

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, MAY 1, 2012

SESSION OF 2012

196TH OF THE GENERAL ASSEMBLY

No. 25

### HOUSE OF REPRESENTATIVES

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

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

#### PRAYER

The SPEAKER. This morning the prayer will be offered by the Reverend David Ritterpusch, Advent Lutheran Church, York, Pennsylvania.

REV. DAVID L. RITTERPUSCH, Guest Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

Almighty and merciful God, whose hands bestow the splendor of creation and the dignity of humanity, we ask Your blessing upon this Commonwealth and those elected and seated here in order to craft its legislation and represent its peoples. Help all who hold office and exercise power to understand it as a trust from You, not to be used for personal gain, profit, or prestige, but rather used for the good and service of the people of Pennsylvania.

We ask that You insulate the hearts of the Representatives from any feelings of cynicism or despair, from any responses of retaliation or callousness. Guard them from malevolent expressions that might otherwise diminish their zeal for doing good in these prevailing days that are so often marked with divisiveness, discord, and dissension in the political arena.

Grant, we pray, O God, that this body might model for its citizens both civility and wisdom, and that it might demonstrate to all the ideal of being willing to be persuaded by what is a better way, no matter who utters the idea, and by what is a better law, no matter who authors the legislation.

We are a Commonwealth of peoples from various backgrounds and traditions, of varying hues and experiences, of dissimilar demographics and challenges, of divergent faiths, politics, and perspectives. Use the differences to weave a beautifully crafted expression of unified purpose, opportunity, and compassion. Restore to us the concept of compromise as a goal worthy of our consideration.

Wherever the path and whatever the endeavor, we ask that the decisions of this body may be a reflection of Your will. Walk with us, O Heavenly Father, and do not forsake us to our own devices, for without You, O Lord, we should certainly be threatened with ruin. We ask all these petitions, not with a sense of entitlement based somehow on our own merit or deserving,

but rather in humility, relying on Your enduring love and compassion for Your people and trusting in Your divine and holy name. 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, April 30, 2012, will be postponed until printed.

#### BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

**HB 60, PN 3427** (Amended) By Rep. GODSHALL

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in rates and rate making, further providing for standby charge prohibited.

#### CONSUMER AFFAIRS.

**HB 1289, PN 3429** (Amended) By Rep. MARSICO

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for sentencing enhancement for trafficking drugs in the presence of a minor.

#### JUDICIARY.

**HB 2031, PN 3428** (Amended) By Rep. GODSHALL

An Act providing standards for certain carbon monoxide alarms; and imposing penalties.

#### CONSUMER AFFAIRS.

#### 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,  
April 30, 2012

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, May 7, 2012, 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, May 7, 2012, 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.

### SENATE MESSAGE

#### AMENDED HOUSE BILLS RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 1546**, **PN 3167**, and **HB 1702**, **PN 3331**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

### SENATE MESSAGE

#### HOUSE BILL CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 2133**, **PN 2978**, with information that the Senate has passed the same without amendment.

### BILL SIGNED BY SPEAKER

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

#### **HB 2133, PN 2978**

An Act designating the bridge that carries State Route 66/28 over Redbank Creek between the Borough of South Bethlehem, Armstrong County, and the Borough of New Bethlehem, Clarion County, as the Sergeant Joseph M. Garrison Memorial Bridge.

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

### HOUSE RESOLUTION INTRODUCED AND REFERRED

**No. 703** By Representatives BRIGGS, BARBIN, BOBACK, K. BOYLE, BRENNAN, V. BROWN, BROWNLEE,

CALTAGIRONE, DALEY, DAVIS, DePASQUALE, DiGIROLAMO, DONATUCCI, EVERETT, FREEMAN, GEORGE, GERBER, GIBBONS, HARKINS, HESS, HORNAMAN, KIRKLAND, KORTZ, KULA, LONGIETTI, MANN, MARSICO, McGEEHAN, MILLARD, MIRABITO, MOUL, PASHINSKI, PAYTON, READSHAW, ROCK, ROSS, SABATINA, SANTARSIERO, SANTONI, SCAVELLO, SONNEY, STURLA, SWANGER, WATERS, WHEATLEY, YOUNGBLOOD, ROEBUCK, BRADFORD, M. O'BRIEN, CULVER and MAHONEY

A Resolution designating April 22, 2012, as "Earth Day in Pennsylvania."

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, May 1, 2012.

### HOUSE BILLS INTRODUCED AND REFERRED

**No. 2333** By Representatives SIMMONS, AUMENT, BAKER, BARBIN, BARRAR, BOBACK, BRENNAN, BROOKS, R. BROWN, CAUSER, CLYMER, EVANKOVICH, EVERETT, GEORGE, GINGRICH, HARHART, HICKERNELL, HORNAMAN, HUTCHINSON, KAUFFMAN, F. KELLER, LAWRENCE, LONGIETTI, MAJOR, MARSICO, MULLERY, PYLE, READSHAW, SAINATO, SCAVELLO, SONNEY, STEVENSON, TOOHL and VULAKOVICH

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for veteran identification cards.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, May 1, 2012.

**No. 2334** By Representatives EVERETT, GEIST and HESS

An Act authorizing the conveyance of an easement and the release of Project 70 restrictions imposed on a portion of land owned by the Pennsylvania Fish and Boat Commission in Gamble Township, Lycoming County, in return for the imposition of Project 70 restrictions on certain land being conveyed to the Commission in Gamble Township, Lycoming County, and other terms and conditions.

Referred to Committee on STATE GOVERNMENT, May 1, 2012.

**No. 2335** By Representatives JOSEPHS, FRANKEL, BENNINGHOFF, STURLA, K. BOYLE, BRIGGS, COHEN, DeLUCA, DePASQUALE, FABRIZIO, GIBBONS, HARKINS, KIRKLAND, MUNDY, MURT, PARKER, PASHINSKI, ROEBUCK, SAMUELSON, SANTARSIERO, SANTONI, B. BOYLE, VITALI and YOUNGBLOOD

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, in primary and election expenses, further providing for definitions and for reporting by candidate and political committees and other persons.

Referred to Committee on STATE GOVERNMENT, May 1, 2012.

**No. 2336** By Representatives MICCARELLI, BENNINGHOFF, CHRISTIANA, ELLIS, J. EVANS, FARRY, FRANKEL, GEIST, GROVE, W. KELLER, KILLION, MICOZZIE, MILLARD, O'NEILL, PICKETT and QUIGLEY

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, in airport operation and zoning, providing for rental vehicle fees and rental facility improvements.

Referred to Committee on TRANSPORTATION, May 1, 2012.

**No. 2337** By Representatives FRANKEL, VULAKOVICH, DeLUCA and BARBIN

An Act providing for the Children's Access to Concurrent Care Act and for applicability.

Referred to Committee on INSURANCE, May 1, 2012.

**No. 2338** By Representatives FRANKEL, VULAKOVICH, DeLUCA and BARBIN

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, further providing for continuing medical education.

Referred to Committee on PROFESSIONAL LICENSURE, May 1, 2012.

**No. 2339** By Representatives BENNINGHOFF, CALTAGIRONE, D. COSTA, DALEY, FABRIZIO, FARRY, GEORGE, GINGRICH, HANNA, JOSEPHS, W. KELLER, KOTIK, McGEEHAN, MICOZZIE, MILNE, MURT, RAPP and SANTONI

An Act providing for certification of chimney reliners by the Department of Labor and Industry; and imposing penalties.

Referred to Committee on PROFESSIONAL LICENSURE, May 1, 2012.

### SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

#### **SB 157, PN 2076**

Referred to Committee on EDUCATION, May 1, 2012.

#### **SB 466, PN 455**

Referred to Committee on JUDICIARY, May 1, 2012.

#### **SB 1296, PN 1983**

Referred to Committee on EDUCATION, May 1, 2012.

### 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. O'NEILL, from Bucks County for the day; the gentleman, Mr. ADOLPH, from Delaware County for the day; and the gentleman, Mr. HACKETT, from Delaware 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 lady, Mrs. DAVIS, from Bucks County for the day; the gentleman, Mr. DALEY, from Washington County for the day; and the gentleman, Mr. William KELLER, from Philadelphia County for the day. Without objection, the leaves will be granted.

### MASTER ROLL CALL

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

The following roll call was recorded:

#### PRESENT—189

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

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

## ADDITIONS—0

## NOT VOTING—0

## EXCUSED—7

Adolph	Davis	Keller, W.	Swanger
Daley	Hackett	O'Neill	

## LEAVES ADDED—4

Fleck	Galloway	Maher	Murphy
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## LEAVES CANCELED—7

Adolph	Galloway	Keller, W.	O'Neill
Daley	Hackett	Maher	

The SPEAKER. One hundred and eighty-nine members having voted, a quorum is present.

**GUESTS INTRODUCED**

The SPEAKER. The House will come to order. We would appreciate if the members would give us your attention. Please take your seats or take the conversations to the rear of the House.

We would like to welcome several guests we have with us today. First of all, located here up at the rostrum along with our Chaplain of the day is his wife, Brenda Ritterpusch, and she has obviously come along with her husband. She is visiting as a guest of Representative Keith Gillespie. Welcome to the hall of the House. Please rise.

Located to the left of the rostrum, I am pleased to welcome His Excellency, Jean-Paul Senninger, Ambassador of Luxembourg to the United States. Ambassador Senninger assumed his current position— Go ahead. Please rise. Ambassador Senninger assumed his current position in 2008. However, from 2002 to 2007, he served as Ambassador to Turkey, and from 2004 to 2008, he was Ambassador to Spain. In 2007 he was also appointed Ambassador to Nicaragua. Prior to his service as a diplomat, he taught German language and literature in Luxembourg and later worked in the mayor's office. Ambassador, it is an honor to have you visiting with us today in the Capitol. We hope you enjoy the visit here to our State Capitol. Along with the Ambassador is his assistant, Jennifer Riccardi. They are here today as guests of Representative Mundy. Welcome to the hall of the House.

As guests of Representative Cutler, located to the left of the Speaker, we would like to welcome Neil Alexander, Sam Nelson, Sarah Brendle, and Leo James. Welcome to the hall of the House.

Also to the left of the Speaker, as guests of Representatives Santoni and Gillen, we would like to welcome Chris Kaag, founder of IM ABLE Foundation, and Eric Schippers. Will our guests please rise. Welcome to the hall of the House.

Also to the left of the rostrum, we would like to welcome S. Sgt. – this is one of those suspect names – Ron Raymond, Jr. He is the son of former Representative Ron Raymond and the guest of Representative Miccarelli. Welcome to the hall of the House.

Located in the rear of the House, we would like to welcome the fourth grade students from St. Mary Interparochial School in Philadelphia and their teacher, Christina DiBabbo. They are here today as guests of Representative O'Brien. Will our guests please rise. Welcome to the hall of the House.

Also in the rear of the House, as guests of Representative Milne, we would like to welcome John and Sewall Hornsey and Robert Ward. Will our guests please rise. Over here on the left side. Welcome.

Up in the gallery, we would like to welcome as guests of Representative Gabler, the Leadership Elk County group. Where are we up in the gallery? Stand up and give us a wave. Welcome to the hall of the House. Maybe they had to leave early.

Also in the gallery, we would like to welcome a group of students and teachers from Indian Creek Mennonite School in Telford, Montgomery County. They are the guests of Representative Godshall. Will our guests please rise. Welcome to the hall of the House.

Also up in the balcony, with the Clearfield and Jefferson County 4-H, we would like to welcome Michaela Barber, Chelsea Folman, Nick Emerick, and Eric Tosh. They are guests of Representative George, and they are from kind of his area and my area. Welcome to the hall of the House.

Also up in the balcony, as guests of Representative Heffley, we would like to welcome Jessica Probert, Alvaro Canizares, Michele Connors, Bob Stevenson, Sharon Krebs, and Sandy Benson. Will our guests please rise. Welcome to the hall of the House. They are over here on the far side.

And in the well of the House, as a guest page, we would like to welcome William Columbo. He is an 11th grade student at Crestwood High School and a member of the National Honor Society since 7th grade. He is here today as a guest of Representative Mullery. Welcome to the hall of the House.

Also in the well, we would like to welcome two guest pages who are here as guests of Representative Saylor. Graham Nelson is a sophomore at Red Lion Area High School. He serves on student council and participates in track and wrestling. He is also an honor student and a member of the senior honors choir and a Boy Scout. Along with him is Wyatt Franks, who is a junior at Red Lion Area High School. He is vice president of student council and blood drive coordinator. He is also a Boy Scout. Welcome to the hall of the House.

The House will please come back to order. We would appreciate it if the members would take their seats and hold the conversations down. Take them to the rear of the House if necessary. Will the members please take their seats. Thank you.

**NATIONAL GUARD DAY****REMARKS BY  
MAJ. GEN. WESLEY E. CRAIG**

The SPEAKER. We have another special guest with us located to the left of the rostrum. We would like to once again welcome and honor the Pennsylvania Adjutant General, Maj. Gen. Wesley E. Craig. Tongue got tied on that one. Please welcome Major General Craig. I apologize for the stumbling.

Along with Major General Craig is S. Sgt. Krystal Brown. Our guests are here today to participate in the annual Pennsylvania National Guard Day at the Capitol, and they were invited by Chairmen Barrar and Sainato, Representative Godshall, and members of the House Veterans Affairs and Emergency Preparedness Committee.

At this point in time, I would like to turn the dais over to Major General Craig for some remarks. Welcome to the dais.

MAJOR GENERAL CRAIG. Thank you, Mr. Speaker.

Speaker Smith, members of the House of Representatives, it is indeed my pleasure and honor to be here on Pennsylvania National Guard Day at the Capitol. As many of you know, our motto is "Always Ready and Always There," and we have certainly lived up to that motto in the past decade. There are 19,000 members of the Pennsylvania Army and Air Guard. In the past 10 years, more than 30,000 have deployed in defense of our nation. At the same time, we have experienced more than two dozen calls to State active duty, representing about 8,000 soldiers and airmen placed on State active duty here in the Commonwealth of Pennsylvania.

**S. SGT. KRYSTAL BROWN INTRODUCED**

MAJOR GENERAL CRAIG. It is my great pleasure and honor to introduce to you one of my soldiers who has done all of these things, S. Sgt. Krystal Brown. Sergeant Brown is an ammunition section sergeant chief with the 228th Brigade Support Battalion, part of the 55th Armor Brigade Combat Team, 28th Infantry Division in Souderton, Pennsylvania. She has been in Iraq in 2005 and then again in 2009. But today I am going to discuss briefly her heroic actions here in this Commonwealth of Pennsylvania.

For on the evening of 27 March 2012, at 1630 hours in the city of Philadelphia, S. Sgt. Krystal Brown and S. Sgt. Angel Mendez were driving northbound on I-95 when they observed a smoking white Chevy Silverado that had crashed into the southbound lanes and was jammed up against the medial barrier. They pulled up to the median, close to the smoking vehicle, and noticed the driver was inside unconscious. As flames erupted and began to spread, they tried to gain access to the vehicle but found they could not. Sergeant Brown pulled a hammer from her vehicle and gave it to Sergeant Mendez, who broke open both the passenger and the driver's windows. Sergeant Brown reached in and turned off the vehicle engine because the driver's foot was jammed against the accelerator and he was unconscious. Fighting heavy smoke, Sergeant Brown freed the driver and assisted with removing him and stabilizing his head and neck. Working as a team, she and

Sergeant Mendez were able to clear the injured driver to a safe distance from the burning vehicle as it became engulfed in flames and then exploded into a fireball.

They checked the man's vitals and provided comfort until first responders arrived at the accident. When interviewed the next day by Fox 29 television, "They said with hours of combined combat rescue training, yesterday's heroics were instinctive. 'We just worked together as a team,' said Brown." With our Army training, it was second nature. They both, Sergeant Brown and Sergeant Mendez, have been recommended for the Soldier's Medal for saving someone else's life at the risk of their own.

Ladies and gentlemen of the House chamber, I present to you S. Sgt. Krystal Brown.

Mr. Speaker, members of the House, I am happy to report that we have many soldiers and airmen in our formation that are just like Staff Sergeant Brown and Staff Sergeant Mendez. Their actions, in the past decade especially, have shown that we are indeed a well-trained, highly capable force of responding to the call of the Governor and also the call of the President of the United States.

I am here today to say thank you for this chamber's support, continuing support, of the Pennsylvania National Guard. Your support of the educational assistance program allows us to recruit fine young people just like Sergeant Brown here, who are interested and realize they have a way to get a college education that they may not have any other way to be able to afford because this educational assistance program pays for their tuition at a State university while they serve, render good service to the Commonwealth of Pennsylvania as a member of the National Guard. I also thank all members of this body who have engaged – and many have – engaged our congressional delegation as they fight the Air Force with their plan to reduce the Air National Guard. Neither I nor the Governor think that is a smart idea because the National Guard is a cost-effective solution to national defense. So your ongoing work and talk and dialogue with our congressional delegation is deeply appreciated.

So again, I thank you for your strong support. Your support will allow us to remain true to our motto of "Always Ready and Always There." Thank you.

The SPEAKER. Major General Craig, if I may speak on behalf of the House of Representatives and the people of this Commonwealth in that regard, thank you for your service personally, and to those under your command, you make us proud every day the way you defend our country and build up our communities in this Commonwealth of Pennsylvania. So thank you all very much for your service.

**STATEMENT BY MR. BARRAR**

The SPEAKER. Is the gentleman from Delaware County, Mr. Barrar, seeking recognition under unanimous consent?

Mr. BARRAR. Mr. Speaker, yesterday the House of Representatives passed a resolution, unanimous resolution, in honor of National Guard Day today. With your permission, I would like to present it to Maj. Gen. Wesley Craig.

The SPEAKER. You have my permission. Thank you.

LEAVE OF ABSENCE

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

UNCONTESTED CALENDAR

RESOLUTIONS PURSUANT TO RULE 35

Mr. LAWRENCE called up HR 663, PN 3351, entitled:

A Resolution declaring the week of April 30 through May 4, 2012, as "Pennsylvania Academic Competition Week" in Pennsylvania; and urging the Department of Education, local school districts and intermediate units to participate in the 21st annual Statewide Pennsylvania Academic Competition on May 4, 2012.

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Mr. GEORGE called up HR 665, PN 3352, entitled:

A Resolution designating the week of May 6 through 12, 2012, as "Drinking Water Week" in Pennsylvania.

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Ms. V. BROWN called up HR 668, PN 3360, entitled:

A Resolution designating the month of May 2012 as "Celebrate to Live Month" in Pennsylvania.

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Ms. V. BROWN called up HR 669, PN 3361, entitled:

A Resolution recognizing the volunteers participating in Keep Pennsylvania Beautiful's Great American Cleanup of PA from March 1 through May 31, 2012.

