, both of which have funding challenges, but I think that is a more appropriate place for a very worthy project like this.

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 York County, Mr. Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I rise today in support of this amendment. The things that need to be pointed out are that this is a part of the Marcellus Works package that we have out there that was unveiled over 3 years ago, and in this package, it has been endorsed by the Marcellus Shale Advisory Commission as well as the Governor's Transportation Advisory Commission as well. The Governor recently signed a three-State deal with the States of Colorado, Oklahoma, and Wyoming to move toward natural gas procurement.

Also, I want to point out that on these natural gas vehicles, there is going to be a savings to our mass transit systems of over \$2 a gallon, which is a huge savings when we hear constantly from our mass transit systems throughout Pennsylvania, large and small alike, the need for additional funding.

We have seen the media across this State endorse the Marcellus Works plan. We have seen PennEnvironment, the largest and most active environmental group in Pennsylvania, endorse this kind of a plan as well.

I want to remind everybody as well that by converting to natural gas from diesel, we will cut 30 percent of the carbon dioxide produced in these vehicles, we will reduce 90 percent of the carbon monoxide produced by these vehicles, there will be zero particulate matter coming out of these vehicles, and we will reduce by 70 percent the nitrogen oxides coming out of these vehicles.

We already had the State College area of Pennsylvania mass transit system utilizing natural gas for the last 16 years in their mass transit system, and Williamsport now has agreed to convert their mass transit system as well over to this.

Pennsylvania has generated jobs in this field in the Allentown area with the Mack-Volvo plant that is there. We have plants in Greensburg and throughout this State that

produce the gas tanks or the fuel tanks that will be used for these kinds of projects.

Pennsylvania has a lot to gain by converting our vehicles, particularly mass transit and school buses, eventually, to this kind of a savings to the taxpayers of Pennsylvania, and more importantly, to offer savings to our mass transit systems to either expand or to continue operating as low-cost as possible. By ignoring our own Pennsylvania resources and letting them to be provided to the benefit of our taxpayers is an insult to our own taxpayers. We need to utilize our resources for the benefit of Pennsylvanians.

All of us, or most of us in this State, particularly Philadelphia, Pittsburgh, central Pennsylvania like York and Lancaster and Dauphin Counties, we all, every time we take our vehicle for an inspection, we also have to get that little sticker to certify that our vehicle meets the EPA (Environmental Protection Agency) standards. Here is an opportunity for all of us in the General Assembly to set Pennsylvania up as a leading State in this nation in cleaning up our air and finally, hopefully someday, being able to remove those stickers from vehicles. We have cases where, for instance, in Jefferson County, where people are already moving forward as a small business to put in fueling stations and allowing other small businesses to utilize those resources.

We have, coming up in Washington County, the ribbon is to be cut on Thursday on a fueling station in Washington County. There is a fueling station, a number of them in the Philadelphia region. It is time for us to put government in the lead, as well as others, to start to transform to this kind of an energy source.

I ask you tonight to help move Pennsylvania in the right direction in creating jobs for Pennsylvanians and cleaning up our air and support the Moul 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 Montgomery County, Mr. Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

Mr. Speaker, we have seen an alarming trend tonight, a trend where parochial attitudes are dictating how money will be raised and how money will be spent, parochial attitudes that have not ruled the day in the history of this Commonwealth.

Mr. Speaker, if we look at where the majority of corporate net income tax is raised or sales taxes are raised or personal income taxes are raised, the southeastern part of this Commonwealth pays far more than its fair share into the General Fund, yet when there is this economic opportunity with the Marcellus Shale, the proposal earlier tonight was to keep the money in Marcellus country. And now with this proposal, the idea is to give money away for free in those regions where we are producing the gas, but as we will see in the later amendment and as was pointed out by my colleague earlier, for the larger transit agencies, they are going to have to pay for the money.