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Mr. CUTLER called up HR 674, PN 3377, entitled:

A Resolution designating the month of May 2012 as "Amyotrophic Lateral Sclerosis Awareness Month" in Pennsylvania.

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Mr. MARSHALL called up HR 678, PN 3381, entitled:

A Resolution honoring the Pennsylvania 4-H on its 100th anniversary.

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Mr. MARSHALL called up HR 679, PN 3382, entitled:

A Resolution honoring and celebrating the 100th anniversary of the Pennsylvania State Association of County Fairs.

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Ms. DONATUCCI called up HR 686, PN 3397, entitled:

A Resolution designating April 28, 2012, as "Take It All Back Day" in Pennsylvania.

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Mr. BEAR called up HR 691, PN 3406, entitled:

A Resolution designating the month of May 2012 as "Lupus Awareness Month" and May 10, 2012, as "Lupus Awareness Day" in Pennsylvania.

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Mrs. WATSON called up HR 692, PN 3407, entitled:

A Resolution observing the week of May 1 through 7, 2012, as "National Physical Education and Sports Week" and the month of May 2012 as "National Physical Fitness and Sports Month" in Pennsylvania, and encouraging residents of Pennsylvania to learn more about the importance of physical activity for their health, to incorporate physical activity into their daily lives and to join in an effort to create a more enlightened public attitude and response.

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Mrs. WATSON called up HR 693, PN 3408, entitled:

A Resolution recognizing the month of May 2012 as "Healthy Babies Month" in Pennsylvania.

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Mrs. WATSON called up HR 694, PN 3409, entitled:

A Resolution recognizing May 2012 as "National Youth Traffic Safety Month" in Pennsylvania.

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Miss MANN called up HR 698, PN 3413, entitled:

A Resolution designating the month of May 2012 as "Arthritis Awareness Month" in Pennsylvania.

On the question, Will the House adopt the resolutions?

The following roll call was recorded:

YEAS—188

Table with 4 columns of names: Aument, Baker, Barbin, Barrar, Bear, Benninghoff, Bishop, Bloom, Boback, Boyd, Boyle, B., Bradford, Brennan, Briggs, Brooks, Brown, R., Ellis, Emrick, Evankovich, Evans, D., Evans, J., Everett, Fabrizio, Farry, Fleck, Frankel, Freeman, Gabler, Geist, George, Gerber, Gergely, Gibbons, Kortz, Kotik, Krieger, Kula, Lawrence, Longietti, Maher, Mahoney, Major, Maloney, Mann, Markosek, Marshall, Marsico, Masser, Matzie, McGeehan, Quinn, Rapp, Ravenstahl, Readshaw, Reed, Reese, Roae, Rock, Roebuck, Ross, Sabatina, Saccone, Sainato, Samuelson, Santarsiero, Santoni, Saylor

Brown, V.	Gillen	Metcalf	Scavello
Brownlee	Gillespie	Metzgar	Schroder
Burns	Gingrich	Miccarelli	Simmons
Buxton	Godshall	Micozzie	Smith, K.
Caltagirone	Goodman	Millard	Smith, M.
Carroll	Grell	Miller	Sonney
Causser	Grove	Milne	Staback
Christiana	Hahn	Mirabito	Stephens
Clymer	Haluska	Moul	Stern
Cohen	Hanna	Mullery	Stevenson
Conklin	Harhai	Mundy	Sturla
Costa, D.	Harhart	Murphy	Tallman
Costa, P.	Harkins	Murt	Taylor
Cox	Harper	Mustio	Thomas
Creighton	Harris	Myers	Tobash
Cruz	Heffley	Neuman	Toepel
Culver	Helm	O'Brien, M.	Toohil
Curry	Hennessey	Oberlander	Truitt
Cutler	Hess	Parker	Turzai
Davidson	Hickernell	Pashinski	Vereb
Day	Hornaman	Payne	Vitali
Deasy	Hutchinson	Payton	Vulakovich
DeLissio	Josephs	Peifer	Waters
Delozier	Kampf	Perry	Watson
DeLuca	Kauffman	Petrarca	Wheatley
Denlinger	Kavulich	Petri	White
DePasquale	Keller, F.	Pickett	Youngblood
Dermody	Keller, M.K.	Preston	
DiGirolamo	Killion	Pyle	Smith, S.,
Donatucci	Kirkland	Quigley	Speaker
Dunbar	Knowles		

## NAYS—0

## NOT VOTING—0

## EXCUSED—8

Adolph	Davis	Hackett	O'Neill
Daley	Galloway	Keller, W.	Swanger

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

**STATEMENT BY MR. CUTLER**

The SPEAKER. The gentleman from Lancaster County, Mr. Cutler, is recognized under unanimous consent relative to HR 674 that was just adopted.

Mr. CUTLER. Thank you, Mr. Speaker.

I just wanted to briefly thank my colleagues for their affirmative vote on HR 674. As many of you know, Lou Gehrig's disease, or amyotrophic lateral sclerosis, is a disease that I have been personally engaged with for some time. It is an issue that I have advocated for since I got here in this chamber, and you all have been very supportive of it. I wanted to take this time just to thank you.

Very briefly, for some of the new members who might not be aware, both of my parents were diagnosed with Lou Gehrig's disease. My dad passed away my senior year in high school after only having the disease about 18 months, and my mom lived almost 9 years. The worst part, Mr. Speaker, about Lou Gehrig's disease is the effect that it has on the individual patients. It is a disease that incapacitates individuals and it makes them dependent on others for their care, all the while leaving their mind completely intact. Mr. Speaker, it is a very

real disease that has very real impacts on us as individuals, and unfortunately, Mr. Speaker, it will also have a significant impact on our budget going forward.

For the last 5 years, I have had my friends at the ALS Association come up and lobby you as members, and you have graciously opened your hearts and your doors and spent time with them. Mr. Speaker, the request is very simple. We have between 800 and 900 patients in the Commonwealth that suffer from Lou Gehrig's disease. We have a wonderful clinic structure here in the Commonwealth that is supported primarily through private dollars. Unfortunately, there is an area of great concern on the horizon, and that is a statistic that individuals with Lou Gehrig's disease are twice as likely to come from veterans.

Anyone who has given of their time and of their service – and we are joined by one here today off to the left, that the Speaker had introduced earlier – is twice as likely to have Lou Gehrig's disease as compared to other individuals. The reason that this is so important is because we as a Commonwealth – and we recognized them earlier today – have the largest contingent of deployed National Guard troops in the country. Mr. Speaker, unfortunately, these individuals are at a statistically higher risk. They are at a much higher risk for Lou Gehrig's disease. The average occurrence is one in a quarter million. And dating back to World War II, there is significant data that shows that our military troops are twice as likely or 1 in 125,000 is their odds.

Mr. Speaker, as we look forward at the budget and all the areas that we are all very passionate about, and this one happens to be mine because I have a personal connection, and I have had friends and family ask me, "Why do you continue to advocate for this? Your parents are deceased." Mr. Speaker, the answer is quite simple. Knowing the horrors of the disease and the impact that it has on us as individuals that care for our loved ones and care for the patients, I do not want anyone else to have to go through that story. I do not want anyone else to have to live it. Mr. Speaker, and most importantly, I do not want our veterans to have to come home and have an increased risk of this disease. It is imperative that we as a Commonwealth put the infrastructure in place to care for those individuals who are currently deployed or have been deployed and will be returning home, because the statistics do not lie, Mr. Speaker. Those individuals are twice as likely and we need to be twice as ready when they need our help.

So as my good friends off to the left continue to advocate for funding, I know the budget is tight, and I know that as we go forward, it is always easy to put it off to the future, but, Mr. Speaker, that bill is coming due very soon. And as the hundreds of people, particularly in the rural part of the Commonwealth, need our assistance, I just kindly ask for your support and greatly appreciate that you have opened up your offices to them as they advocate on an issue that I also care about, because when you open your offices to them, you have also opened it to me, and I just want to thank you.

The SPEAKER. The Speaker thanks the gentleman.

**GUESTS INTRODUCED**

The SPEAKER. I would like to welcome some guests that are up in the balcony. Although I mentioned their name earlier, they had not quite gotten into the gallery yet. So as guests of

Representative Gabler, we would like to welcome the Leadership Elk County group. Will they please rise and give us a wave. Over here. All right. Welcome to the hall of the House.

### **ARCHBISHOP WOOD HIGH SCHOOL GIRLS BASKETBALL TEAM PRESENTED**

The SPEAKER. I would like to invite Representatives Quinn, Murt, Stephens, Watson, and Brendan Boyle to the rostrum for the purpose of presenting a citation to the Archbishop Wood Catholic High School Girls Basketball Team.

The lady, Ms. Quinn, may proceed.

Ms. QUINN. Thank you, Mr. Speaker.

I would like to also thank Representatives Watson, Boyle, Murt, and Stephens, and Representative O'Neill, who could not be with us here today, for joining me for this presentation, and Representative DiGirolamo with a wave.

It is my great privilege as an alumna of Archbishop Wood and as a parent of a senior there right now to be able to acknowledge the fine work and dedication that these girls have put forth this year. This has been a very interesting year. This time last year, the Archbishop Wood Basketball Team came up to celebrate their second, to be acknowledged for winning their second PIAA Class AAA State Championship, and at that time, Mr. Speaker, seven of their seniors were leaving the team. So this team faced quite a challenge this year. The school, the whole community, their classmates were hopeful and expecting for yet another win, yet they had lost half their team. So I want to congratulate the coaches, Coach Jim Ricci, who is here with us today; Coach John Gallagher, Kate Slover, and Kasey Ozkowski for their leadership. I would like to acknowledge the team captains, the only three seniors on the team, who stand behind me right now: Taylor Kaminzkie, Alex Heck, and Lauren Nealon. All three of these girls are going to go on to play basketball in college next year at Phil U and two of them at our own Bloomsburg State. I congratulate you girls.

In addition to their fierce competitive spirit that they exhibit on the basketball court, these girls are scholar athletes. Almost every member of this team was on the school honor roll. This team as a whole, they participate in the Athletes Helping Athletes, which is a program down in the southeast region where the athletes of the school reach out and they help those with intellectual disabilities, and I will tell you, at every one of their games, they would have some of the athletes whom they help mentor there and even on the sidelines as captains, cocaptains, honorary captains.

So all around, as a graduate of Wood, I just feel that these girls embody the spirit and the pride of the university, and it is a great privilege that they have won three times in a row. Only one other team has ever had that acknowledgement. So please join me in congratulating these girls in their three-peat performance, and we hope next year that they are here for a fourth time. Thank you.

Representative Murt is also a graduate of Archbishop Wood, though many years before I graduated, I am sure.

Mr. MURT. I heard that.

Mr. Speaker, as a graduate of Archbishop Wood High School, I want to echo the remarks of my colleague, Representative Quinn, in extending our congratulations to these young women and to Coach Ricci. Representative Quinn made

some very, very good and accurate observations that these young women have accomplished a great deal athletically, but they are also outstanding students collectively. As part of their membership on the girls basketball team at Archbishop Wood High School, they have also participated in some service work, including some work with individuals with special needs. And I want to commend Coach Ricci and the young women on the basketball team for these contributions to the Archbishop Wood High School community and to the Greater Warminster community.

So congratulations and God bless you. Keep up the good work.

Mrs. WATSON. Good morning.

I am Representative Watson, and I, too, have the opportunity to have some of these young women as my constituents. I would also like to recognize, however, as we have been talking about our captains and the fine job that these scholar athletes have done three times – cannot say that enough – and their fine coach, but there are more of these fine scholar athletes in the back of the House. Would those – and obviously captains cannot do it without a team – would the rest of the team please rise and be recognized by our House of Representatives. Ladies.

And I would echo Representative Quinn, that we would all like to be back here next year. And you know, we can invite you seniors back, too, but I know, coach, you will have some new people for us and we look forward to it. Thank you.

The SPEAKER. The Speaker thanks the members.

### **STATEMENT BY MR. KIRKLAND**

The SPEAKER. The House will come to order.

I would like to invite Representative Kirkland to the rostrum for the purpose of presenting a citation to the Chester High School Boys Basketball Team.

If we could have the members' attention. If you could kindly hold the conversations down, it would be appreciated.

The gentleman from Delaware County, Mr. Kirkland, is recognized.

Mr. KIRKLAND. Thank you, Mr. Speaker.

Mr. Speaker, I ask for just a moment of personal privilege because I need to say something. Could I get some order, Mr. Speaker?

The SPEAKER. Will the members kindly take their seats and hold the conversations down. Thank you.

Mr. KIRKLAND. Thank you, Mr. Speaker.

Before I introduce the world's greatest basketball team ever, I did want to make some comments.

A few weeks ago there was a heated debate on a certain topic, and during that debate I made some hurtful comments about one of my colleagues; hurtful, painful, and wrong. And today I want to publicly apologize to this fine gentleman. He is my colleague. He is my friend. He is also someone who hails from the same county as I. We have had the pleasure of working with each other for quite some time, and I appreciate that, and I appreciate him. I just publicly wanted to say to Representative Barrar, I apologize for my comments. You are my friend, and you are an honorable man to work with, and I thank you.



**CHESTER HIGH SCHOOL  
BOYS BASKETBALL TEAM PRESENTED**

Mr. KIRKLAND. Thank you, Mr. Speaker, and thank you, members of the House.

Today I have the pleasure of being joined by, as I said before, the finest basketball team and cheerleaders and coaching staff in all of the land, the Chester High School Boys Basketball Clippers. I am joined today, standing behind me is their coach, the head coach of the team, Coach Larry Yarbray, Sr., and the team captains Darius Robinson, Richard Granberry, and Rondae Jefferson.

Mr. Speaker, the 2011-2012 Chester High School Boys Basketball season was clearly defined as something special from the very first practice back on December 5, 2011. As Coach Yarbray gathered the team at the center court with seven returning players from last season's State championship team – yes, they were here last year, too – he announced that this team had an opportunity to do something extremely special, that being winning back-to-back, back-to-back, back-to-back State championships. He further stated that it had to begin today and they would have to work hard every day and take one day and one game at a time.

Riding a 26-game win streak, the Clippers faced one of the toughest schedules possible with impressive wins over Constitution, the 2012 Pennsylvania Class A champs; Imhotep, the 2010 Pennsylvania Class AA champs; Hodgson Vo-Tech, the 2010 Delaware State finalists; Landstown, the 2010 Virginia State semifinalists; and perennial New York power Christ the King.

The Clippers claimed the first 30-game win streak in Chester High School history by defeating the defending Class A champions Math, Civics and Sciences. After sailing through the remainder of the league schedule, the team would give Coach Yarbray his first back-to-back Del Val League championship. With the win, this version of the Chester Clippers became just the fourth team in school history to finish the regular season undefeated at 22-0. It was now time for the District 1 tournament. The Chester Clippers maintained their strong defensive presence and sailed through their first four District 1 opponents, limiting them to 35.3 points per game and posting a winning margin of 32.7 points per game. In the end, Chester High School Clippers would walk away with its first set of back-to-back district championships and Chester's 21st District 1 crown. Next up, the State tournament.

En route to the State championship, March 14 proved to be another record-setting day. With their victory over Norristown, the Clippers pushed their winning streak to a Delaware County record of 55 games and awarded Coach Yarbray his 100th victory at the helm. In the quarterfinals, Chester easily disposed of Coatesville 87-46 after setting yet another school record as the team hauled in 57 rebounds. The depth and defense that marked this year's team was on display in the championship game as they limited Lower Merion to a mere 33 points, capturing the school's second straight and eighth PIAA Quad A State Championship and their first back-to-back State championships. The team ended the season on a 50-game winning streak and the first perfect season, 32-0, in the school's history. In the final national polls, the Chester Clippers were

ranked number four in the country by both the USA Today and ESPN, and they finished as the number one public high school in the country.

The players and the coaches are being commended for demonstrating the "C" pride that exists in the Chester community. Please, members of this House, join me in recognizing the Chester High School Boys Basketball PIAA Quad A State Champions, their cheerleaders, their trainers, and their coaches.

The SPEAKER. Will our family and friends in the rear of the House please rise. Welcome to the hall of the House.

Mr. KIRKLAND. Thank you. Thank you, Mr. Speaker.

Very quickly, I played for the high school. We did not win a championship. This makes up for them all.

## CALENDAR

### RESOLUTIONS PURSUANT TO RULE 35

Mr. SANTARSIERO called up **HR 673, PN 3368**, entitled:

A Resolution honoring the life of Justice Frank J. Montemuro, Jr., 86, who died on March 29, 2012, in Newtown, Bucks County.

On the question,

Will the House adopt the resolution?

The SPEAKER. Does the gentleman from Bucks County, Mr. Santarsiero, seek recognition on the resolution?

Mr. SANTARSIERO. Yes.

The SPEAKER. The House will please come to order.

Why do we not wait just a second till our last series of guests leave.

The House will please come to order.

On the resolution, the gentleman from Bucks County, Mr. Santarsiero, is recognized.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

I was going to ask for unanimous consent but decided I would not do that.

The SPEAKER. I was doing you a favor by recognizing you on the resolution.

Mr. SANTARSIERO. I know you were, Mr. Speaker, and I will not overstep my bounds. Thank you very much.

Mr. Speaker, HR 673 honors the long and distinguished life of Frank J. Montemuro, Jr., who died on March 29, 2012, in Newtown, Bucks County, at the age of 86.

Justice Montemuro served in the Navy from 1944 to 1946. He graduated from Temple University and earned his law degree from Duke University.

In 1964 Governor Scranton appointed Justice Montemuro to a 10-year term on the Court of Common Pleas of Philadelphia. In 1968 he became an administrative judge in family court. In 1975 he was elected to a second 10-year term, continuing as family court judge. In 1980 Governor Thornburgh appointed Justice Montemuro to the Superior Court, and in 1992 Governor Casey appointed him as an interim appointment to the Supreme Court after the death that year of Justice James T. McDermott.

Justice Montemuro was a month shy of his 67th birthday when appointed, and his term was cut short when he reached the mandatory retirement age of 70. However, his judicial career

did not end at that point. Justice Montemuro retired as a senior judge on the Superior Court 6 years ago, when he reached the court's mandatory retirement age of 80.

Justice Montemuro's accomplishments also include many awards and accolades. In 1982 Pope John Paul II named him a knight commander of the Order of St. Gregory the Great. In 1977 he was elected national president of the Supreme Lodge of the Order of the Sons of Italy in America and reelected in 1979. In 1970 the President of Italy named him a Commendatore of the Order of Merit of the Republic of Italy, and in 1996 he was named gran ufficiale of the Order of Merit.

Justice Montemuro was a member of the board of trustees of the Community College of Philadelphia and a board member of the Catholic Charities for the Philadelphia Archdiocese. He received a 1967 Humanitarian Award from the Justice Lodge of B'nai B'rith. In 1973 Frankford High School gave him its Pioneer Award as an outstanding alumnus, and in 1974 he received the Philadelphia Bowl.

Justice Montemuro is survived by his wife, Margaret; his sons, Frank III, Michael, and Anthony; his two sisters; and his six grandchildren. He was indeed a distinguished member of the Pennsylvania Bench, and it is with great honor that I rise in his memory today and ask my colleagues to please support this resolution. Thank you, Mr. Speaker.

The SPEAKER. Members and all guests will please rise for a moment of silence in memory of the deceased Justice.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memory of Justice Frank J. Montemuro, Jr.)

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

The following roll call was recorded:

YEAS—188

Aument	Ellis	Kortz	Quinn
Baker	Emrick	Kotik	Rapp
Barbin	Evankovich	Krieger	Ravenstahl
Barrar	Evans, D.	Kula	Readshaw
Bear	Evans, J.	Lawrence	Reed
Benninghoff	Everett	Longietti	Reese
Bishop	Fabrizio	Maher	Roe
Bloom	Farry	Mahoney	Rock
Boback	Fleck	Major	Roebuck
Boyd	Frankel	Maloney	Ross
Boyle, B.	Freeman	Mann	Sabatina
Boyle, K.	Gabler	Markosek	Saccone
Bradford	Geist	Marshall	Sainato
Brennan	George	Marsico	Samuelson
Briggs	Gerber	Masser	Santarsiero
Brooks	Gergely	Matzie	Santoni
Brown, R.	Gibbons	McGeehan	Saylor
Brown, V.	Gillen	Metcalfe	Scavello
Brownlee	Gillespie	Metzgar	Schroder
Burns	Gingrich	Miccarelli	Simmons
Buxton	Godshall	Micozzie	Smith, K.
Caltagirone	Goodman	Millard	Smith, M.
Carroll	Grell	Miller	Sonney
Causar	Grove	Milne	Staback
Christiana	Hahn	Mirabito	Stephens
Clymer	Haluska	Moul	Stern
Cohen	Hanna	Mullery	Stevenson
Conklin	Harhai	Mundy	Sturla
Costa, D.	Harhart	Murphy	Tallman
Costa, P.	Harkins	Murt	Taylor

Cox	Harper	Mustio	Thomas
Creighton	Harris	Myers	Tobash
Cruz	Heffley	Neuman	Toepel
Culver	Helm	O'Brien, M.	Toohil
Curry	Hennessey	Oberlander	Truitt
Cutler	Hess	Parker	Turzai
Davidson	Hickernell	Pashinski	Vereb
Day	Hornaman	Payne	Vitali
Deasy	Hutchinson	Payton	Vulakovich
DeLissio	Josephs	Peifer	Waters
DeLozier	Kampf	Perry	Watson
DeLuca	Kauffman	Petrarca	Wheatley
Denlinger	Kavulich	Petri	White
DePasquale	Keller, F.	Pickett	Youngblood
Dermody	Keller, M.K.	Preston	
DiGirolamo	Killion	Pyle	Smith, S., Speaker
Donatucci	Kirkland	Quigley	
Dunbar	Knowles		

NAYS—0

NOT VOTING—0

EXCUSED—8

Adolph	Davis	Hackett	O'Neill
Daley	Galloway	Keller, W.	Swanger

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

\* \* \*

Mr. SANTONI called up **HR 676, PN 3379**, entitled:

A Resolution recognizing the IM ABLE Foundation and its founder, Chris Kaag, for their efforts in encouraging people with disabilities to live active lifestyles.

On the question,  
Will the House adopt the resolution?

The SPEAKER. Is the gentleman, Mr. Santoni, seeking recognition on the resolution?

Mr. SANTONI. Please.

The SPEAKER. The gentleman is in order.

Mr. SANTONI. Thank you, Mr. Speaker.

HR 676, as the clerk said, is a resolution honoring the IM ABLE Foundation and its founder, Chris Kaag, for their work in encouraging people with disabilities to live active lifestyles.

Chris is here, and I am going to introduce him again. I know you introduced him earlier. But to know a little bit about the IM ABLE Foundation, I think you need to know a little bit about Chris. Let me give you a brief comment about Chris and the great work that he does.

In 1997 Chris Kaag was a 21-year-old U.S. Marine when he was diagnosed with adrenomyeloneuropathy, or AMN, a degenerative nerve condition that would eventually affect his ability to walk. Chris was not about to let this disability slow his progress. As I mentioned, he is the founder of the IM ABLE Foundation, again, which we are honoring in HR 676 today, which encourages people with disabilities to live more active lives and to help all individuals, disabled and able-bodied, to redefine the way they view their own personal challenges. His

enthusiasm and drive conveyed through the foundation is admirable and inspiring and helps people realize the potential to go further and push harder than their preconceived limits. Chris says, "We all have obstacles, but it is up to the individual to take that next step." He says that once a person's potential is realized, the possibilities are endless. And Chris has certainly done his part.

Just a couple of examples of what the foundation does. Over the Christmas holidays, I had the honor and privilege to attend a ceremony where the foundation gave handcycles to two young people, an 11-year-old girl with spina bifida, who was in a wheelchair, and a young gentleman who became paralyzed in a stable chase race. So those are just two of the great things that the foundation is doing. He is also collaborating with other foundations in the Berks County area, notably the Chad Henne-John Gilmore foundation, which is run by two NFL (National Football League) players – Chad Henne, quarterback for the Miami Dolphins, and John Gilmore, who plays tight end in the NFL. They have a foundation that builds playgrounds for our community. Chris's foundation is working with them to do that and to build what are called adaptive playgrounds, which are playgrounds that help those young people with mental and physical disabilities.

So I just want to again honor the IM ABLE Foundation and Chris for the great work that they do. He has really made a difference in many people's lives.

GUESTS INTRODUCED

Mr. SANTONI. Again, I want to recognize Chris, who is here, down to the left of the Speaker; Chris Kaag, who is, again, the founder and president of IM ABLE Foundation. With Chris is a member of his board, the IM ABLE board, Mr. Eric Schippers. So let us give them another round of applause. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—188

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

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

NAYS—0

NOT VOTING—0

EXCUSED—8

Adolph	Davis	Hackett	O'Neill
Daley	Galloway	Keller, W.	Swanger

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

STATEMENT BY MR. MATZIE

The SPEAKER. The gentleman from Beaver County, Mr. Matzie, was seeking recognition under unanimous consent? The gentleman may proceed.

Mr. MATZIE. Thank you. Thank you, Mr. Speaker, for your indulgence.

Real quick, in April we passed resolution HR 638, which was "World Asthma Day," which is actually today, May 1. I just wanted to make a quick comment about that, and I thank the members for their unanimous vote that day. This year's theme for World Asthma Day is "You Can Control Your Asthma," and the aim is to spread the word that asthma control is the goal of treatment and can be achieved in the vast majority of asthma patients with proper management. So I wanted to give this day its due today on the actual date, May 1, and again thank the members for their unanimous support when we passed it back in April. Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

REPUBLICAN CAUCUS

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

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus today at 12:30. I would ask our Republican members to please report

to our caucus room at 12:30. We would be prepared to come back to the floor at 2:30, and when we return to the floor, Mr. Speaker, there will be an announcement for an Appropriations Committee meeting. So thank you, Mr. Speaker.

### DEMOCRATIC CAUCUS

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

Mr. FRANKEL. Thank you, Mr. Speaker.

Democrats will caucus at 12:30; Democrats will caucus at 12:30. Thank you.

### TRANSPORTATION COMMITTEE MEETING

The SPEAKER. Is the gentleman from Blair County, Mr. Geist, seeking to make an announcement?

Mr. GEIST. Thank you, Mr. Speaker.

There will be an immediate meeting of the Transportation Committee in B-31 immediately following the recess for lunch.

The SPEAKER. There will be an immediate meeting of the Transportation Committee in B-31.

### RECESS

The SPEAKER. Seeing no further announcements, this House stands in recess until 2:30, unless sooner recalled by the Speaker.

### RECESS EXTENDED

The time of recess was extended until 2:45 p.m.

### AFTER RECESS

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

### BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

**HB 2215, PN 3110**

By Rep. GEIST

An Act designating an interchange at the intersection of Route 136 and Interstate 70 in Washington County as the Officer John David Dryer Memorial Interchange.

TRANSPORTATION.

**HB 2271, PN 3255**

By Rep. GEIST

An Act designating a bridge carrying State Route 2009, formerly the Huff Road Bridge, in West Wheatfield Township, Indiana County, and in St. Clair Township and New Florence Borough, Westmoreland County, as the PFC Robert "Piney Decker" Nadolski Memorial Bridge.

TRANSPORTATION.

### LEAVES OF ABSENCE

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

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

### LEAVES OF ABSENCE CANCELED

The SPEAKER. Additionally, the Speaker recognizes the presence of the gentleman from Bucks County, Mr. O'Neill, on the floor. His name will be added back to the master roll call. The gentleman from Bucks County, Mr. Galloway's presence is on the floor. His name will be added back as well, without objection.

### CALENDAR CONTINUED

### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1616, PN 3330**, entitled:

An Act amending Title 15 (Corporations and Unincorporated Associations) of the Pennsylvania Consolidated Statutes, further providing for benefit corporations.

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 2285, PN 3287**, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, in Pennsylvania Uniform Transfers to Minors Act, further providing for court authorization of a transfer.

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 1909, PN 3210**, entitled:

An Act amending the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, providing for appointment of township treasurers and election of tax collectors; further defining the duties and authority of the board of township commissioners.

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

Mr. **TALLMAN** offered the following amendment  
No. **A09955**:

- Amend Bill, page 22, line 22, by striking out "4" and inserting 6
- Amend Bill, page 23, by inserting between lines 3 and 4 (x) The amendment of section 1712 of the act.
- Amend Bill, page 23, line 4, by striking out "(x)" and inserting (xi)
- Amend Bill, page 23, line 5, by striking out "(xi)" and inserting (xii)

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

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

Mr. **TALLMAN**. Thank you, Mr. Speaker.

This is a technical amendment. I believe it is agreed to, and we just had to get the dates in conformity with law. Thank you.

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

The following roll call was recorded:

YEAS—188

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

DeLozier	Josephs	Perry	Watson
DeLuca	Kampf	Petrarca	Wheatley
Denlinger	Kauffman	Petri	White
DePasquale	Kavulich	Pickett	Youngblood
Dermody	Keller, F.	Preston	
DiGirolamo	Keller, M.K.	Pyle	Smith, S.,
Donatucci	Killion	Quigley	Speaker
Dunbar	Kirkland		

NAYS—0

NOT VOTING—0

EXCUSED—8

Adolph	Davis	Keller, W.	Murphy
Daley	Hackett	Maher	Swanger

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

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

\* \* \*

The House proceeded to second consideration of **HB 2116, PN 2942**, entitled:

An Act amending the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, providing for a transition from township treasurers to tax collectors in first class townships; and making editorial changes.

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

Mr. **TALLMAN** offered the following amendment  
No. **A09956**:

- Amend Bill, page 8, line 18, by striking out "2014" and inserting 2013
- Amend Bill, page 8, line 29, by striking out "12" and inserting 6

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

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

Mr. **TALLMAN**. Thank you, Mr. Speaker.

Again, this is a technical amendment to correct the dates, and I believe it is an agreed-to amendment.

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

(Members proceeded to vote.)

LEAVE OF ABSENCE CANCELED

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

CONSIDERATION OF HB 2116 CONTINUED

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

The following roll call was recorded:

YEAS—189

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

NAYS—0

NOT VOTING—0

EXCUSED—7

Daley Davis	Hackett Keller, W.	Maher Murphy	Swanger
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

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

(Bill as amended will be reprinted.)

\* \* \*

The House proceeded to second consideration of **HB 254, PN 2963**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for learners' permits.

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

Mr. GROVE offered the following amendment No. **A09899**:

Amend Bill, page 1, line 9, by inserting after "AMENDED" and the section is amended by adding a subsection  
Amend Bill, page 2, line 24, by striking out all of said line and inserting  
applicant has:

- (i) completed 65 hours of practical driving
- Amend Bill, page 2, line 25, by inserting a bracket before the comma after "EXPERIENCE"
- Amend Bill, page 2, line 25, by inserting after "INCLUDING" ] accompanied as required under subsection (b); and

(ii) except for a Class M license to operate a motorcycle, the 65 hours included

Amend Bill, page 2, line 26, by inserting a bracket before the comma after "DRIVING"

Amend Bill, page 2, line 30, by inserting a bracket after "CERTIFICATION"

Amend Bill, page 3, line 8, by striking out "Complete" and inserting

For a Class M license to operate a motorcycle, present evidence of successful completion of

Amend Bill, page 3, lines 9 and 10, by striking out "as a requirement for obtaining a Class M junior" in line 9 and "driver's license" in line 10

Amend Bill, page 3, by inserting between lines 11 and 12  
(g) Liability.—Submission of a certification under subsection (e)(2) shall not subject the parent, guardian, person in loco parentis or spouse of a married minor to any liability based upon the certification.

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

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

Mr. GROVE. Thank you, Mr. Speaker.

Amendment A9899, per the Department of Transportation's request, will ensure junior licensees who are applying for their class M motorcycle license will not be subject to the 10 hours of nighttime driving and 5 hours of inclement weather as part of the required practical experience for minors who have a learner's permit, Mr. Speaker.

I appreciate the colleagues' indulgence in getting this amendment into the bill. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—189

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

NAYS—0

NOT VOTING—0

EXCUSED—7

Daley Davis	Hackett Keller, W.	Maher Murphy	Swanger
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

**APPROPRIATIONS COMMITTEE MEETING**

The SPEAKER. Is the gentleman, Mr. Adolph, seeking recognition for the purpose of calling a committee meeting?

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I would like to call an immediate Appropriations Committee meeting in the majority caucus room. Thank you.

The SPEAKER. For the information of the members, there is an immediate meeting of the Appropriations Committee in the majority caucus room; an immediate meeting of the House Appropriations Committee in the majority caucus room.

The House will go at ease for a few minutes for the duration of that meeting.

The House will come to order.

**LEAVE OF ABSENCE CANCELED**

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence on the floor of the gentleman from Philadelphia, Mr. William Keller. His name will be added back to the master roll call, without objection.

**BILLS REREPORTED FROM COMMITTEE**

**HB 65, PN 3424**

By Rep. ADOLPH

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, providing for Internet gambling public awareness campaign and for revocation and auction of slot machine license; further providing for Category 2 slot machine license, for number of slot machine licenses and for table game taxes; and providing for prohibition on use of State funds.

APPROPRIATIONS.

**HB 527, PN 494**

By Rep. ADOLPH

An Act establishing an emergency medical services memorial flag; and imposing duties on the Pennsylvania Emergency Health Services Council and the Bureau of Emergency Medical Services in the Department of Health.

APPROPRIATIONS.

**HB 2300, PN 3320**

By Rep. ADOLPH

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for exemptions and special provisions.

APPROPRIATIONS.

**SB 1141, PN 1909**

By Rep. ADOLPH

An Act amending the act of November 29, 2004 (P.L.1282, No.158), known as the Manufactured Housing Improvement Act, expanding the coverage of the act to relocated housing.

APPROPRIATIONS.

**BILLS ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 1908, PN 2598**, entitled:

An Act providing for standards for towing and for violations.

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

Mr. **DeLUCA** offered the following amendment  
No. **A09274**:

Amend Bill, page 4, line 15, by inserting after "with"  
and less stringent than

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

The SPEAKER. The House will please come to order. The members will please hold the conversations down. It is extremely loud. I appreciate if the members would take the conversations to the rear of the House. Thank you.

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to offer amendment 09274. This is a technical amendment simply clarifying the language in section 5(a) dealing with the preemption. The current language reads "...are in conflict with..." and we are amending this language to read "...are in conflict with and less stringent than..." thereby making HB 1908 the minimum for towing and storage standards in the Commonwealth and allowing municipalities to pass stronger towing ordinances. We are only setting a floor in this statute to get this commonsense standard on the books.

This amendment was requested by the township supervisors and supported by the Insurance Department, the Insurance Federation, the Attorney General, and the AAA (American Automobile Association).

I ask for an affirmative vote on this amendment, Mr. Speaker. 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. Micozzie.

Mr. MICOZZIE. Mr. Speaker, this is an agreed-to amendment.

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

Is the gentleman from Delaware County, Mr. Barrar, seeking recognition on the amendment? The gentleman is in order on the amendment.

Mr. BARRAR. Mr. Speaker, could I ask the maker of the amendment – to interrogate the maker of the amendment?

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

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, where I live a lot of the municipalities in the district that I represent already have contracts in place dealing with towing situations. They probably have exclusive contracts with one or two towers within their township. How would this amendment affect the contract that is currently in place?

Mr. DeLUCA. Mr. Speaker, I could not hear. Would you restate that, please.

Mr. BARRAR. My question is, if a municipality currently has a contract that is in place that has been signed, it is a 5-year contract, and they have provisions in their contract that are less stringent than this, how does this affect their current contract?

Mr. DeLUCA. If it is less stringent?

Mr. BARRAR. Less stringent than—

Mr. DeLUCA. Then it would certainly void that contract under the law when this law passes. If it is more stringent, then it is okay. This sets the floor.

Mr. BARRAR. Can we pass legislation that would null and void a contract that a township currently has in place?

Mr. DeLUCA. It is my understanding, Mr. Speaker, when we put these statutes into law, we can do that. That is a contract between, if I am not mistaken, your towers and your municipalities. This bill finally puts into legislation some standards for towing in this Commonwealth, that towers have been ripping off the consumers out there—

Mr. BARRAR. We—

Mr. DeLUCA. —let me finish – the towers have been ripping off the consumers out there, and this is a consumer piece of legislation.

Mr. BARRAR. Thank you.

You really did not answer my question. I said—

Mr. DeLUCA. I did answer your question.

Mr. BARRAR. —what is in the contract that makes the contract null and void?

The SPEAKER. Will the gentleman suspend.

Kindly keep the interrogation in the form of a question and an answer.

Mr. BARRAR. Thank you, Mr. Speaker.

What is the result on the contract? Are you saying that the contract signed, put into place by the municipality then would become null and void if it is less stringent than the bill we are about to pass?

Mr. DeLUCA. Let me apologize to you. Let me say that evidently I was misinformed. It will not affect those contracts. It will affect the future contracts. So I apologize on my first statement to you.

Mr. BARRAR. Thank you, Mr. Speaker. That is all I have.