Mr. Speaker, we cannot continue taking these parochial attitudes to these lengths. If we do it, Mr. Speaker, corporate net income tax, personal income tax, corporate stock and franchise tax, sales tax revenues, we will just keep them in the southeast. Could you imagine, Mr. Speaker, if someone from southeastern Pennsylvania said, "We are going to create a grant program but only for the southeast – only for Bucks County, only for Delaware County, only for Chester County, only for

Philadelphia"? People's heads would light on fire in this chamber, Mr. Speaker.

Mr. Speaker, I urge this chamber to vote against this amendment, not because of what it attempts to do with natural gas, not because of what it attempts to do for the environment, but because of the parochial attitudes that it advances and the harm those types of parochial attitudes will do if we continue down this path.

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 Adams County, Mr. Moul, for the second time.

Mr. MOUL. Thank you, Mr. Speaker.

You know, we have heard lots of arguments as to why we should not do this bill, why we should not do this amendment, which was a bill, part of the Marcellus Works package, and almost everyone who said the reason why we should not started out by saying, "This is a great idea." It is amazing how we can contradict ourselves when we are led to believe one thing is not good for us but another is.

And the bottom line is, we are getting to, from the last speaker, we are getting to the large mass transits with the next amendment. The money to fund this \$5 million is coming out of the Oil and Gas Lease Fund. We have had some people say, oh no, you cannot take it out of there; it is for the environment; it is for cleaning this, DCNR, cleaning that. What would you call clean air? Not part of our environment?

Several of us took a trip up to Penn State this summer to the Centre Area Transportation Authority, took a tour, talked to the people that run that program. And they told us flat outright, even if it costs more today to operate on natural gas, which they are saving over a dollar per gallon comparison, they would have still done it because the people of the town appreciate not following a black plume of smoke down the street that their people have to ingest. They appreciate the fact that they are breathing clean air.

If you have ever followed a bus pulling out from a dead stop, you would know the black plume of diesel pollutant that I am talking about, and you are worried about taking money out of the Oil and Gas Lease Fund, which that money is put there by the drillers. If anyplace that we should be getting this money, it should be from the drillers, not the taxpayers. That is where this money is coming from to fund this program. It is coming from the industry; it is coming from another source other than asking our taxpayers to belly up to the bar. I could not think of a more appropriate place to get the funds to fund this \$5 million. And in the scheme of things, think about it, it is a relatively small amount of money.

I guess you have got to ask yourself: In Pennsylvania, do we want to be a leader or do we want to be a follower? Do we want to do what is right to show this country that Pennsylvania can lead and start switching us over to natural gas, starting with large fleet vehicles, mass transits, and so forth, or do we want to wait for everyone else to do it first? I say America starts right here.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—111

Adolph	Geist	Major	Reese
Aument	Gibbons	Maloney	Reichley
Baker	Gillen	Marshall	Roae
Barrar	Gillespie	Marsico	Rock
Bear	Gingrich	Masser	Ross
Benninghoff	Grell	Metzgar	Sainato
Boyd	Grove	Miccarelli	Saylor
Brooks	Hackett	Micozzie	Scavello
Brown, R.	Hahn	Millard	Simmons
Buxton	Harhai	Miller	Smith, K.
Carroll	Harhart	Milne	Sonney
Causer	Harris	Mirabito	Stern
Christiana	Heffley	Moul	Stevenson
Clymer	Helm	Mullery	Swanger
Cox	Hennessey	Murphy	Tallman
Culver	Hess	Neuman	Taylor
Cutler	Hickernell	O'Neill	Tobash
Daley	Hornaman	Oberlander	Toepel
Day	Hutchinson	Payne	Toohil
Deasy	Kampf	Peifer	Truitt
Delozier	Kauffman	Perry	Turzai
Denlinger	Kavulich	Petrarca	Vereb
Dunbar	Keller, F.	Pickett	Vulakovich
Ellis	Keller, M.K.	Pyle	Watson
Emrick	Killion	Quigley	White
Evans, J.	Knowles	Quinn	
Everett	Longietti	Rapp	Smith, S., Speaker
Fleck	Maier	Readshaw	
Gabler			