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

The following roll call was recorded:

YEAS—190

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

NAYS—0

NOT VOTING—0

EXCUSED—6

Daley	Hackett	Murphy	Swanger
Davis	Maher		

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

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

Mrs. **WATSON** offered the following amendment  
No. **A09952**:

Amend Bill, page 2, line 25, by striking out all of said line and inserting

(c) Accident.—

(1) A tow truck operator shall undertake towing

Amend Bill, page 2, by inserting between lines 29 and 30

(2) Except as set forth in paragraph (3), the owner of the vehicle being towed has the right to designate:

(i) the tow truck operator under paragraph (1);

and

(ii) the location where the vehicle is to be towed.

(3) Paragraph (2) shall not apply if:

(i) the owner is incapable of making the designation; or

(ii) a law enforcement officer prohibits the designation because the vehicle is a hazard or impedes the flow of traffic. A law enforcement officer acting under this subparagraph shall make every reasonable effort to ensure that the owner of the vehicle has the right to make the designation under paragraph (2) when the vehicle is no longer a hazard or impediment to the flow of traffic and is safely removed to the side of the highway.

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

The **SPEAKER**. On that question, the Speaker recognizes the lady from Bucks County, Mrs. Watson.

Mrs. **WATSON**. Thank you, Mr. Speaker.

This amendment is consumer-friendly, and I should know because I am one of the consumers from last summer, having been the victim in a very serious auto accident. Certainly to all my constituents who I knew when they talked to me about how important it was to have a say in what happens after the accident, I understood, but now I fully understand. That is what this amendment is, Mr. Speaker. It will give then the driver, the person in charge of that vehicle, they have the opportunity, they are required, that they get to say, as long as they are physically able and as long as the vehicle is not blocking the roadway, they get to say where that car will be towed.

Very important in a case, like my own case, they paid for that privilege for years and years and have a membership to an organization where they get free towing. As long as they are physically able to make a decision, as long as the vehicle is not blocking a roadway, they should have that first right to make that decision. That is what this amendment does, Mr. Speaker. 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. Micozzie.

Mr. **MICOZZIE**. This is an agreed-to amendment.

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. DeLuca.

Mr. **DeLUCA**. Thank you. Thank you, Mr. Speaker.

I support the Watson amendment. I think it is a good commonsense amendment, and I want to commend the lady for introducing this amendment. Thank you, Mr. Speaker.

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

(Members proceeded to vote.)

**LEAVE OF ABSENCE CANCELED**

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

**CONSIDERATION OF HB 1908 CONTINUED**

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

The following roll call was recorded:

**YEAS—191**

Adolph	Ellis	Kirkland	Quigley
Aument	Emrick	Knowles	Quinn
Baker	Evankovich	Kortz	Rapp
Barbin	Evans, D.	Kotik	Ravenstahl
Barrar	Evans, J.	Krieger	Readshaw
Bear	Everett	Kula	Reed
Benninghoff	Fabrizio	Lawrence	Reese
Bishop	Farry	Longiotti	Roe
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	Samuelson
Briggs	Gerber	Marsico	Santarsiero
Brooks	Gergely	Masser	Santoni
Brown, R.	Gibbons	Matzie	Saylor
Brown, V.	Gillen	McGeehan	Scavello
Brownlee	Gillespie	Metcalfe	Schroder
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causar	Grove	Miller	Staback
Christiana	Hahn	Milne	Stephens
Clymer	Haluska	Mirabito	Stern
Cohen	Hanna	Moul	Stevenson
Conklin	Harhai	Mullery	Sturla
Costa, D.	Harhart	Mundy	Tallman
Costa, P.	Harkins	Murt	Taylor
Cox	Harper	Mustio	Thomas
Creighton	Harris	Myers	Tobash
Cruz	Heffley	Neuman	Toepel
Culver	Helm	O'Brien, M.	Toohil
Curry	Hennessey	O'Neill	Truitt
Cutler	Hess	Oberlander	Turzai
Davidson	Hickernell	Parker	Vereb
Day	Hornaman	Pashinski	Vitali
Deasy	Hutchinson	Payne	Vulakovich
DeLissio	Josephs	Payton	Waters
Delozier	Kampf	Peifer	Watson
DeLuca	Kauffman	Perry	Wheatley
Denlinger	Kavulich	Petrarca	White
DePasquale	Keller, F.	Petri	Youngblood
Dermody	Keller, M.K.	Pickett	
DiGirolamo	Keller, W.	Preston	Smith, S.,
Donatucci	Killion	Pyle	Speaker
Dunbar			

NAYS—0

NOT VOTING—0

EXCUSED—5

Daley Hackett Murphy Swanger  
Davis

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. **A10018**:

- Amend Bill, page 1, line 5, by inserting after "the"
  - Emergency
- Amend Bill, page 1, by inserting between lines 10 and 11
  - "Authority." A municipal police department, regional police force or individual barracks of the Pennsylvania State Police.
- "Department." The Department of Transportation of the Commonwealth.
- "Rotation list." A list of towing companies maintained and utilized by an authority for emergency towing services.
- Amend Bill, page 1, by inserting between lines 13 and 14
  - "Towed vehicle." A vehicle that has been towed from the scene of a vehicle accident by a tow truck operator and is located at a towing storage facility.
- Amend Bill, page 1, line 14, by striking out "motor"
- Amend Bill, page 2, line 1, by striking out "motor"
- Amend Bill, page 2, line 5, by striking out "motor"
- Amend Bill, page 2, line 6, by striking out "motor"
- Amend Bill, page 2, by inserting between lines 8 and 9
  - "Vehicle." Any device upon or by which any person or property is or may be transported or drawn upon a highway. The term does not include:
    - (1) A device used exclusively upon rails or tracks.
    - (2) A self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.
- Amend Bill, page 2, line 11, by striking out "requisites" and inserting
  - rule
- Amend Bill, page 2, line 14, by inserting after "(2)"
  - be
- Amend Bill, page 2, line 14, by striking out "register the tow truck" and inserting
  - registered with the department in accordance with 75 Pa.C.S. Ch. 13 (relating to registration of vehicles)
- Amend Bill, page 2, line 16, by striking out "its" and inserting
  - the
- Amend Bill, page 2, line 16, by inserting after "truck" where it occurs the first time
  - operator or
- Amend Bill, page 2, line 16, by striking out "and"
- Amend Bill, page 2, lines 19 and 20, by striking out "." in line 19 and all of line 20 and inserting
  - ;
  - (5) maintain a license to collect taxes; and
  - (6) carry the types and amounts of insurance required under 75 Pa.C.S. Ch. 17 (relating to financial responsibility) and

any other laws.

(b) Time of notice.—

(1) At the scene of an accident, a tow

Amend Bill, page 2, line 21, by inserting after "the" where it occurs the first time  
vehicle

Amend Bill, page 2, lines 21 and 22, by striking out "of the " in line 21 and "vehicle" in line 22

Amend Bill, page 2, line 23, by striking out "a point of contact to be informed" and inserting  
the location

Amend Bill, page 2, line 24, by striking out "is to" and inserting  
will

Amend Bill, page 2, by inserting between lines 24 and 25

(2) If the vehicle owner or operator is not present or is not capable of receiving the information required under paragraph (1), the tow truck operator shall provide the information to the appropriate law enforcement officer in charge at the scene of the accident.

Amend Bill, page 2, lines 26 through 29, by striking out all of said lines and inserting  
at the scene of a vehicle accident if the tow truck operator is:

(1) summoned to the scene by the vehicle owner, operator or an authority; and

(2) authorized by the vehicle owner or operator or an authority to perform the towing.

Amend Bill, page 3, line 3, by striking out "vehicle" where it occurs the second time

Amend Bill, page 3, line 6, by striking out "vehicle" where it occurs the second time

Amend Bill, page 3, lines 9 through 20, by striking out all of said lines and inserting

(e) Access to vehicle.—

(1) A towing

Amend Bill, page 3, lines 21 and 22, by striking out "provide hours of operation that " in line 21 and "reasonably allow access to a towed vehicle and shall" in line 22

Amend Bill, page 3, line 24, by inserting after "by"  
an authority,

Amend Bill, page 3, line 25, by striking out "or authorized municipal personnel" and inserting  
other than an authority

Amend Bill, page 3, line 27, by inserting after "act"

, unless access to a towed vehicle is restricted by law enforcement

Amend Bill, page 3, by inserting between lines 27 and 28

(2) The owner of a vehicle that has been towed from the scene of a vehicle accident and placed in a towing storage facility, or a person authorized in writing by the owner, shall have the right to access and remove personal property from the vehicle during the posted hours of operation of the towing storage facility, unless access to a towed vehicle is restricted by law enforcement.

(f) Release of towed vehicle.—Upon a request from the vehicle owner or a person authorized in writing by the owner to regain possession, a tow truck operator or operator of a towing storage facility may not refuse during the posted hours of operation to release a towed vehicle unless law enforcement has requested that the vehicle be held. Release shall be conditioned on the payment for all authorized towing, storage and related services. All charges shall be itemized and in writing and payment may be made with cash, credit card from a common issuer or a check from an insurance company or authorized tower or salvor acting on behalf of the motor vehicle owner or insurance company.

Amend Bill, page 4, lines 1 through 6, by striking out "has " in line 1, all of lines 2 through 5 and "Physical Damage Appraiser Act" in line 6 and inserting

(f)

Amend Bill, page 4, lines 7 through 10, by striking out all of said lines and inserting

Section 4. Rotation lists.

(a) General rule.—An authority may establish a fair and equitable rotation list for emergency towing.

(b) Eligibility.—An authority which chooses to establish an emergency towing rotation list shall allow application and participation by any tow truck operator or business which complies with this act.

(c) Removal.—An authority which maintains an emergency towing rotation list may remove a rotation list participant upon written notice which has been provided no less than 14 days prior to removal. The notice shall include:

(1) The specific reason for the removal.

(2) The length of time for which the removal will be in effect.

(3) Information as to how the rotation list participant may dispute or appeal the reason for removal.

(d) Refusal.—Notwithstanding subsections (b) and (c), an authority may refuse eligibility to a rotation list applicant or provide for immediate removal of a rotation list participant who is or employs a person subject to registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

Section 5. Publication of logs and lists.

All rotation lists, records of towing rotation lists, rotation list applications, formal contracts with towing companies, towing logs or other related documents and information maintained by an authority shall be public records which are accessible under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Section 6. Violations.

(a) General rule.—A violation of this act constitutes a summary offense under 75 Pa.C.S. § 6502 (relating to summary offenses).

(b) Additional penalty.—In addition to subsection (a), a violation of this act shall be a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Amend Bill, page 4, line 11, by striking out "5" and inserting  
7

Amend Bill, page 4, line 14, by inserting after "regulate"  
emergency

Amend Bill, page 4, lines 14 and 15, by striking out "that are in " in line 14 and "conflict" in line 15 and inserting  
in a manner which conflicts

Amend Bill, page 4, by inserting between lines 22 and 23

Section 8. Promulgation of regulations by department.

Except as preempted or superseded by Federal or State law, the department shall promulgate regulations to implement the provisions of this act.

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN TEMPORARILY

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

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, is there any chance that we could go back to amendment 10017, the amendment filed before this? I am sorry; it is 10017.

The SPEAKER. Just suspend one minute, please.

The amendment A10018 is withdrawn temporarily.

On the question recurring,

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

Mr. **BARRAR** offered the following amendment No. **A10017**:

Amend Bill, page 3, lines 16 through 19, by striking out "Payment may be made " in line 16 and all of lines 17 through 19

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.

Mr. Speaker, this amendment deletes the provision in the bill that requires towing companies must accept cash, credit cards, or checks as a payment, for payment, and I cannot think of any other business that we actually go out there and mandate that they must accept certain types of different payments. There have actually been some lawsuits filed against this that have been in Federal court that have struck this provision down in other States, and I would ask that the members vote "yes" for this amendment, please.

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

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

Mr. **MICOZZIE**. Could the Representative stand for interrogation?

The **SPEAKER**. The gentleman indicates he will stand for interrogation.

Just one minute, please. Will the members please hold the conversations down. Could we break up this big huddle. I apologize; it is just too loud. Will the members kindly hold the conversations down. It is difficult to hear during interrogation. I would appreciate if the members would please hold the conversations down. Thank you.

You may proceed with interrogation.

Mr. **MICOZZIE**. Mr. Speaker, does your amendment take away any reference to cash or credit card?

Mr. **BARRAR**. It just strikes out, takes out, the "credit card" term in there. Credit cards cost money to maintain. As a small business owner myself, there is a fee with certain credit cards that can be at times very, very high. So that is the main reason we wanted to do this. And plus, there is a lot of credit card fraud in today's world, and I think we are exposing these guys who run towing services unnecessarily to fraud.

Mr. **MICOZZIE**. So if my understanding is correct, Mr. Speaker, it will be just cash and insurer's check that the tower can accept?

Mr. **BARRAR**. Well, what we are doing is changing the mandate. The towers can accept whatever they want. I do not think it is right for us to mandate a certain type of payment. We do not mandate what type of payment barbers or doctors have to take. Why are we mandating it here? Plus, Federal law says that we cannot do it.

Mr. **MICOZZIE**. Mr. Speaker, I understand that. My question is, the credit card part of the mandate is out of there by your amendment?

Mr. **BARRAR**. Yes; that is right.

Mr. **MICOZZIE**. Okay.

Mr. Speaker, I end my interrogation and I have a comment.

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

Mr. **MICOZZIE**. Mr. Speaker, the purpose of the cash— First of all, I know of no other business that does not accept cash; that is number one.

Number two, suppose the bill at that time is \$800. No one carries \$800 around in a car or on their person. Maybe the Speaker does, but nobody else does. So I think it is just another amendment that frustrates the rights of the consumer as far as his rights in HB 1908. So I ask a "no" vote on amendment A10017.

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. DeLuca.

Mr. **DeLUCA**. Thank you, Mr. Speaker.

Mr. Speaker, I oppose this amendment too. We debated this the last session pertaining to cash only and not using a credit card, and some of the bills that we had hearings on were just outrageous. There was no way that the individual could possibly get his car out or his truck, whatever vehicle it was, because of the fact he did not have access to that cash. Therefore, what we have put into the bill was that you should have any way of paying for it. What this does is, it is an anticonsumer piece of legislation, because the fact is, you cannot take your vehicle out. You are going to have to pay more in storage till you end up getting that cash and it will end up being a cash business, let us not kid ourselves, and there is no reason that we should not allow a consumer today that mainly uses credit cards. Everything we are using anymore is credit cards, and we pay our bills with credit cards, we do everything with credit cards, and to specify that towers cannot use a credit card is totally outrageous.

And I certainly would oppose this amendment, and I think that I would ask this side of the aisle to vote "no" on this amendment.

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

On that question, the Speaker recognizes the gentleman from Schuylkill County, Mr. Tobash.

Mr. **TOBASH**. Thank you, Mr. Speaker.

I also rise to oppose this amendment. I have seen many of these towing bills get into the thousands of dollars, and not allowing and requiring for multiple payment methods, like we have for so many other services that we are provided, just is unreasonable. I have seen instances where people who have had their vehicles towed end up at that storage facility and they are turned away. It is an impediment for picking up that vehicle after the service has been rendered, and it just drives up the cost of doing business.

So I rise in opposition to this amendment so that we can allow the consumer to have the protection and the availability of other payment methods. Thank you.

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

On that question, the Speaker recognizes the gentleman from Butler County, Mr. Ellis.

Mr. **ELLIS**. Thank you very much, Mr. Speaker.

To kind of follow up on the last speaker, I would also request opposition to this amendment for the cash-only reason. There are many instances where folks are not carrying cash nowadays. It happens in every other line of business, and this business is no different.

But what we have to focus on is what this amendment does to the underlying bill. The bill itself has been worked on for a long time, and I applaud the chairman for his efforts. This amendment takes away one of the key ingredients of the legislation, which is to hasten the process of the customer getting their car back. If you are delaying someone because they do not get paid until Friday to get cash and come in and pay, you have delayed the process of them getting their car back for 5 days, which increases the cost to the insurance company, which means everybody who pays for car insurance will face a higher rate down the road because of the additional cost. This is a cost saver for everybody in Pennsylvania, whether you are in an accident or not. This amendment changes that.

So I suggest that we oppose the amendment. Thank you very much, 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. Barrar, for the second time.

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, I would ask the members to keep in mind the provisions of this bill are only valid when that tow, the towing taking place, is done as the result of an accident. If it is a penalty tow, the provisions of this bill are not in effect. Okay.

Also, I would like to read into the record the U.S. Ninth District Court of Appeals ruled in *Tocher v. City of Santa Ana* that the city could not force a towing service to accept credit cards, as the towing service is preempted by Federal law under the Federal Aviation Administration Authority Act of 1995. Simply stated, the court said, "Forcing Towing Services to accept credit cards affects the business transaction between a customer and a towing service." The court also said, the same goes for— That part is not relevant. Sorry, Mr. Speaker.

But I would ask the members to vote "yes" in favor 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 Delaware County, Mr. Micozzie, for the second time.

Mr. MICOZZIE. Mr. Speaker, I am told that the city of Philadelphia has an ordinance that a tower cannot only accept cash. So I do not know as far as this decision by the courts. I have not seen that.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—10

Barrar	Kavulich	Miccarelli	Smith, K.
Carroll	Lawrence	Mullery	Truitt
Gillen	Metzgar		

NAYS—181

Adolph	Dunbar	Killion	Quinn
Aument	Ellis	Kirkland	Rapp
Baker	Emrick	Knowles	Ravenstahl
Barbin	Evankovich	Kortz	Readshaw
Bear	Evans, D.	Kotik	Reed
Benninghoff	Evans, J.	Krieger	Reese

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

NOT VOTING—0

EXCUSED—5

Daley	Hackett	Murphy	Swanger
Davis			

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. **BARRAR** reoffered the following amendment No. **A10018**:

Amend Bill, page 1, line 5, by inserting after "the" Emergency  
Amend Bill, page 1, by inserting between lines 10 and 11 "Authority." A municipal police department, regional police force or individual barracks of the Pennsylvania State Police.  
"Department." The Department of Transportation of the Commonwealth.  
"Rotation list." A list of towing companies maintained and utilized by an authority for emergency towing services.  
Amend Bill, page 1, by inserting between lines 13 and 14 "Towed vehicle." A vehicle that has been towed from the scene of a vehicle accident by a tow truck operator and is located at a towing

storage facility.

Amend Bill, page 1, line 14, by striking out "motor"

Amend Bill, page 2, line 1, by striking out "motor"

Amend Bill, page 2, line 5, by striking out "motor"

Amend Bill, page 2, line 6, by striking out "motor"

Amend Bill, page 2, by inserting between lines 8 and 9

"Vehicle." Any device upon or by which any person or property is or may be transported or drawn upon a highway. The term does not include:

(1) A device used exclusively upon rails or tracks.