NAYS—85

Barbin	DeLuca	Johnson	Petri
Bishop	DePasquale	Josephs	Preston
Bloom	Dermody	Keller, W.	Ravenstahl
Boback	DeWeese	Kirkland	Reed
Boyle, B.	DiGirolamo	Kortz	Roebuck
Boyle, K.	Donatucci	Kotik	Sabatina
Bradford	Evankovich	Krieger	Saccone
Brennan	Fabrizio	Kula	Samuelson
Briggs	Farry	Lawrence	Santarsiero
Brown, V.	Frankel	Mahoney	Santoni
Brownlee	Freeman	Mann	Schroder
Burns	Galloway	Markosek	Shapiro
Caltagirone	George	Matzie	Smith, M.
Cohen	Gerber	McGeehan	Stephens
Conklin	Gergely	Metcalfe	Sturla
Costa, D.	Godshall	Mundy	Vitali
Costa, P.	Goodman	Murt	Wagner
Creighton	Haluska	O'Brien, M.	Waters
Curry	Hanna	Parker	Wheatley
Davidson	Harkins	Pashinski	Williams
Davis	Harper	Payton	Youngblood
DeLissio			

NOT VOTING—0

EXCUSED—7

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

On the question recurring,

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

Mr. MOUL offered the following amendment No. **A06323**:

Amend Bill, page 1 (A06347), by inserting before line 1

Amend Bill, page 1, line 9, by inserting after "transfers;"

establishing the Clean Transit Program; and providing a transfer of funds from the Oil and Gas Lease Fund to the Department of Environmental Protection for a loan program for the transition of large mass transit bus fleets to compressed natural gas;

Amend Bill, page 1, by inserting between lines 12 and 13 (A06347)

C. Clean Transit

Amend Bill, page 3, by inserting between lines 18 and 19 (A06347)

SUBCHAPTER C
CLEAN TRANSIT

Sec.

3311. Short title of subchapter.

3312. Definitions.

3313. Clean Transit Program.

§ 3311. Short title of subchapter.

This subchapter shall be known and may be cited as the Clean Transit Act.

§ 3312. Definitions.

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

"Dedicated compressed natural gas bus." A bus which runs solely on compressed natural gas.

"Department." The Department of Environmental Protection of the Commonwealth.

"Large mass transit authority." A mass transit authority located in this Commonwealth that exceeds 245,000 revenue vehicle hours for two consecutive years.

"Mass transit authority." An operator of regularly scheduled transportation that is available to the general public and is provided according to published schedules along designated published routes with specified stopping points for the taking on and discharging of passengers. The term does not include exclusive ride taxi services, charter or sightseeing services, nonpublic transportation or school bus or limousine services.

"Program." The Clean Transit Program.

§ 3313. Clean Transit Program.

(a) Establishment.—The department shall establish and administer the Clean Transit Program.

(b) Purpose.—The program is established in order to decrease emissions from mass transit buses by utilizing natural gas as a vehicle fuel.

(c) Transfer of funds.—The State Treasurer shall transfer from the Oil and Gas Lease Fund to the department the sum of \$7,500,000 to fund the program.

(d) Use of funds.—The sum of \$7,500,000 shall be deposited into a fund to be administered by the department and made available to large mass transit authorities for the purchase of new dedicated compressed natural gas buses. The following shall apply:

(1) The money in the fund is hereby appropriated on a continuing basis to the Department of Environmental Protection for the purposes provided for in this subchapter.

(2) No more than 1.5% of the fund may be used for administration.

(3) The department may set terms applicable to loans in any manner it deems appropriate, subject to the provisions of this subchapter.

(e) Application process.—

(1) A mass transit authority must complete and submit to the department a clean transit loan application.