(2) A self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

Amend Bill, page 2, line 11, by striking out "requisites" and

inserting

rule

Amend Bill, page 2, line 14, by inserting after "(2)"

be

Amend Bill, page 2, line 14, by striking out "register the tow truck" and inserting

registered with the department in accordance with 75 Pa.C.S. Ch. 13 (relating to registration of vehicles)

Amend Bill, page 2, line 16, by striking out "its" and inserting the

Amend Bill, page 2, line 16, by inserting after "truck" where it occurs the first time

operator or

Amend Bill, page 2, line 16, by striking out "and"

Amend Bill, page 2, lines 19 and 20, by striking out "." in line 19 and all of line 20 and inserting

;

(5) maintain a license to collect taxes; and

(6) carry the types and amounts of insurance required under 75 Pa.C.S. Ch. 17 (relating to financial responsibility) and any other laws.

(b) Time of notice.—

(1) At the scene of an accident, a tow

Amend Bill, page 2, line 21, by inserting after "the" where it occurs the first time

vehicle

Amend Bill, page 2, lines 21 and 22, by striking out "of the " in line 21 and "vehicle" in line 22

Amend Bill, page 2, line 23, by striking out "a point of contact to be informed" and inserting

the location

Amend Bill, page 2, line 24, by striking out "is to" and inserting will

Amend Bill, page 2, by inserting between lines 24 and 25

(2) If the vehicle owner or operator is not present or is not capable of receiving the information required under paragraph (1), the tow truck operator shall provide the information to the appropriate law enforcement officer in charge at the scene of the accident.

Amend Bill, page 2, lines 26 through 29, by striking out all of said lines and inserting

at the scene of a vehicle accident if the tow truck operator is:

(1) summoned to the scene by the vehicle owner, operator or an authority; and

(2) authorized by the vehicle owner or operator or an authority to perform the towing.

Amend Bill, page 3, line 3, by striking out "vehicle" where it occurs the second time

Amend Bill, page 3, line 6, by striking out "vehicle" where it occurs the second time

Amend Bill, page 3, lines 9 through 20, by striking out all of said lines and inserting

(e) Access to vehicle.—

(1) A towing

Amend Bill, page 3, lines 21 and 22, by striking out "provide hours of operation that " in line 21 and "reasonably allow access to a towed vehicle and shall" in line 22

Amend Bill, page 3, line 24, by inserting after "by" an authority,

Amend Bill, page 3, line 25, by striking out "or authorized municipal personnel" and inserting other than an authority

Amend Bill, page 3, line 27, by inserting after "act"

, unless access to a towed vehicle is restricted by law enforcement

Amend Bill, page 3, by inserting between lines 27 and 28

(2) The owner of a vehicle that has been towed from the scene of a vehicle accident and placed in a towing storage facility, or a person authorized in writing by the owner, shall have the right to access and remove personal property from the vehicle during the posted hours of operation of the towing storage facility, unless access to a towed vehicle is restricted by law enforcement.

(f) Release of towed vehicle.—Upon a request from the vehicle owner or a person authorized in writing by the owner to regain possession, a tow truck operator or operator of a towing storage facility may not refuse during the posted hours of operation to release a towed vehicle unless law enforcement has requested that the vehicle be held. Release shall be conditioned on the payment for all authorized towing, storage and related services. All charges shall be itemized and in writing and payment may be made with cash, credit card from a common issuer or a check from an insurance company or authorized tower or salvor acting on behalf of the motor vehicle owner or insurance company.

Amend Bill, page 4, lines 1 through 6, by striking out "has " in line 1, all of lines 2 through 5 and "Physical Damage Appraiser Act" in line 6 and inserting

(f)

Amend Bill, page 4, lines 7 through 10, by striking out all of said lines and inserting

Section 4. Rotation lists.

(a) General rule.—An authority may establish a fair and equitable rotation list for emergency towing.

(b) Eligibility.—An authority which chooses to establish an emergency towing rotation list shall allow application and participation by any tow truck operator or business which complies with this act.

(c) Removal.—An authority which maintains an emergency towing rotation list may remove a rotation list participant upon written notice which has been provided no less than 14 days prior to removal. The notice shall include:

(1) The specific reason for the removal.

(2) The length of time for which the removal will be in effect.

(3) Information as to how the rotation list participant may dispute or appeal the reason for removal.

(d) Refusal.—Notwithstanding subsections (b) and (c), an authority may refuse eligibility to a rotation list applicant or provide for immediate removal of a rotation list participant who is or employs a person subject to registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

Section 5. Publication of logs and lists.

All rotation lists, records of towing rotation lists, rotation list applications, formal contracts with towing companies, towing logs or other related documents and information maintained by an authority shall be public records which are accessible under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Section 6. Violations.

(a) General rule.—A violation of this act constitutes a summary offense under 75 Pa.C.S § 6502 (relating to summary offenses).

(b) Additional penalty.—In addition to subsection (a), a violation of this act shall be a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and

Consumer Protection Law.

Amend Bill, page 4, line 11, by striking out "5" and inserting  
7

Amend Bill, page 4, line 14, by inserting after "regulate"  
emergency

Amend Bill, page 4, lines 14 and 15, by striking out "that are in "  
in line 14 and "conflict" in line 15 and inserting  
in a manner which conflicts

Amend Bill, page 4, by inserting between lines 22 and 23  
Section 8. Promulgation of regulations by department.

Except as preempted or superseded by Federal or State law, the  
department shall promulgate regulations to implement the provisions of  
this act.

On the question recurring,  
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.

Mr. Speaker, this amendment has quite a few provisions in it  
that the towers have asked for, the stakeholders in this. I have  
had numerous stakeholder meetings with the towers in my area,  
and they have a lot of concerns about the bill. They support the  
consumer protections in the bill that are in this part of the bill,  
but there are certain areas that they are not sure of, and actually,  
I think this bill, besides providing consumer protection, should  
also elevate the professionalism of the industry, which they are  
in favor of. They are not opposed to this. I know I have had  
more meetings with the towers in the last 2 years than anybody  
has.

Some of the provisions of this omnibus amendment will be  
that my amendment will add and define the following terms. It  
adds definitions for "authority," "department," "rotation list,"  
"towed vehicle," and "vehicle." It also adds to the list of  
requirements for tow truck operators the following: that they  
must maintain a license to collect all taxes, carry the types and  
amount of insurance required in accordance with Title 75 and  
the other applicable laws; requires that tow truck operators  
provide all towing information to the appropriate law  
enforcement officer, which in a situation it is important, because  
in a situation where the driver is unable to get the information  
where the car was towed, this allows the tow truck operator to  
give that information to the police officer, so when the family  
tries to find out where the car had been towed, they are going to  
be told by the police officer, because they are not going to know  
who the towing guy was. It provides that the owner of the  
vehicle or their designee shall have access to the vehicle to  
remove personal property from the vehicle during the posted  
hours, and then it establishes a due process for the towers if they  
are taken off a rotation list.

Now, listen, I want to be very clear, this bill in no way,  
shape, or form establishes or requires townships, municipalities,  
cities to go to a rotation list. It only says, if the township or  
municipality has a rotation list, that the tower is entitled to some  
due process. I would think that is something in the room here  
we are all in favor of. It says that if the tower— It provides that  
the authority that utilizes a rotation list do so by providing a list  
of participants with a 14-day written notice before removing  
them from the list. The written notice must contain the  
following: the specific reason for the removal, the length of  
time for which the removal will be in effect, and information as  
to how the rotation list participant may dispute or appeal the

reason for removal. It also authorizes an authority to refuse  
participation on a rotation list for a person who – for a company  
that has employed someone who is a registered sex offender. It  
requires all towing rotation list documents be subject to the  
Right-to-Know Law and provides an additional penalty and  
making it a summary offense for violation of these acts.

I would ask the members for a "yes" vote on this. Thank you.

## LEAVE OF ABSENCE

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

## CONSIDERATION OF HB 1908 CONTINUED

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

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

Mr. MICOZZIE. Mr. Speaker, I am sure everyone in this  
chamber has understood exactly my colleague from Delaware  
County. If you understand everything he said, you are a better  
man than I am and a genius.

Now, he also has amendments, if this fails, he has  
amendments and is going to outline each one of them. So I am  
asking, instead of going through a long debate – what he is  
proposing is complex; remember, HB 1908 is for the duties of a  
tower and a storage facility and the rights of our consumer; it is  
consumer protection – so I am asking you for a "no" vote on  
amendment A10018. 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. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I also ask this side for a "no" vote.

We have discussed this legislation for 4 years. We finally  
have an agreement, and all this amendment does is gut the  
agreement we have on this legislation that we sent over to the  
Senate – unfortunately, it got there too late – to have this  
legislation pass that would save the consumers and the  
insurance industry. As one of the previous members on the  
other side says, we are looking at this as a consumer and saving  
money on behalf of the insurance industry out there, which  
saves us all money. To go into every aspect of what the maker  
of this amendment espouses right now would certainly take a  
long time to really look at it.

But I am just asking this side for a "no" vote along with the  
majority chairman. This is nothing but an amendment that will  
kill this legislation, and I have not heard anything discussed  
before on this issue in the hearings we had pertaining to what a  
problem this was on some of the issues he alluded to. So  
I would appreciate a "no" vote on this side of the aisle.

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

On that question, the Speaker recognizes the gentleman from  
Schuylkill County, Mr. Tobash.

Mr. TOBASH. Thank you, Mr. Speaker.

I also rise in opposition to this amendment.

Particularly – as the maker of the amendment had mentioned, there are many parts to it – but I rise particularly for one part, the element of the amendment where it requires the person who has had their vehicle towed to have someone who is authorized in writing to pick up that vehicle. As a result of that, in the real world after an automobile accident, you will go to get that vehicle or have your body shop go to get it or have the insurer go to pick up that vehicle, and requiring a written authorization will add days or possibly weeks to that process and make it more difficult and again drive up the cost of doing business for everyone in the marketplace.

So as a result of that element of this amendment, I ask my colleagues for a "no" vote on 10018. 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. Vulakovich.

Mr. VULAKOVICH. Mr. Speaker, I would like to speak on the bill.

The SPEAKER. The amendment before us?

Mr. VULAKOVICH. The amendment; yes, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. VULAKOVICH. I do not get up very often and speak, but I think this is an occasion here.

Look, sooner or later we have to accept the fact that certain bills are going to be addressed a certain way and we reach a point in time where we understand we cannot mix things. This is like oil and water. This is a consumer bill. It has been around for a while to protect the consumers. We gave a shot at it to try to also protect some of the things and help the towers out too, but it does not work. So what we need to do is just face reality here to where we are at a point now where this bill has been tweaked. We have agreements on certain issues and we need to go through with this bill to protect the consumers. I have no problem with being part of addressing the issues on the side of the towers, but I do not believe this is the time to do it. The reality is, it is like oil and water. It is not mixing. So I think we should get away from these amendments and just address the issue from the consumers' point of view.

The other issue is, there is some dispute about rotation. I can tell you as a former law enforcement officer, I do not want to have to worry about keeping logs and statistics and whom I call and whom I do not call. I will answer that to my chief of police or someone else who has a problem about when I call someone to make a tow. That is part of the officer's discretion. You cannot take it away from them. No police department is going to want that. It generally happens on its own in certain situations, but there are certain situations where you cannot be thinking about that.

So on this amendment here, we need to make a "no" vote, and I think just accept the fact that mixing the consumer with protecting the towers is just not going to work here. And we need to get on the business to pass this bill, and it is a good consumer's bill. Thank you.

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

Is the gentleman from Allegheny County, Mr. Turzai, seeking recognition on this amendment? The gentleman from Allegheny County, Mr. Turzai, is recognized on the amendment.

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

Oftentimes on this House floor with important legislation, there are honorably felt or rational perspectives on that particular legislation, but here the underlying bill has been significantly worked upon by so many folks and vetted out on a variety of the issues that I think that it is time to move the bill forward and rise in opposition to this particular amendment.

It is not that there are not some legitimate concerns, but the fact of the matter is, it is a consumer protection bill like my good colleague from Allegheny County said. I do not believe that anybody disagrees that they are commonsense provisions with respect to consumer protection. We want to make sure that consumers are treated fairly with respect to these particular operations, and I would ask that members please vote "no" on this particular amendment and support the underlying bill as it has been worked upon and negotiated.

Thank you very much, Mr. Speaker.

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

Is the gentleman, Mr. Micozzie, seeking recognition for the second time?

The gentleman, Mr. Micozzie, is in order.

Mr. MICOZZIE. Mr. Speaker, is the Representative finished?

The SPEAKER. The gentleman will suspend; the gentleman will suspend.

Mr. MICOZZIE. I am sorry.

The SPEAKER. Traditionally, if at all possible, I try to allow the maker of the amendment to have the last say as a courtesy.

Therefore, the gentleman from Delaware County, Mr. Micozzie, is recognized.

Mr. MICOZZIE. Thank you, Mr. Speaker.

I ask my colleagues on both sides of the aisle to vote "no" on A10018. 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. Barrar.

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, let me clear up a few things that have been said.

First of all, this does not gut or take out one consumer protection. It enhances several of them in here that are not – that this bill is very silent on, one of them being under the HB 1908 bill in the current language, it just says that the car has to be released to whomever the owner of the car authorizes. It does not expand. Who is authorized? Is my ex-wife's husband authorized to come and clean out the personal contents of my car while I am in the hospital unconscious? It does not say. The bill without this amendment does not address that part.

There are other consumer protections in here. One part of the amendment says that the tow truck company must maintain a license to collect taxes. I would think we would want that provision in the bill to protect our interest. It says, "carry the types and amounts of insurance required under..." Act 75. That is a consumer protection, is it not? The bill, HB 1908, currently is silent on that. It requires the tow truck operator to provide all towing information to the law enforcement officer.

When a person has an accident – remember, we are only dealing with accidents here – when a person has a car accident, the first phone call they are going to make to try to recover their car is to the police. Why should the police not be given the



information to tell the consumer where his car was taken? Instead, we put it on the back of the tow truck driver to find the operator and tell him where his car is. It only makes sense.

It provides that any authority utilizing a towing list would be entitled to— A tow truck company that is currently on a rotation list is entitled to due process. That is what we do here. We make sure everyone, regardless of their business, regardless of anything, is entitled to due process. We are talking about the livelihood of these people. There is not one person in this room that ever ran a towing business, but we have three people here that are going to tell them how to do it right. There is not one person that is fit here to really tell a tow industry how to run.

In there it authorizes the authority to refuse participation on a rotation list if they have an employee who is on a sex offender list. That is consumer protection. So to say that there is less consumer protection in here with this amendment is just a bunch of balderdash. I guess that is a word. It requires all towing rotation lists be subject to the Right-to-Know Law. I think that again is another consumer protection.

If you want to enhance this bill and put additional consumer protections in here, I would ask you to support my amendment and vote "yes" on it. Thank you.

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

The following roll call was recorded:

YEAS—14

Barrar	Farry	Metzgar	Moul
Benninghoff	Gillen	Miccarelli	Schroder
Brooks	Hennessey	Milne	Truitt
Delozier	Masser		

NAYS—176

Adolph	Ellis	Knowles	Rapp
Aument	Emrick	Kortz	Ravenstahl
Baker	Evankovich	Kotik	Readshaw
Barbin	Evans, D.	Krieger	Reed
Bear	Evans, J.	Kula	Reese
Bishop	Everett	Lawrence	Roae
Bloom	Fabrizio	Longietti	Rock
Boback	Fleck	Maher	Roebuck
Boyd	Frankel	Mahoney	Ross
Boyle, B.	Freeman	Major	Sabatina
Boyle, K.	Gabler	Maloney	Saccone
Bradford	Geist	Mann	Sainato
Brennan	George	Markosek	Samuelson
Briggs	Gerber	Marshall	Santarsiero
Brown, R.	Gergely	Marsico	Santoni
Brown, V.	Gibbons	Matzie	Saylor
Brownlee	Gillespie	McGeehan	Scavello
Burns	Gingrich	Metcalfe	Simmons
Buxton	Godshall	Micozzie	Smith, K.
Caltagirone	Goodman	Millard	Smith, M.
Carroll	Grell	Miller	Sonney
Causer	Grove	Mirabito	Staback
Christiana	Hahn	Mullery	Stephens
Clymer	Haluska	Mundy	Stern
Cohen	Hanna	Murt	Stevenson
Conklin	Harhai	Mustio	Sturla
Costa, D.	Harhart	Myers	Tallman
Costa, P.	Harkins	Neuman	Taylor
Cox	Harper	O'Brien, M.	Thomas
Crichton	Harris	O'Neill	Tobash

Cruz	Heffley	Oberlander	Toepel
Culver	Helm	Parker	Toohil
Curry	Hess	Pashinski	Turzai
Cutler	Hickernell	Payne	Vereb
Davidson	Hornaman	Payton	Vitali
Day	Hutchinson	Peifer	Vulakovich
Deasy	Josephs	Perry	Waters
DeLissio	Kampf	Petrarca	Watson
DeLuca	Kauffman	Petri	Wheatley
Denlinger	Kavulich	Pickett	White
DePasquale	Keller, F.	Preston	Youngblood
Dermody	Keller, M.K.	Pyle	
DiGirolo	Keller, W.	Quigley	Smith, S.,
Donatucci	Killion	Quinn	Speaker
Dunbar	Kirkland		

NOT VOTING—0

EXCUSED—6

Daley	Galloway	Murphy	Swanger
Davis	Hackett		

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. **BARRAR** offered the following amendment No. **A10043**:

- Amend Bill, page 1, line 5, by inserting after "the" Emergency
- Amend Bill, page 1, by inserting between lines 10 and 11 "Authority." A municipal police department, regional police force or individual barracks of the Pennsylvania State Police.
- "Rotation list." A list of towing companies maintained and utilized by an authority for emergency towing services.
- Amend Bill, page 4, lines 7 through 10, by striking out all of said lines and inserting
- Section 4. Rotation lists.
  - (a) General rule.—An authority may establish a fair and equitable rotation list for emergency towing.
  - (b) Eligibility.—An authority which chooses to establish an emergency towing rotation list shall allow application and participation by any tow truck operator or business which complies with this act.
  - (c) Removal.—An authority which maintains an emergency towing rotation list may remove a rotation list participant upon written notice which has been provided no less than 14 days prior to removal. The notice shall include:
    - (1) The specific reason for the removal.
    - (2) The length of time for which the removal will be in effect.
    - (3) Information as to how the rotation list participant may dispute or appeal the reason for removal.
  - (d) Refusal.—Notwithstanding subsections (b) and (c), an authority may refuse eligibility to a rotation list applicant or provide for immediate removal of a rotation list participant who is or employs a person subject to registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

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.

Mr. Speaker, I carved this amendment out of the omnibus amendment in case it went down, which it did. This would establish a due process for the towing company that would be on a rotation list into this legislation. I think it is important to make sure that these guys' livelihood is protected.

I actually had a tow truck operator who was taken off a State Police towing list because he commingled his trucks. He had two locations. He had three trucks at this location and three trucks at that location, and he actually commingled his trucks and the State Police wanted to suspend him from his livelihood.

There are a lot of issues here with this, but I think we have to have a fair due process clause in here to help the tow truck members. This is their livelihood that we are dealing with, and I would ask the members to support this provision in the bill. 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. Micozzie.

Mr. MICOZZIE. Mr. Speaker, what this amendment does is only delay what we are trying to do as far as protecting our constituents and the consumer. It delays what we should outline, the duties of a tower and a storage facility operator.

If the speaker wants to address these issues and all the amendments that are coming down the pike in a few minutes, put another bill in, have hearings on it, and then we can go from there. This takes away from the objective of HB 1908. I ask a "no" vote.

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I also ask for a "no" vote on this piece of legislation.

Although I am not a tower, I am a consumer, like most of us in this chamber, and also, there are a lot of consumers out there, who are not towers, who are interested in this piece of legislation. Therefore, I would ask that we vote "no" on this. Let us move on the bill. The gentleman from Allegheny made a good statement over there. We should move on this piece of legislation, and therefore I ask that we vote "no" 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. Barrar, for the second time.

Mr. BARRAR. Thank you, Mr. Speaker.

Again, this amendment does not interfere in any way, shape, or form or hinder or delay anything. All it does is establish a due process clause in here. And remember, towers are consumers too. They are running a business and we are dealing with their livelihood. What it says, if they are taken off a rotation list, that within 14 days – now, that could be 14 days without even getting a tow request if they are taken off the list – that they must be provided within 14 days a written notice telling them the specific reason they were removed from the list, the length of time for which the removal will be in effect, and information as to how the rotation list participants may dispute

the claim against them. It is all commonsense stuff. We would not deny any person or any business the right to due process. Why are we going to do it to towers?

I would ask for a "yes" vote. 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. Micozzie.

Mr. MICOZZIE. Mr. Speaker, there is a saying, this is new wine in an old bottle. You just went through the omnibus amendment, 10018, and it was defeated overwhelmingly. I ask for a "no" vote on 10043. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—25

Barrar	Gillen	Marsico	Samuelson
Boyle, B.	Grell	Masser	Schroder
Brooks	Hennessey	Metzgar	Truitt
Delozier	Hornaman	Miccarelli	
Ellis	Keller, M.K.	Milne	Smith, S.,
Freeman	Krieger	Reese	Speaker
Gabler	Lawrence	Saccone	

#### NAYS—165

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

NOT VOTING—0

EXCUSED—6

Daley Davis	Galloway Hackett	Murphy	Swanger
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

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

Mr. **BARRAR** offered the following amendment No. **A10044**:

Amend Bill, page 1, by inserting between lines 10 and 11 "Authority." A municipal police department, regional police force or individual barracks of the Pennsylvania State Police.

"Rotation list." A list of towing companies maintained and utilized by an authority for emergency towing services

Amend Bill, page 4, lines 7 through 10, by striking out all of said lines and inserting  
Section 4. Publication of logs and lists.

All rotation lists, records of towing rotation lists, rotation list applications, formal contracts with towing companies, towing logs or other related documents and information maintained by an authority shall be public records which are accessible 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 Delaware County, Mr. Barrar.

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, this amendment provides that for the publications of rotation lists and logs, that they become subject to documents under the Right-to-Know Law. There are towers that have come to me in the past stating that they had tried to go to the State Police barracks and view the towing logs that are on record at the State Police and they have been denied and have to go through, normally, to hire an attorney and sue them in order to see the logs there. These logs affect their livelihood, they affect their business, and I would ask for a "yes" vote. Let us open these records up. 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. Micozzie.

Mr. MICOZZIE. Thank you, Mr. Speaker.

Again, it is another way to delay the duties, outlining the duties of the tower and the storage facilities, and as well as delaying the rights of our consumers, and this is another way of more paperwork, more delay, keeping track of logs, and so on and so on. So I ask a "no" vote on A10044.

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

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I, too, ask for a "no" vote. You know, I do not know of any private contract out there, unless you are doing business with the State, that is subject to the Right-to-Know Law. Maybe I am misinformed, but if I had a business, I do not think my business is subject to the Right-to-Know Law, unless I had a contract with the State. This makes no sense at all, and I ask for a "no" vote on this. Thank you.

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

Is the gentleman from Delaware County, Mr. Vitali, seeking recognition on the amendment?

Mr. VITALI. Will the maker of the amendment stand for brief interrogation?

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

Mr. VITALI. Just to be clear, just to be clear, your amendment does not require a police barracks or anyone else who maintains these rotation logs, it does not require them to do it, right? It just says, if they do it, it has to be open to the public?

Mr. BARRAR. Absolutely. They already do it. They keep very extensive logs of when they dispatch towers—

Mr. VITALI. Right.

Mr. BARRAR. —to an accident scene. So this would just say, the tower or you, anybody who wants to see these records, they should be open to the Right-to-Know Law.

Mr. VITALI. Right. I mean, you would think.

Do you have any idea why they are not included in the Right-to-Know Law right now?

Mr. BARRAR. From what I understand, they are not included under the Right-to-Know Law. I have had towers come to me and tell me that they have tried to get access to these logs and have not been able to.

Mr. VITALI. Right. And what would be the harm? I am trying to get, what would be the possible harm of letting the public know what these logs are? What are the reasons against it? I am trying to understand why—

Mr. BARRAR. Well, the reason you want to open these up to public record is because in some barracks – and remember, you are dealing with government entities; we all have our favorites – a lot of times they skip over the towers, they will just skip them and go to the towers that they like over the towers that they do not like, and so you have a really unfair situation, because they are the ones who are controlling this guy's day-to-day business. If he is dependent upon that rotation in that towing order to take place and they are skipping over him numerous times, then he is losing money and it is affecting his bottom line.

Mr. VITALI. Okay. Thank you.

Now, Mr. Speaker, will the maker of the bill, the other gentleman from Delaware County, stand for brief interrogation?

The SPEAKER. Will the gentleman, Mr. Micozzie, stand for interrogation? The gentleman may proceed.

Mr. VITALI. Thank you, Mr. Speaker.

Now, I have been voting against these amendments because I have been trying to vote in the public interest, but I am trying to understand why I should vote against this one.

Now, what is the harm in letting the public know about making these records public? Would it not make sure that everything is being done aboveboard and there is no favoritism? What is your reason for opposing letting the public know about these records?

Mr. MICOZZIE. First of all, I am for the right to know and open records; I am for that. But this bill, the purpose of this bill is to outline the duties of the tower, like I said before, and the storage facility, and the rights of the consumer.

If we put this amendment in, I think it is going to curtail the rights to outline exactly what the bill was intended for. Now, if the maker of the amendment wants to put another bill in and cover all the items that he has outlined, fine, but I do not think it should be in this bill.

Mr. VITALI. I am trying to get at why, because I am thinking maybe this amendment might in some way, unless I am just missing something because this is not my area, but this amendment might be able to help the public by making sure, unless I am missing something, making sure things are being aboveboard by just having some scrutiny over rotations. What is wrong with this amendment? I mean, what am I missing here? Why is not having—

Mr. MICOZZIE. What you are missing is that I am against it being involved in this bill. If the Representative wants to put it in another bill, fine. I just do not think it should be in this bill. It clouds the reason why the bill was put in, and we have been through the whole process for 3 1/2 years or 4 years, and to change it right now I do not think it is the right thing to do.

Mr. VITALI. I know you oppose it, but is there any specific reason you oppose it?

The SPEAKER. The gentleman will suspend.

I do not think that is a proper form of interrogation.

Mr. VITALI. Okay. May I ask the minority— That concludes my interrogation. Perhaps I can ask the minority chair.

The SPEAKER. The gentleman will suspend a minute, please.

Is the gentleman, Mr. Vitali, seeking to interrogate the—

Mr. VITALI. Minority chair.

The SPEAKER. —gentleman from Allegheny County?

Mr. VITALI. Correct.

The SPEAKER. It is a little bit unusual. I will say if the gentleman from Allegheny County, Mr. DeLuca, is willing to stand for interrogation, I am not going to prohibit it. I would caution you, I left you go a little bit with the last interrogation. However, when a member states their opposition to a piece of legislation and then your interrogation is asking them why, it strikes me that that is probing more towards what their motives are and not just their logical policy reasons. So I would caution you to steer clear of that type of questioning.

Is the gentleman, Mr. DeLuca, willing to stand for interrogation? The gentleman, Mr. Vitali, may proceed.

Mr. VITALI. Could you let me know, what is your theory as to how this amendment is going to hurt the public?

Mr. DeLUCA. Let me say one thing, Mr. Speaker, it is my understanding – and maybe I am wrong, and maybe as an attorney you can clue me in – it is my understanding the Right-to-Know Law pertains to not individual citizens, the right to know what they are doing; it is about the right to know what your government is doing.

Now, when you are dealing with towers and that there, a lot of that information is personal information from the consumer out there. Now, if there is a problem with the right-to-know bill and these towers are having problems, then we can address it with the right-to-know legislation. But first of all, let us find out, did they contact the right-to-know department? I have not heard anything from the police departments, the State Police, or

anybody else that they are being denied information they want. So that is my opinion.

This amendment I do not support in this bill, and I have never – I would have to do more research to find out if some of that stuff would have to be redacted. It would cost more money for us because there is some information that is private citizens. It has nothing to do with governments. These are private towers. These are not government towers.

Mr. VITALI. Okay. Let me ask you another question. I want to clarify something, because the amendment on page 1, line 12, talks about records maintained by an authority, right? And then the authority is defined as a municipal police department, regional police force, individual barracks of the State Police. So it is records of the police. So that is public. We are not talking about, as I understand it— This is my question. We are talking about records maintained by governmental entities, not individuals. Is that correct?

Mr. DeLUCA. Mr. Speaker, let me state once again, there is a lot of confidential information in there. I would have to check with the right-to-know department to find out before we would put something in this piece of legislation that does not need to be put in this legislation. I am not going to vote on something that would really take away the rights of citizens because we want to put the right to know in this.

Now, if there is a problem, let us address the problem. We know we have a problem in towing out there. This bill has been worked on for 4 years. We have not heard about the right to know in 4 years with all the hearings we had. All of a sudden we hear about the right to know.

I am totally against it, Mr. Speaker, and I am finished with my standing for interrogation, Mr. Speaker.

Mr. VITALI. Thank you, Mr. Speaker.

That concludes my interrogation, and I will just roughly speak on the amendment.

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

Mr. VITALI. Truly, I do not have any fixed opinions about this amendment. I thought nothing about it coming into this debate, but I think the reality is these are records by police, and there is that concern out there about favoritism and the awarding of contracts. And this, it seems to me, it just says the public has a right to inspect these records that the police maintain about towing and towing contracts. I have not quite heard a good reason yet, but I will continue to listen to the debate, but so far it does not seem like this is bad for the consumer so far. So thank you, Mr. Speaker.

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

Is the gentleman, Mr. Barrar, seeking recognition for the second time on the amendment?

Mr. BARRAR. I am, Mr. Speaker.

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

Mr. BARRAR. Mr. Speaker, after that exchange I just want to make sure that we are clear on this. We are only talking about the records and logs kept by the authority, which would be, in this case, the police or the municipality. There is nothing confidential in these logs. A lot of times the barrack's commander or whoever just does not want to open them up, and what I want to do is establish in law that the tower or the public has a right to see these. We have a Right-to-Know Act. This just enhances that act to make sure that every tower has a right to

see the logs that affect his livelihood. We are not reinventing the wheel here. There is nothing confidential in these logs. We are not letting anybody go after the tower and see what his logs are. I did not understand that part of the response, but it is just the governmental agency that we are forcing to open up their records. 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. Micozzie.

Mr. MICOZZIE. Well, first of all, we rejected an authority. So the question of right to know or keeping logs or whatever, we already rejected in a previous amendment that all of you, a majority of you do not want to address authority now. Maybe later on if he wants to put the right-to-know provision in it, that is fine.

I ask for a "no" vote.

LEAVE OF ABSENCE CANCELED

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

CONSIDERATION OF HB 1908 CONTINUED

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

The following roll call was recorded:

YEAS-37

Table with 4 columns of names: Barrar, Bishop, Brown, V., Carroll, Curry, Davidon, DeLissio, Dunbar, Farry, Freeman, Gabler, Gillen, Heffley, Hornaman, Kauffman, Kavulich, Keller, F., Krieger, Lawrence, Masser, Metzgar, Miccarelli, Milne, Mirabito, Moul, Mullery, Perry, Petri, Rock, Samuelson, Schroder, Smith, K., Stephens, Thomas, Toepel, Truitt, Vitali

NAYS-154

Table with 4 columns of names: Adolph, Aument, Baker, Barbin, Bear, Benninghoff, Bloom, Boback, Boyd, Boyle, B., Boyle, K., Bradford, Brennan, Briggs, Brooks, Brown, R., Brownlee, Burns, Buxton, Caltagirone, Causer, DiGirolamo, Donatucci, Ellis, Emrick, Evankovich, Evans, D., Evans, J., Everett, Fabrizio, Fleck, Frankel, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Goodman, Keller, W., Killion, Kirkland, Knowles, Kortz, Kotik, Kula, Longiatti, Maher, Mahoney, Major, Maloney, Mann, Markosek, Marshall, Marsico, Matzie, McGeehan, Metcalfe, Micozzie, Millard, Quigley, Quinn, Rapp, Ravenstahl, Readshaw, Reed, Reese, Roae, Roebuck, Ross, Sabatina, Saccone, Sainato, Santarsiero, Santoni, Saylor, Scavello, Simmons, Smith, M., Sonney, Staback

Table with 4 columns of names: Christiana, Clymer, Cohen, Conklin, Costa, D., Costa, P., Cox, Creighton, Cruz, Culver, Cutler, Day, Deasy, Delozier, DeLuca, Denlinger, DePasquale, Dermody, Grell, Grove, Hahn, Haluska, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Helm, Hennessey, Hess, Hickernell, Hutchinson, Josephs, Kampf, Keller, M.K., Miller, Mundy, Murt, Mustio, Myers, Neuman, O'Brien, M., O'Neill, Oberlander, Parker, Pashinski, Payne, Payton, Peifer, Petrarca, Pickett, Preston, Pyle, Stern, Stevenson, Sturla, Tallman, Taylor, Tobash, Toohil, Turzai, Vereb, Vulakovich, Waters, Watson, Wheatley, White, Youngblood, Smith, S., Speaker

NOT VOTING-0

EXCUSED-5

Table with 4 columns of names: Daley, Davis, Hackett, Murphy, Swanger

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?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

\* \* \*

The House proceeded to second consideration of HB 84, PN 1539, entitled:

An Act amending the act of April 16, 1992 (P.L.155, No.28), known as the Assessors Certification Act, further providing for nonapplicability.

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 2150, PN 3338, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in sales and use tax, further providing for discount; and, in corporate net income, further providing for definitions and for imposition of tax.

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

Mr. STEPHENS offered the following amendment No. A09887:

Amend Bill, page 1, lines 10 and 11, by striking out "IN SALES AND USE TAX, FURTHER PROVIDING FOR " in line 10 and "DISCOUNT; AND," in line 11

Amend Bill, page 2, lines 2 through 25, by striking out all of said lines and inserting

Section 1. Section 401(3)2(a)(9) and 4(c) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended October 9, 2009 (P.L.451, No.48), are amended, clause (3)1 is amended by adding a phrase and the section is amended by adding clauses to read:

Amend Bill, page 12, line 21, by striking out "3" and inserting  
2

Amend Bill, page 13, line 25, by striking out "4" and inserting  
3

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Stephens.

Mr. STEPHENS. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of amendment A09877 and urge the members to support this amendment.

Mr. Speaker, in the Finance Committee some language was added to what was otherwise a broadly supported bipartisan bill, and I think that the issue that was added to the bill, which my amendment would remove, is one that deserves a lot more attention. There certainly is a lot of merit to taking a look at the vendor discount and some of the other aspects of the way we collect sales tax in the Commonwealth of Pennsylvania and how much it costs each entity that undertakes that and what the accounting and the accountability provisions cost each of our businesses that collect that tax, but I think that that is something that deserves a whole lot more attention, a whole lot more focus, and we need to flesh that out more thoroughly and completely, and it does not belong in this particular bill, which deals specifically with the corporate net income tax, and I think it is a great bill.

For that reason, Mr. Speaker, I would urge the members to support amendment A09877.

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, this amendment removes the provision in the bill that caps the discount businesses, referred to as the sales tax vendor discount, can receive for filing and paying the sales tax on time. Doing so will add to the fiscal impact of the bill, because capping the sales tax vendor discount would allow the Commonwealth to capture more sales tax revenue. By doing this, the bill essentially loses all benefits.

Please note that Governor Corbett's budget proposes limiting the 1-percent discount on the first \$5 million of taxable sales tax per year, which equates to a discount of up to \$3,000 per year. The bill as amended in committee would reduce that to \$300 per year. Now you are going to, with this amendment, remove that cap altogether. The bill loses all effectiveness if this amendment is adopted. It loses all fiscal responsibility if this is adopted.

I urge a "no" vote, Mr. Speaker.

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

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

Mr. BARBIN. Thank you, Mr. Speaker.

I rise in support of this amendment not because it is a good amendment on its face, but because it is the law as of today. This bill is supposed to be providing some benefit to the general public by closing loopholes. Instead, what this bill does, this bill, the underlying bill just makes the loophole bigger. Why I ask for support for this amendment is because the amendment just takes us back to current law, which provides a vendor discount for people collecting sales tax.

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 very much, Mr. Speaker.

Respectfully, we would rise and ask the members to support the Stephens amendment.

And I think it is important to point out that although there are similarities between the Governor's proposal in his budget document and the proposal that was put forth in committee and included in this legislation now, that this amendment seeks to remove, there are some important distinctions that need to be noted. The Governor's proposal as put forth in his budget proposal limited the vendor discount at \$3,000 per year, \$250 a month. The proposal included as a result of the committee amendment actually limits the vendor discount at \$300 per year. So you have got a \$2700 difference between the two proposals for each small business across the Commonwealth per year.

I think it is certainly a legitimate topic that should be discussed as part of the budget process. Perhaps similarities could be found between the Governor's proposal and the proposal that was inserted in the Finance Committee several weeks ago, but unfortunately, at this time we would ask the members to support the Stephens amendment, and we can discuss the vendor discount at a later date as part of the final budget negotiations.

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.