(2) Approved applications must obligate the mass transit authority to contract with a private company:

(i) to build exclusively with private funds; and

(ii) to maintain and operate any new compressed natural gas fueling facility necessary to support compressed natural gas buses purchased with funds received under this act.

(3) The term "operate" as used in this subsection shall not include the actual act of fueling buses.

(f) Eligible costs.—

(1) Loan funds received under this subchapter shall be eligible for:

(i) Federally assisted purchases of new dedicated compressed natural gas buses and shall be limited to the total percentage of the State and local match.

(ii) Nonfederally assisted bus purchases and shall be limited to 50% of the total incremental cost of a new compressed natural gas bus.

(2) The incremental cost shall be capped at \$60,000 for buses which have a gross vehicle weight rating over 26,000 pounds and \$35,000 for buses with a gross vehicle weight rating of 26,000 pounds and under.

(3) Buses with a gross vehicle weight rating of less than 16,000 pounds shall be ineligible.

(4) Priority shall be given to those applications which provide for public access to compressed natural gas vehicle fueling dispensers.

(g) Loan program.—The department shall establish a formula and method for awarding of loans under the program consistent with this subchapter.

(h) Fund repayment.—

(1) Loans disbursed from the fund under subsection (d) shall be repaid to the Oil and Gas Lease Fund within five years from disbursement and before June 30, 2021.

(2) On June 30, 2021, no money shall be deposited into the fund and any remaining money in the fund shall be transferred to the Oil and Gas Lease Fund.

(3) The interest rate for loans provided by the program shall not exceed 2%.

(i) Appeal process.—Applicants that are not awarded grants under this subchapter shall not have the right to a hearing or the issuance of an adjudication under section 4 of the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, regarding the department's decision.

On the question,

Will the House agree to the amendment?

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

Mr. MOUL. Thank you, Mr. Speaker.

Once again, as we talked about in the last amendment, A6323 will now address the larger mass transits by creating out of the Oil and Gas Lease Fund a \$7.5 million revolving loan account which large mass transits can borrow from to utilize to convert their fleet into natural gas-burning vehicles.

This money will be paid back over a period of 5 years. The beauty of this is, once they make the conversion from diesel to natural gas with the 245,000 revenue hours that they are putting on their vehicles, it will take them approximately 2 years in

which to recoup the money, the additional funds that they needed to use to go to natural gas. They have 5 years to pay this money back into the revolving account.

Therefore, this is a win-win, and it actually comes up revenue-neutral. We get the money back; they get converted. It is a win-win for the large mass transits of Pennsylvania, and I would ask for an affirmative vote. Thank you.

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Markosek.

Mr. MARKOSEK. Thank you, Mr. Speaker.

Mr. Speaker, really a variation on the same theme as the last amendment, and basically the same speech that I gave for that amendment is that this is a very, very important fund that we are essentially taking money away from for all the good things that it does and looking at a potential situation which makes a lot of sense in some ways. And we all want to do, we all want to use natural gas for mass transit and for a lot of our transportation needs, but again, again, it would cost us probably a billion dollars to put the proper infrastructure in in order to get the gas into those buses and transit vehicles.

You know, I think we just kind of think of natural gas as like, you know, somehow it is going to automatically come out of the ground – right? – and go right into the buses. It obviously is something that we would have to have the infrastructure, the filling stations and the pumps and the storage and all the things that go with it that currently do not exist at these mass transit operations now that are very, very short on capital funding as it is. Our larger transit systems have a very, very serious problem with capital infrastructure. Say what you will about whether or not the operations are as efficient as you would like. There is an infrastructure problem in our mass transit systems very, very similar to the very, very difficult infrastructure problem that we have with our roads and bridges elsewhere.

The Port Authority of Allegheny County is a good example. They were in this morning and indicated they have 88 bridges that they have to take care of, many that they do not even use but they were left over from other uses that they have responsibility for, and they cannot afford to take care of those and they are shutting them down, which is causing them to have less transit routes available to folks and all those kinds of things.