With all due respect, I support the Stephens amendment, 9887. I think it is crucial to moving forward with respect to the underlying tax relief measures that are designed to in fact expand the growth in our economy. It is a private-sector job-creation proposal. This particular provision that was put in really is not helpful with respect to the underlying purpose of the bill.

I support the Stephens amendment, and I would ask that the members please vote in favor of the Stephens amendment so that we can move to the underlying bill which provides private-sector job-creation stimulus activity so that we can grow jobs in Pennsylvania. Thank you.

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

On that question, the Speaker recognizes the lady from Philadelphia, Ms. DeLissio.

Ms. DeLISSIO. Thank you, Mr. Speaker.

On the amendment, Mr. Speaker, the sales tax, collecting the sales tax is no different than businesses collecting payroll taxes on behalf of local, State, and the Federal government. They do that and they remit that, and there is absolutely no discount for doing that. In fact, if you file the sales tax electronically in the Commonwealth of Pennsylvania, the State does the calculation for you. So this concept that this is a burden to both collect and remit and do the math behind this is a little bit of a myth.

This is the perfect opportunity to close this particular loophole, and in fact having owned a small company that remits that sales tax to the Commonwealth of Pennsylvania, I was shocked to learn from my own staff accountant a few years ago why and how there was even a discount that we got to keep, that 1 percent, because in essence we put out no effort for that, and it is kind of a corporate subsidy.

So I think this amendment is totally inappropriate. The legislation is a perfect opportunity to finally close this loophole for a sales tax, and I maintain that this is no different than these businesses remitting State, local, and Federal payroll taxes to the government.

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. Stephens, for the second time.

Mr. STEPHENS. Thank you, Mr. Speaker.

I think what we just heard from the gentelady from Philadelphia is there are a lot of issues that need to be fleshed out as it relates to the vendor discount, which is exactly why it needs to be in a separate bill that can be broadly considered and all the ramifications can be thoughtfully considered before we move ahead with it.

So for those reasons, Mr. Speaker, I would urge the members to support amendment A09887. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—153

Adolph	Evankovich	Kotik	Rapp
Aument	Evans, J.	Krieger	Ravenstahl
Baker	Everett	Kula	Readshaw
Barbin	Farry	Lawrence	Reed
Barrar	Fleck	Longietti	Reese
Bear	Frankel	Maher	Roae
Benninghoff	Gabler	Mahoney	Rock
Bloom	Galloway	Major	Ross
Boback	Geist	Maloney	Saccone
Boyd	George	Mann	Sainato
Boyle, B.	Gerber	Markosek	Santarsiero
Boyle, K.	Gergely	Marshall	Santoni
Bradford	Gibbons	Marsico	Saylor
Brennan	Gillen	Masser	Scavello
Brooks	Gillespie	Matzie	Schroder
Brown, R.	Gingrich	Metcalfe	Simmons
Burns	Godshall	Metzgar	Smith, M.
Buxton	Goodman	Miccarelli	Sonney
Caltagirone	Grell	Micozzie	Stephens
Causar	Grove	Millard	Stern
Christiana	Hahn	Miller	Stevenson
Clymer	Haluska	Milne	Sturla
Costa, D.	Harhai	Mirabito	Tallman
Costa, P.	Harhart	Moul	Taylor

Cox	Harper	Murt	Thomas
Creighton	Harris	Mustio	Tobash
Culver	Heffley	O'Neill	Toepel
Cutler	Helm	Oberlander	Toohil
Day	Hennessey	Pashinski	Truitt
Deasy	Hess	Payne	Turzai
Delozier	Hickernell	Peifer	Vereb
DeLuca	Hutchinson	Perry	Vulakovich
Denlinger	Kampf	Petrarca	Watson
DePasquale	Kauffman	Petri	Wheatley
Dermody	Keller, F.	Pickett	White
DiGirolamo	Keller, M.K.	Preston	
Dunbar	Killion	Pyle	Smith, S.,
Ellis	Knowles	Quigley	Speaker
Emrick	Kortz	Quinn	

NAYS—38

Bishop	DeLissio	Keller, W.	Payton
Briggs	Donatucci	Kirkland	Roebuck
Brown, V.	Evans, D.	McGeehan	Sabatina
Brownlee	Fabrizio	Mullery	Samuelson
Carroll	Freeman	Mundy	Smith, K.
Cohen	Hanna	Myers	Staback
Conklin	Harkins	Neuman	Vitali
Cruz	Hornaman	O'Brien, M.	Waters
Curry	Josephs	Parker	Youngblood
Davidson	Kavulich		

NOT VOTING—0

EXCUSED—5

Daley	Hackett	Murphy	Swanger
Davis			

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

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

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

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

Ms. **MUNDY** offered the following amendment  
**No. A10039:**

Amend Bill, page 1, line 11, by striking out "AND,"  
Amend Bill, page 1, line 12, by striking out "and" and inserting a comma

Amend Bill, page 1, line 12, by inserting after "tax"  
, for reports and payment and for consolidated reports; and,  
in general provisions, further providing for underpayment  
of estimated tax

Amend Bill, page 2, lines 22 through 25, by striking out all of  
said lines and inserting

Section 2. Section 401(3)1(a) and (b), 2(a) and 4(c) and (5) of  
the act, amended or added December 23, 1983 (P.L.370, No.90), July 1,  
1985 (P.L.78, No.29), August 4, 1991 (P.L.97, No.22), May 12, 1999  
(P.L.26, No.4), June 22, 2001 (P.L.353, No.23), June 29, 2002 (P.L.559,  
No.89) and October 9, 2009 (P.L.451, No.48) are amended, clause (3)2  
is amended by adding a phrase and the section is amended by adding  
clauses to read:

Amend Bill, pages 3 and 4, lines 1 through 30; page 5, lines 1 through 5, by striking out all of said lines on said pages and inserting

(3) "Taxable income." 1. (a) In case the entire business of the corporation is transacted within this Commonwealth, for any taxable year which begins on or after January 1, 1971, taxable income for the calendar year or fiscal year as returned to and ascertained by the Federal Government, or in the case of a corporation participating in the filing of consolidated returns to the Federal Government or that is not required to file a return with the Federal Government, the taxable income which would have been returned to and ascertained by the Federal Government if separate returns had been made to the Federal Government for the current and prior taxable years, subject, however, to any correction thereof, for fraud, evasion, or error as finally ascertained by the Federal Government.

(b) Additional deductions shall be allowed from taxable income on account of any dividends received from any other corporation but only to the extent that such dividends are included in taxable income as returned to and ascertained by the Federal Government. For tax years beginning on or after January 1, 1991, additional deductions shall only be allowed for amounts included, under section 78 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 78), in taxable income returned to and ascertained by the Federal Government and for the amount of any dividends received from a foreign corporation included in taxable income to the extent such dividends would be deductible in arriving at Federal taxable income if received from a domestic corporation. For taxable years beginning on or after January 1, 2012, if not otherwise allowed as a deduction, an additional deduction is allowed for all dividends paid by one to another of the included corporations of a unitary business to the extent those dividends are included in business income of a corporation that is required to determine its business income pursuant to paragraph (1) of phrase (e) of subclause (2).

\* \* \*

Amend Bill, page 5, line 15, by striking out all of said line and inserting

(1) As used in this definition, unless the context otherwise requires:

(A) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if either the acquisition, the management or the disposition of the property constitutes an integral part of the taxpayer's regular trade or business operations. The term includes all income which is apportionable under the Constitution of the United States.

(B) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(C) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employes for personal services.

(D) "Nonbusiness income" means all income other than business income. The term does not include income which is apportionable under the Constitution of the United States.

(E) "Sales" means all gross receipts of the taxpayer not allocated under this definition other than dividends received, interest on United States, state or political subdivision obligations and gross receipts heretofore or hereafter received from the sale, redemption, maturity or exchange of securities, except those held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.

(F) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(G) "This state" means the Commonwealth of Pennsylvania or, in the case of application of this definition to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

(2) Any taxpayer having income from business activity which is taxable both within and without this State other than activity as a corporation whose allocation and apportionment of income is

specifically provided for in section 401(3)2(b)(c) and (d) shall allocate and apportion taxable income as provided in this definition.

(3) For purposes of allocation and apportionment of income under this definition, a taxpayer is taxable in another state if in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or if that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(4) Rents and royalties from real or tangible personal property, gains, interest, patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs (5) through (8).

(5) (A) Net rents and royalties from real property located in this State are allocable to this State.

(B) Net rents and royalties from tangible personal property are allocable to this State if and to the extent that the property is utilized in this State, or in their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(C) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(6) (A) Gains and losses from sales or other disposition of real property located in this State are allocable to this State.

(B) Gains and losses from sales or other disposition of tangible personal property are allocable to this State if the property had a situs in this State at the time of the sale, or the taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the state in which the property had a situs.

(C) Gains and losses from sales or other disposition of intangible personal property are allocable to this State if the taxpayer's commercial domicile is in this State.

(7) Interest is allocable to this State if the taxpayer's commercial domicile is in this State.

(8) (A) Patent and copyright royalties are allocable to this State if and to the extent that the patent or copyright is utilized by the payer in this State, or if and to the extent that the patent copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

(B) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(C) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Amend Bill, page 6, line 18, by striking out all of said line and inserting

(10) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax



period but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sale, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sales price of the property.

(11) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(12) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(13) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

(14) Compensation is paid in this State if:

(A) The individual's service is performed entirely within the State;

(B) The individual's service is performed both within and without this State, but the service performed without the State is incidental to the individual's service within this State; or

(C) Some of the service is performed in this State and the base of operations or if there is no base of operations, the place from which the service is directed or controlled is in this State, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(15) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(16) Sales of tangible personal property are in this State if the property is delivered or shipped to a purchaser, within this State regardless of the f.o.b. point or other conditions of the sale.

(17) Sales, other than sales of tangible personal property and sales set forth under paragraphs (17.1) and (17.2), are in this State if:

(A) The income-producing activity is performed in this State; or

(B) The income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other state, based on costs of performance.

(17.1) Sales of services are in this State if sales are derived from customers within this State. If part of the sales with respect to a specific contract or other agreement to perform services is derived from customers from within this State, sales are in this State in proportion to the sales derived from customers within this State to total sales with respect to that contract or agreement.

(17.2) In order to determine sales in this State of any railroad, truck, bus, airline, pipeline, natural gas or water transportation company that is required to determine its business income under paragraph (1) of phrase (e) of this subclause the company must convert the relevant fraction set forth under phrase (b), (c) or (d) of this subclause to gross receipts. Sales in this State are the result of multiplying total gross receipts from relevant transportation activities by the decimal equivalent of the relevant fraction set forth under phrase (b), (c) or (d) of this subclause.

(18) If the allocation and apportionment provisions of this definition do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition the Secretary of Revenue or the Secretary of Revenue may require, in respect to all or any part of the taxpayer's business activity:

(A) Separate accounting;

(B) The exclusion of any one or more of the factors;

(C) The inclusion of one or more additional factors which will

fairly represent the taxpayer's business activity in this State; or

(D) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income. In determining the fairness of any allocation or apportionment, the Secretary of Revenue may give consideration to the taxpayer's previous reporting and its consistency with the requested relief.

\*\*\*

(e) Corporations That are Members of a Unitary Business.

(1) Notwithstanding any contrary provisions of this article, for taxable years that begin on or after January 1, 2012, business income of a corporation that is a member of a unitary business that consists of two or more corporations, at least one of which does not transact its entire business in this State, is determined by combining the business income of either all corporations, other than as provided under this paragraph, that are water's-edge basis members or all corporations, other than as provided under this paragraph, that are worldwide members of the unitary business. Business income from an intercompany transaction between included corporations of a unitary business shall be deferred in the manner set forth under 26 CFR 1.1502-13 (relating to intercompany transactions) in determining the business income of a corporation that is a member of that unitary business. Business income of the following corporations is not included in the determination of combined business income:

(i) any corporation subject to taxation under Article VII, VIII, IX or XV;

(ii) any corporation specified in the definition of "institution" in section 701.5 that would be subject to taxation under Article VII if it was located, as defined in section 701.5, in this State;

(iii) any corporation commonly known as a title insurance company that would be subject to taxation under Article VIII if it was incorporated in this State;

(iv) any corporation specified as an insurance company, association or exchange in Article IX that would be subject to taxation under Article IX if its insurance business was transacted in this State;

(v) any corporation specified in the definition of "institution" in section 1501 that would be subject to taxation under Article XV if it was located, as defined in section 1501, in this State; or

(vi) any corporation that is a small corporation, as defined in section 301(s.2), or a qualified Subchapter S subsidiary, as defined in section 301(o.3).

(2) Notwithstanding any contrary provisions of this article, all corporations that are required to compute business income under paragraph (1) are entitled to apportion the business income when one corporation of the same unitary business is entitled to apportion the business income. Notwithstanding any contrary provisions of this article, for taxable years that begin on or after January 1, 2012, the denominator of the apportionment fraction of a corporation that is required to compute its business income under paragraph (1) shall be computed on a combined basis for all included corporations of the unitary business. Gross receipts from an intercompany transaction between included corporations of a unitary business shall be eliminated unless the gross receipts are derived from transactions that are deferred in the manner set forth under 26 CFR 1.1502-13 in computing the numerator and denominator of the apportionment fraction of a corporation that is required to compute its business income under paragraph (1). Gross receipts from transactions that had been deferred in the manner set forth under 26 CFR 1.1502-13 are included in a corporation's apportionment fraction during the same taxable year that it realizes business income that had been deferred due to the transaction. The apportionment fraction of the following corporations shall not be included in the determination of the combined apportionment fraction:

(i) any corporation subject to taxation under Article VII, VIII, IX or XV;

(ii) any corporation specified in the definition of "institution" in section 701.5 that would be subject to taxation under Article VII if it was located, as defined in section 701.5, in this State;

(iii) any corporation commonly known as a title insurance

company that would be subject to taxation under Article VIII if it was incorporated in this State;

(iv) any corporation specified as an insurance company, association or exchange in Article IX that would be subject to taxation under Article IX if its insurance business was transacted in this State;

(v) any corporation specified in the definition of "institution" in section 1501 that would be subject to taxation under Article XV if it was located, as defined in section 1501, in this State;

(vi) any corporation that is a small corporation, as defined in section 301(s.2), or a qualified Subchapter S subsidiary, as defined in section 301(o.3).

(3) A corporation that is required to compute its business income under paragraph (1) shall apportion the combined business income by multiplying the combined business income by a fraction which is the combined apportionment fraction set forth under paragraph (2).

(4) Nonbusiness income of a corporation that is required to compute business income under paragraph (1) shall be allocated as provided in paragraphs (5), (6), (7) and (8) of phrase (a) of subclause 2 of the definition of "taxable income."

(5) Each corporation that is a member of a unitary business that consists of two or more corporation shall determine its tax liability based on its apportioned share of the combined business income of the unitary business plus its nonbusiness income or loss allocated to this State, minus its net loss deduction.

(6) If any provision of this phrase operates so that an amount is added to or deducted from taxable income for a taxable year for any corporation of a unitary business that previously had been added to or deducted from taxable income of any corporation of the same unitary business, an appropriate adjustment shall be made for the taxable year in order to prevent double taxation or double deduction. If this adjustment is not made by the appropriate corporation of the unitary business, the Secretary of Revenue is authorized to make this adjustment.

(7) The Secretary of Revenue shall have the authority and responsibility to make adjustments to insure that a corporation does not incur an unfair penalty nor realize an unfair benefit because it is required to compute its business income under paragraph (1). Fairness shall be measured by whether the corporation's income allocated and apportioned to this State fairly reflects the corporation's share of the unitary business conducted in this State in the taxable year.

\* \* \*

Amend Bill, page 10, line 30; page 11, lines 1 through 30; page 12, lines 1 through 20, by striking out all of said lines on said pages and inserting

(5) "Taxable year." [The] 1. Except as set forth in subclause 2, the taxable year which the corporation, or any consolidated group with which the corporation participates in the filing of consolidated returns, actually uses in reporting taxable income to the Federal Government[,], or which the corporation would have used in reporting taxable income to the Federal Government had it been required to report its taxable income to the Federal Government. With regard to the tax imposed by Article IV of this act (relating to the Corporate Net Income Tax), the terms "annual year," "fiscal year," "annual or fiscal year," "tax year" and "tax period" shall be the same as the corporation's taxable year, as defined in this [paragraph.] subclause or subclause 2.

2. All corporations of a unitary business shall have a common taxable year for purposes of computing tax due under this article. The taxable year for the purposes shall be the common taxable year adopted, in a manner prescribed by the department, by all corporations of a unitary business. The common taxable year must be used by all corporations of that unitary business in the year of adoption and all future years unless otherwise permitted by the department.

\* \* \*

(8) "Tax haven." A jurisdiction that, during the tax year in question, has no or nominal effective tax on the relevant income and:

(i) has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;

(ii) has a tax regime that lacks transparency. A tax regime lacks transparency if the details of legislative, legal or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;

(iii) facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

(iv) explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

(v) has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial/other services sector relative to its overall economy.

(9) "Unitary business." A single economic enterprise that is made up of separate parts of a single corporation, of a commonly controlled group of corporations, or both, that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. A unitary business shall include only those parts and corporations which may be included as a unitary business under the Constitution of the United States.

(10) "Water's-edge basis." A system of reporting that includes the business income and apportionment factor of certain corporations of a unitary business, described as follows:

1. The business income and apportionment factor of any member incorporated in the United States or formed under the laws of any state of the United States, the District of Columbia, any territory or possession of the United States or the Commonwealth of Puerto Rico.

2. The business income and apportionment factor of any member, regardless of the place incorporated or formed, if the average of its property, payroll and sales factors within the United States is twenty per cent or more.

3. The business income and apportionment factor of any member which is a domestic international sales corporation as described in sections 991, 992, 993 and 994 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 991, 992, 993 and 994); a foreign sales corporation as described in former sections 921, 922, 923, 924, 925, 926 and 927 of the Internal Revenue Code of 1986 (formerly 26 U.S.C. §§ 921, 922, 923, 924, 925, 926 and 927); or any member which is an export trade corporation, as described in sections 970 and 971 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 970 and 971).

4. Any member not described in subclauses 1, 2 and 3 shall include the portion of its business income derived from or attributable to sources within the United States, as determined under the Internal Revenue Code of 1986 without regard to Federal treaties, and its apportionment factor related thereto.