So I think that the infrastructure problem is so severe, and now essentially what this amendment, if I understand it correctly, is saying is, gee, we ought to go and establish another big infrastructure program in our mass transit garages in order to provide natural gas for our buses, and oh, by the way, I am going to give you \$7 1/2 million statewide – statewide – which would be a pittance for individual systems. And it is really, as you said before, a drop in the bucket, and I guess I do not know how, I am not sure how I would explain a drop in terms of natural gas. Maybe it is a cubic mini-meter or something. I mean, I just made a word up. But put that in the bucket. It is nothing. It is like trying to grow crops in the Sahara and throwing a spoonful of water at it and saying, gee, look, we are moving forward with this.

It is well-intended, again. I think the gentleman is thinking in the right direction. It is just that the operations of this particular amendment in trying to do what he wants to do are going to have— The only real thing that this will accomplish is taking more money out of the Oil and Gas Lease Fund, which is used by DCNR for their infrastructure, for environmental purposes,

but it is not going to come anywhere near doing what he would like it to do relative to mass transit.

So again, I would ask for a "no" vote on this particular amendment. Thank you.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

I am going to say essentially what I did last amendment: This is simply the wrong funding source, the wrong funding source for this program. The correct funding source, if the gentleman wants to fund this or other people want to fund it, is right in front of our eyes in this bill: It is a drilling tax. It is letting the drillers pay what they should be paying, not taking it out of the Oil and Gas Fund.

We are only charging the drillers 1 percent, which is just a fraction of what other States are charging, and we are just leaving money on the table. That money that we are leaving on the table could be used for things like incenting natural gas. And guess who is going to benefit? Guess who is going to benefit by the increased use of natural gas that is going to occur when we shift to gas vehicles? It is the drillers. It is going to increase production; it is going to benefit them.

We ought to be funding programs that incent natural gas, but you know what? We ought to do it the right way. We ought to do it by taxing the drillers. We ought to do it by having a severance tax like every other State has. So do not take a cheap shot at the Oil and Gas Lease Fund; do what 70 percent of Pennsylvanians want you to do, and that is tax the drillers at a reasonable rate.

Mr. Speaker, the Oil and Gas Lease Fund gets its revenues from development activity in our State forests. When we drill in State forests and get royalties, when we timber State forests and get royalties, when we take out of the resources of State parks, the money we get for that goes into the Oil and Gas Lease Fund, and that fund is meant to give back to these natural resources we have taken out of. When we denigrate land by drilling on it, we give back by contributing to programs that conserve open space, that build infrastructure in State parks and forests, that help conservation generally. That is the purpose of the oil and gas lease program, to help conservation programs – wrong source, wrong source for benefiting transit. The right source for that is a severance tax.

Let us do the right thing. Vote "no" for Moul. Increase the severance tax. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the lady from Montgomery County, Ms. Harper.

Ms. HARPER. Thank you, Mr. Speaker.

The gentleman's amendment proposes a corporate grant program to an industry that does not need any help from Pennsylvania. This industry is making millions and billions. It can do good things for Pennsylvania, and we do not need to give it money from the Oil and Gas Lease Fund.

I was not in favor of drilling 60 percent of our State forests, but that is done. Those leases were let, and that drilling is about to begin. The money in that fund does not come from the oil or gas industry, except in the most general sense. That money belongs to the citizens of the Commonwealth of Pennsylvania, the same way the State forests which produce it belong to the

citizens of the Commonwealth of Pennsylvania. It is outrageous to suggest that we take that money and give it to the natural gas industry. Are we crazy? If there is any industry in America that does not need grants from us, it is that one.

I urge you to please vote "no" on this and any further incursions into the people's money for an industry that does not need it. To the extent that they need to sell more natural gas in America, it is really easy: They can set up these incentive programs the way every other supplier sets up incentive programs.

This amendment is outrageous. It is an assault on the people's right to the revenues that are being produced by their land and their State forests. Please vote "no." 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 Clinton County, Mr. Hanna.

Mr. HANNA. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, it is clear that when you take the money from the Oil and Gas Lease Fund, you are putting more pressure on the leasing of State forests and State parks. As was just pointed out, 60 percent of our State forests are currently leased, currently under development. The balance of what is there is wild areas, natural areas. They are areas that are inappropriate for leasing.

Let me quote a study that was done by the Department of Conservation and Natural Resources: "There are no unleased acres left in Pennsylvania's state forests where Marcellus Shale natural gas drilling sites, pipelines and access roads could be built without damaging environmentally sensitive areas...." Let me repeat that: There is nothing left that can be developed "without damaging environmentally sensitive areas." That is what this study concluded. So when you take this money out of the Oil and Gas Lease Fund, you are saying that you are okay with damaging environmentally sensitive areas, because you are going to put the pressure on DCNR to raise more money for that Oil and Gas Lease Fund so that they can pay out these funds for these programs.

Mr. Speaker, there is no way we can put additional pressure on the Oil and Gas Lease Fund. We have to vote "no" on this 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 York County, Mr. Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I could make the same arguments I made in the last amendment that went in. The bottom line is, we all know in this General Assembly, based upon the amount of natural gas that Pennsylvania has, that Oil and Gas Lease Fund is going to grow by hundreds of millions of dollars. And to suggest, to even suggest to this General Assembly and to the taxpayers of this Commonwealth that cleaning up the air of this Commonwealth is not an environmental program – is that an insult or what? We need to understand.

When I was in college at IUP (Indiana University of Pennsylvania) in Indiana, I remember we had to do gas fill-ups by whether you were an odd- or an even-numbered license on your registration. I remember Republicans and Democrats in Washington, both parties, talking about we need an energy

policy. Here we are, 40 years later, and we have no energy policy. Do you know what our energy policy is in this nation? OPEC; OPEC. And those who keep saying, let us not do it this way, do you know what they are saying? It is let us keep buying oil from OPEC.

It is time for politicians to stand up for Americans and American resources to be utilized to save the dollars of our taxpayers by using our own resources. I am tired of not having an energy policy in this nation and sending billions of dollars to other nations.

The SPEAKER. The gentleman will suspend for a minute.

POINT OF ORDER

The SPEAKER. For what purpose does the lady, Ms. Harper, rise?

Ms. HARPER. Mr. Speaker, I thought we were discussing this amendment. The gentleman has gotten far afield from that, which has absolutely nothing to do with energy independence – absolutely nothing.

Mr. SAYLOR. It most certainly does.

The SPEAKER. The gentleman will suspend.

We have got about 12 more minutes to go. We have all been doing pretty good today. The Speaker may have been a little distracted from all the elements of the debate and would ask the gentleman to confine his remarks to the amendment that is before us.

The gentleman may proceed.

Mr. SAYLOR. Thank you, Mr. Speaker.

I believe that citizens of Allentown, the citizens of Philadelphia, and the citizens of the Pittsburgh-Allegheny area deserve clean air as much as everybody else in this Commonwealth. This bill moves forward the cleaning up the air of those three regions of this State, and I believe it is a reasonable request with the amount of money that over the next many years, hundreds of millions of dollars are going to be in that fund to clean up the air of those areas of this State.

Let us move forward and let us have an energy policy that really works for Pennsylvanians. 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 Delaware County, Mr. Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I rise and I am going to support the Moul amendment, and I am going to support the Moul amendment but I am going to ask the gentleman from Adams County, when this bill comes back, that we can sit down and see if we can treat all public transit agencies the same throughout the Commonwealth.

I have had a conversation with the gentleman, and I understand that the larger transit agencies use more fuel and will be able to recover their costs much faster, and I understand that. But if we are going to set up a grant program for smaller public transit agencies, I certainly would appreciate the gentleman's support in setting up a grant program for the larger public transit agencies as well.

I think this is a good program. I am very, very excited about the opportunity to convert to natural gas. However, I do not want to get into a situation that we are going to be treating different public transit agencies differently than the others. That being said, I certainly, and I have talked to the gentlelady from

Bucks County who has been in touch with SEPTA, say, for example, in the southeast, and she said she supports this amendment and so does SEPTA. However, I am not quite sure if SEPTA knows that the other agencies throughout this State are receiving a grant rather than a loan.

So I rise to support it. The balance in these funds will be, based upon the Baker amendment and based upon HB 1950, will be very, very healthy. And the \$5 million for the smaller ones and the \$7.5 million for the larger transit agencies will not hurt the hundreds of millions of dollars that will be in this. And it is an environmental issue, this conversion.

So I rise and I support the Moul amendment, but I ask the gentleman to help me treat all public transit agencies the same here in the Commonwealth when this bill comes back from the Senate. Thank you.

The SPEAKER. The question is, will the House agree to the amendment? Those in favor of the amendment will vote "aye"; those opposed, "nay."

Mr. HANNA. Mr. Speaker? Mr. Speaker? I was seeking recognition a second time.

The SPEAKER. I apologize.

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

On that question, the Speaker recognizes the gentleman from Clinton County, Mr. Hanna, for the second time.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, just to add additional evidence that this will put more pressure on DCNR to lease additional State forests or State park ground, let me point out to you that as the bill is currently written, \$55 million is spent from the Oil and Gas Lease Fund. The last amendment adds \$5 million more; this amendment adds \$7.5 million more. That is \$67.5 million from the Oil and Gas Lease Fund. The reality is that last year, the Oil and Gas Lease Fund collected \$32 million in rents and royalties – collected \$32 million in rents and royalties. For those of you familiar with deficit spending, that indicates that you are going to be spending approximately \$35 million more than you are collecting.

So obviously we cannot continue to put this pressure on the Oil and Gas Lease Fund. The only way the Oil and Gas Lease Fund could honor these obligations is if there were considerable more acreage put up for lease. And let me remind you what I said earlier: The only way more of DCNR acreage could be put up for more lease is if we damage environmentally sensitive areas. That is what this study showed.

Mr. Speaker, we cannot possibly support this amendment. I urge a "no" vote. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. We are this evening facing one of the most important issues with respect to the growth of an industry in jobs and private-sector development in this State while we are balancing concern for citizens and the environment. We are nearing the 11 o'clock hour. I would ask that when members have an opportunity to get up and speak on legislation that they have worked hard on and feel passionately about and can put forth rational policy perspectives on it, that we would show them the modicum of respect and not make any personal attacks.

What we need to do from this point forward is to have honest debate on policy differences without getting into anything on a personal level, that there can be disagreements on that.

Mr. DERMODY. Mr. Speaker? Mr. Speaker?

Mr. TURZAI. Now—

The SPEAKER. The gentleman will suspend.

POINT OF ORDER

Mr. DERMODY. I would like to speak on the amendment, Mr. Speaker.

I do not remember or recall any personal attacks.

The SPEAKER. The gentleman will stop. Please suspend, both members.

The gentleman, Mr. Dermody, is raising a point of order relative to the debate drifting away from the amendment?

Mr. DERMODY. That is correct, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman and agrees that the gentleman was getting off the subject of the amendment and would urge the member, respectfully, to confine his remarks to the amendment.

Mr. TURZAI. Yes, Mr. Speaker. I appreciate it, sir.

A group of legislators have worked on the notion that natural gas is a cleaner fossil fuel and that it also is an opportunity, in addition to being better for the environment, but to be able to help reduce costs, particularly with respect to some public-sector entities. It is a thoughtful approach to try to convert certain vehicles to the use of natural gas, and from my perspective I would argue that this approach is one that is worthy of a merit of a "yes" vote.

I applaud the maker of this particular amendment. He is thinking outside of the box with his colleagues that have put together this particular package, and I would respectfully ask for a "yes" vote. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—103

Adolph	Gabler	Kortz	Roae
Aument	Geist	Maher	Rock
Baker	Gergely	Major	Ross
Barrar	Gibbons	Maloney	Saccone
Bear	Gillen	Marshall	Saylor
Benninghoff	Gillespie	Marsico	Scavello
Boyd	Gingrich	Masser	Simmons
Brooks	Godshall	Metzgar	Smith, K.
Brown, R.	Grell	Miccarelli	Sonney
Carroll	Grove	Micozzie	Stephens
Causer	Hackett	Millard	Stern
Christiana	Hahn	Miller	Stevenson
Clymer	Harhart	Milne	Swanger
Cox	Harris	Moul	Tallman
Creighton	Heffley	Mullery	Taylor
Culver	Helm	Murphy	Tobash
Cutler	Hennessey	O'Neill	Toepel
Day	Hess	Oberlander	Toohil
Deasy	Hickernell	Payne	Truitt
Delozier	Hutchinson	Perry	Turzai
Denlinger	Kampf	Pickett	Vereb
Dunbar	Kauffman	Quigley	Vulakovich

Ellis	Keller, F.	Quinn	Watson
Emrick	Keller, M.K.	Rapp	
Evans, J.	Killion	Readshaw	Smith, S.,
Everett	Knowles	Reichley	Speaker
Fleck			

NAYS—93

Barbin	DePasquale	Keller, W.	Petri
Bishop	Dermody	Kirkland	Preston
Bloom	DeWeese	Kotik	Pyle
Boback	DiGirolamo	Krieger	Ravenstahl
Boyle, B.	Donatucci	Kula	Reed
Boyle, K.	Evankovich	Lawrence	Reese
Bradford	Fabrizio	Longietti	Roebuck
Brennan	Farry	Mahoney	Sabatina
Briggs	Frankel	Mann	Sainato
Brown, V.	Freeman	Markosek	Samuelson
Brownlee	Galloway	Matzie	Santarsiero
Burns	George	McGeehan	Santoni
Buxton	Gerber	Metcalfe	Schroder
Caltagirone	Goodman	Mirabito	Shapiro
Cohen	Haluska	Mundy	Smith, M.
Conklin	Hanna	Murt	Sturla
Costa, D.	Harhai	Neuman	Vitali
Costa, P.	Harkins	O'Brien, M.	Wagner
Curry	Harper	Parker	Waters
Daley	Hornaman	Pashinski	Wheatley
Davidson	Johnson	Payton	White
Davis	Josephs	Peifer	Williams
DeLissio	Kavulich	Petrarca	Youngblood
DeLuca			

NOT VOTING—0**EXCUSED—7**

Cruz	Mustio	O'Brien, D.	Thomas
Evans, D.	Myers	Staback	

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

On the question recurring,

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

BILL PASSED OVER

The SPEAKER. HB 1950 will be over for the day.

For the information of the members, there will be no further votes. And second of all, the Speaker would like to thank the members for their patience and respect that was demonstrated today. As the Speaker, I do truly appreciate that.

BILLS RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 98;
HB 1526; and
HB 1884.

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 HB 120 and HB 121 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.

DEMOCRATIC CAUCUS

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

Mr. DERMODY. To make an announcement.

The SPEAKER. The gentleman is in order to make an announcement.

Mr. DERMODY. I would like to announce a Democratic caucus for tomorrow morning at 10; at 10 a.m., a Democratic caucus.

The SPEAKER. I see the majority caucus chairman is refusing to make an announcement relative to caucus.

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. Hackett, from Delaware County, who moves that this House do now adjourn until Wednesday, November 16, 2011, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 10:59 p.m., e.s.t., the House adjourned.