5. Any member that is a "controlled foreign corporation" as defined in section 957 of the Internal Revenue Code of 1986 (26 U.S.C. § 957), to the extent the business income of that member is income defined in section 952 of the Internal Revenue Code of 1986 (26 U.S.C. § 952), Subpart F income, not excluding lower-tier subsidiaries' distributions of the income which were previously taxed, determined without regard to Federal treaties, and the apportionment factor related to that income; any item of income received by a controlled foreign corporation and the apportionment factor related to the income shall be excluded if the corporation establishes to the satisfaction of the Secretary of Revenue that the income was subject to an effective rate of income tax imposed by a foreign country greater than ninety per cent of the maximum rate of tax specified in section 11 of the Internal Revenue Code of 1986 (26 U.S.C. § 11). The effective rate of income tax determination shall be based upon the methodology set forth under 26 CFR 1.954-1 (relating to foreign base company

income).

6. The business income and apportionment factor of any member that is not described in subclause 1, 2, 3, 4 and 5 and that is doing business in a tax haven. The business income and apportionment factor of a corporation doing business in a tax haven shall be excluded if the corporation establishes to the satisfaction of the Secretary of Revenue that its income was subject to an effective rate of income tax imposed by a country greater than ninety per cent of the maximum rate of tax specified in section 11 of the Internal Revenue Code of 1986 (26 U.S.C. § 11).

(11) "Commonly controlled group." For a corporation, the corporation is a member of a group of two or more corporations and more than fifty per cent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

(12) "Separate company." A corporation that is not a member of a unitary business that consists of two or more corporations.

(13) "Tax." Includes interest, penalties and additions to tax unless a more limited meaning is disclosed by the context.

Amend Bill, page 13, line 25, by striking out "Section 3 4. This act shall take effect immediately." and inserting

Section 4. Section 403 of the act is amended by adding subsections to read:

Section 403. Reports and Payment of Tax.—\* \* \*

(a.1) (1) Each corporation subject to tax under this article shall file an annual report in accordance with this section. Each corporation that is a member of a unitary business that consists of two or more corporations, unless excluded by the provisions of this article, shall file as part of a combined annual report. The corporations of the unitary business shall designate one member that is subject to tax under this article to file the combined annual report and to act as agent on behalf of all other corporations that are members of the unitary business. Each corporation that is a member of a unitary business shall be responsible for its tax liability under this article.

(2) The oath or affirmation of the designated member's president, vice president or other principal officer, and of its treasurer or assistant treasurer shall constitute the oath or affirmation of each corporation that is a member of that unitary business.

(3) The designated member shall transmit to the department upon a form prescribed by the department, an annual combined report under oath or affirmation of its president, vice president or other principal officer, and of its treasurer or assistant treasurer. The report shall set forth:

(i) All corporations included in the unitary business.

(ii) All necessary data, both in the aggregate and for each corporation of the unitary business, that sets forth the determination of tax liability for each corporation of the unitary business.

(iii) Any other information that the department may require.

(a.2) (1) Activities that evidence a significant flow of value among commonly controlled corporations shall include the following:

(i) Assisting in the acquisition of equipment.

(ii) Assisting with filling personnel needs.

(iii) Lending funds or guaranteeing loans.

(iv) Interplay in the area of corporate expansion.

(v) Providing technical assistance.

(vi) Supervising.

(vii) Providing general operational guidance.

(viii) Providing overall operational strategic advice.

(ix) Common use of trade names and patents.

(2) Significant flow of value must be more than the flow of funds arising out of passive investment and shall consist of more than periodic financial oversight.

(a.3) (1) With respect to a commonly controlled group of corporations, the presence of any of these factors creates a presumption of a unitary business:

(i) Corporations engaged in the same type of business.

(ii) Corporations engaged in different steps in a vertically

structured enterprise.

(iii) Strong centralized management of corporations.

(2) A corporation newly formed by a corporation that is a member of a unitary business is rebuttably presumed to be a member of the unitary business.

(3) A corporation that owns a controlling interest in two or more corporations of a unitary business is rebuttably presumed to be a member of the unitary business.

(4) A corporation that permits one or more other corporations of a unitary business to substantially use its patents, trademarks, service marks, logo-types, trade secrets, copyrights or other proprietary assets or that is principally engaged in loaning money to one or more other corporations of a unitary business is rebuttably presumed to be a member of the unitary business. This presumption only applies to a commonly controlled group of corporations.

(a.4) As far as applicable to a specific unitary business, unless there is a revision of applicable State law or unless a corporation is not included under the provisions of this article, there is a rebuttable presumption for all tax years that begin in years 2012 and 2013 that a unitary business of two or more corporations includes at least all corporations that are part of a unitary business under the law of any state of the United States in which the corporation files a tax report or tax return of combined net income for the same tax year.

(a.5) Unless an election is made to use a worldwide basis of accounting, a corporation that is a member of a unitary business of two or more corporations must determine its business income and apportionment factor upon a water's-edge basis. This basis shall apply to all corporations of the unitary business. If an election is made to use a worldwide basis of accounting, all corporations of the unitary business must make the election, upon a form, prescribed, prepared and furnished by the department. This election shall bind all corporations of the unitary business for the period of time that the election remains in effect. An initial election is binding for a period of seven years. Subsequent elections shall be binding for a period of five years.

\* \* \*

Section 5. Section 404 of the act is amended to read:

Section 404. Consolidated Reports.—The department shall not permit any corporation owning or controlling, directly or indirectly, any of the voting capital stock of another corporation or of other corporations, subject to the provisions of this article, to make a consolidated report[, showing the combined net income].

Section 6. Section 3003.3(d) of the act, amended October 18, 2006 (P.L.1149, No.119), is amended and the section is amended by adding subsections to read:

Section 3003.3. Underpayment of Estimated Tax.—\* \* \*

(d) Notwithstanding the provisions of the preceding subsections, other than as set forth under subsection (d.1), interest with respect to any underpayment of any installment of estimated tax shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were an amount equal to the tax computed at the rates applicable to the taxable year, including any minimum tax imposed, but otherwise on the basis of the facts shown on the report of the taxpayer for, and the law applicable to, the safe harbor base year, adjusted for any changes to sections 401, 601, 602 and 1101 enacted for the taxable year, if a report showing a liability for tax was filed by the taxpayer for the safe harbor base year. If the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment does not equal or exceed the amount required to be paid per the preceding sentence, but such amount is paid after the date the installment was required to be paid, then the period of underpayment shall run from the date the installment was required to be paid to the date the amount required to be paid per the preceding sentence is paid. Provided, that if the total tax for the safe harbor base year exceeds the tax shown on such report by ten per cent or more, the total tax adjusted to reflect the current tax rate shall be used for purposes of this subsection. In the

event that the total tax for the safe harbor base year exceeds the tax shown on the report by ten per cent or more, interest resulting from the utilization of such total tax in the application of the provisions of this subsection shall not be imposed if, within forty-five days of the mailing date of each assessment, payments are made such that the total amount of all payments of estimated tax equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were an amount equal to the total tax adjusted to reflect the current tax rate. In any case in which the taxable year for which an underpayment of estimated tax may exist is a short taxable year, in determining the tax shown on the report or the total tax for the safe harbor base year, the tax will be reduced by multiplying it by the ratio of the number of installment payments made in the short taxable year to the number of installment payments required to be made for the full taxable year.

(d.1) (1) Notwithstanding subsections (a), (b) and (c), interest with respect to any underpayment of any installment of estimated corporate net income tax for any tax year that begins in year 2012 or 2013 shall not be imposed if the total amount of all payments of estimated corporate net income tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount which would have been required to be paid on or before that date if the estimated tax were an amount equal to the tax shown on the report of the taxpayer for the safe harbor base year, if a report showing a liability for tax was filed by the taxpayer for the safe harbor base year.

(2) If the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment does not equal or exceed the amount required to be paid under paragraph (1), but the amount is paid after the date the installment was required to be paid, the period of underpayment shall run from the date the installment was required to be paid to the date the amount required to be paid under paragraph (1) is paid.

(3) If the total tax for the safe harbor base year exceeds the tax shown on the report by ten per cent or more, the total tax shall be used for purposes of this subsection. If the total tax for the safe harbor base year exceeds the tax shown on the report by ten per cent or more, interest resulting from the utilization of the total tax in the application of the provisions of this subsection shall not be imposed if, within forty-five days of the mailing date of a notice from the department increasing the total tax, payments are made such that the total amount of all payments of estimated tax equals or exceeds the amount which would have been required to be paid on or before the date if the estimated tax were an amount equal to the total tax.

(4) If the taxable year for which an underpayment of estimated tax may exist is a short taxable year, in determining the tax shown on the report or the total tax for the safe harbor base year, the tax shall be reduced by multiplying it by the ratio of the number of installment payments made in the short taxable year to the number of installment payments required to be made for the full taxable year.

(d.2) (1) If there is a substantial underpayment, as defined in subsection (a), of any installment of estimated corporate net income tax or estimated capital stock/franchise tax for any taxable year beginning in 2012 or 2013, there shall be imposed additional interest in an amount determined at one hundred twenty per cent of the annual rate as provided by law upon the entire underpayment for the period of the substantial underpayment.

(2) The additional interest imposed under this subsection shall be in addition to any other interest imposed on underpayments under this section.

Section 7. The amendment or addition of the following provisions shall apply to taxable years beginning after December 31, 2012:

- (1) Section 401(3)1(a) and (b) and 2(a) and (e), (5), (8), (9), (10), (11), (12) and (13) of the act.
- (2) Section 402(b) of the act.
- (3) Section 403(a.1), (a.2), (a.3), (a.4) and (a.5) of the act.

(4) Section 404 of the act.

(5) Section 3003.3(d), (d.1) and (d.2) of the act.  
Section 8. This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

Mr. Speaker, last April I introduced HB 1396, which would implement unitary combined reporting to close a wide array of corporate tax avoidance schemes, including the infamous Delaware loophole. This amendment is my HB 1396. It enacts unitary combined reporting. In the grand scheme of corporate tax avoidance, unitary combined reporting is the most comprehensive approach to closing the Delaware loophole and many of the other loopholes while providing the most tax fairness. Unitary combined reporting requires corporations and their subsidiaries to jointly file one tax report for purposes of calculating and paying the State's corporate net income tax, or the CNIT.

Pennsylvania currently requires companies to file tax reports on a separate company basis. Separate reporting uses a narrow tax base and allows tax planning opportunities such as the use of passive investment companies, sometimes called Delaware holding companies, to shift income outside of Pennsylvania. Accounting schemes allowed by loopholes in our tax laws are being used by large multistate, multinational corporations. According to the most recent data from the Pennsylvania Department of Revenue, almost 75 percent of corporations that are subject to the CNIT had a tax liability of zero and therefore paid absolutely nothing in Pennsylvania taxes. Sure, you can attribute this number to some corporations that might have incurred losses this year or that are still on the books even after they have dissolved, but you cannot deny that an astounding 85 percent of corporations paid \$1,000 or less. There is something very wrong when a Pennsylvania family earning thirty-some thousand dollars a year pays more in income taxes than 85 percent of Pennsylvania's corporations.

The alternative to Pennsylvania's current system is combined reporting, which requires a related group of businesses to combine their income for tax purposes. The combined net income of the group would then be apportioned to the Commonwealth using the combined apportionment factors of the group to appropriately measure the activity of the group in Pennsylvania. According to a Business Tax Reform Commission report, mandatory unitary combined reporting would provide a more accurate method of measuring the net income of affiliated corporations. It would substantially broaden the tax base and would be less subject to manipulation than the current separate company reporting method.

Combined reporting limits the ability of companies to use tax avoidance strategies such as the Delaware loophole to shift income to States with no or lower tax rates. For the critics who say that unitary combined reporting burdens companies that do not try to shift their income to avoid paying taxes, I would say that this amendment is not a new concept, and many Pennsylvania companies like Hershey Foods, Boscov's, and Weis Markets are already subject to unitary combined reporting in other States, which have had the wisdom to require it. States

like New York, West Virginia, and Texas, and about 20 other States have been cracking down on businesses that cheat the system and do not pay their fair share. Many companies already are required to file unitary combined reports.

The time is right to end this form of corporate welfare. The majority has drastically cut funding for education and many services and programs, which can only lead to higher property taxes and increasing the individual tax burden on citizens and small businesses. The amendment requires large corporations to pay their fair share. When everyone pays their fair share, everyone can pay less.

I ask for support for my amendment, which is the fairest, most comprehensive way to close many tax loopholes, including the Delaware loophole.

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 afraid I have some bad news for the gentlelady who has introduced this amendment. Her amendment will not address the problem that concerns her. You see, the reason that perhaps 85 percent of corporations in Pennsylvania pay no income tax is because they are corporations that pass through their tax liability directly to the owners who then pay as individuals. The technical term for these is S corporations or LLCs (limited liability companies), and whether they have combined reporting or not, at the end of the day these entities are not writing the check themselves. Instead, their owners are personally writing the checks. So if this is the concern of the gentlelady, if she would rather have the entities write the checks rather than the owners write the checks, then she needs an entirely different amendment.

So I will not be joining her in this, but I hope that helps clarify the understanding of our members. Thank you, Mr. Speaker.

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, HB 2150 does not close the Delaware loophole. There have been studies, there have been commissions that have come back with reports, think tanks have issued reports, and it is clear that the only way you can effectively close the Delaware loophole is to implement combined reporting. That is the case in every other State. I believe it is 23 that have implemented it. It works. It is the only way to make sure that the loophole is closed and that our corporations pay their fair share.

In order for this bill to be meaningful in any way whatsoever, this amendment needs to be passed. We need to have combined reporting in this State to close the Delaware loophole. 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 Indiana County, Mr. Reed.

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

I would stand in opposition to amendment A10039.

In response to the gentlelady from Luzerne's comments about the percentage of businesses paying taxes in Pennsylvania, I think it is probably important to point out that you only owe income taxes in Pennsylvania, number one, if you are an active corporation still in business and, number two, whether you actually make a profit in Pennsylvania. And we need look no further than the State of Utah, the State of Utah which had implemented combined unitary reporting a number of years ago. In the State of Utah, 71 percent of corporations have zero tax liability as well. The reason they have zero tax liability is they are not making a profit. We do not tax folks who are not making a profit. That is the majority reason why you have got so many corporations in Pennsylvania having zero tax liability. Certainly there are folks using the Delaware loophole to avoid taxation in Pennsylvania. That is the intent of this entire bill. But to claim that 85 percent of companies are not paying taxes because of the use of loopholes, it is simply false, it is simply misguided, because so many of these companies have not been making profits, particularly over the last couple years as the economy has struggled.

Secondly, Mr. Speaker, the reason we chose an add-back provision as opposed to combined unitary reporting is because we wanted to take a surgical approach geared towards punishing companies that were using the loophole for the sole purpose of avoiding taxation in Pennsylvania. We did not want to add additional accounting, burdensome procedures to companies that were already playing by the rules. Why should we punish companies that have been playing by the rules for years, doing the right thing, paying more than their fair share by adding additional regulations and burdens on those particular companies? We should be looking at targeting the companies that have been artificially reducing their tax liability through the passive holding companies in Delaware and those companies alone.

And in fact, when we look at the total debate, combined unitary reporting versus the add-back provision, even the sponsor of this amendment in her March 1, 2012, cosponsorship memo conceded the combined unitary reporting was not a realistic manner for closing the Delaware loophole and did not have the political support in this chamber, the Senate, or the Governor's Office, and that is not unique to this administration, because the Democratic Party held the majority in this House for 4 years, never even brought a bill up for a vote to close the Delaware loophole. The Governor of the Democratic persuasion for 8 years never pushed to have a vote for the Delaware loophole on this particular floor. Well, eventually, you have got to get down to the business of dealing with big issues. You cannot just use something as a talking point, you cannot just continue to use the rhetoric and talk about it. Eventually, you have got to put your money where your mouth is and get about the business of solving some of the big issues facing Pennsylvania. Combined unitary reporting had its chance. It did not have the support of the Republican Party, did not have the support of the Democratic Party, a Republican administration, or a Democratic administration.

The time has come for us to close this loophole, even the playing field for all of our companies across this Commonwealth, and make sure everybody pays their fair share and makes sure everybody has an equal opportunity to succeed economically in this State.

I would ask for a "no" vote on the Mundy amendment. Thank you.

The SPEAKER. 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, I rise in support of the Mundy amendment for combined unitary reporting.

The reality is that the majority, in fact the vast majority of multistate corporations that do business in the State of Pennsylvania also do business in one of the 23 other States that has the combined reporting and as a result already do those calculations for their corporations. The reality is that by passing the Mundy amendment, we will actually make it easier for multistate corporations to do their calculations than to do a complete and separate calculation simply for the State of Pennsylvania, as is prescribed in the bill.

This is a fair way to do it that is the same as other States have done it, and I would urge for members to look at this as a consistent business practice rather than a business practice that would be unique only to Pennsylvania. 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 Luzerne County, Ms. Mundy, for the second time.

Ms. MUNDY. Thank you, Mr. Speaker.

First, let me take exception to the remarks by the gentleman from Allegheny, who, even though he is an accountant, apparently does not understand the difference between a C corp, an S corp, and a partnership.

Secondly, I would take issue with the statements made by the gentleman from Indiana. In my cosponsorship memo, what I said was that the reason we have not been able to do combined reporting is because the majority is unwilling to take up the cudgel against corporations who are avoiding taxation and who are trying to cheat the system. Now is the time to do it when we have such revenue issues and we need economic development in this Commonwealth. We can do that by lowering the CNI and we can lower the CNI by asking everyone to pay their fair share.

So I would offer that combined unitary reporting is the fastest, fairest, and most comprehensive way to ask every corporation in Pennsylvania to pay their fair share, and I would ask support for my amendment.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—76

Barbin	Davidson	Keller, W.	Payton
Bishop	Deasy	Kirkland	Preston
Boyle, B.	DeLissio	Kortz	Ravenstahl
Boyle, K.	DeLuca	Kotik	Readshaw
Bradford	Dermody	Kula	Roebuck
Brennan	Donatucci	Longietti	Sabatina
Briggs	Evans, D.	Mahoney	Samuelson
Brown, V.	Fabrizio	Mann	Santarsiero
Brownlee	Frankel	Markosek	Santoni
Burns	Freeman	Matzie	Smith, K.
Buxton	George	McGeehan	Smith, M.
Caltagirone	Gergely	Mirabito	Staback

Carroll	Goodman	Mullery	Sturla
Cohen	Haluska	Mundy	Thomas
Conklin	Hanna	Myers	Vitali
Costa, D.	Harkins	Neuman	Waters
Costa, P.	Hornaman	O'Brien, M.	Wheatley
Cruz	Josephs	Parker	White
Curry	Kavulich	Pashinski	Youngblood

NAYS—115

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

NOT VOTING—0

EXCUSED—5

Daley	Hackett	Murphy	Swanger
Davis			

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?

Ms. MUNDY offered the following amendment No. **A09811**:

Amend Bill, page 2, line 24, by striking out "A PARAGRAPH" and inserting paragraphs

Amend Bill, page 3, lines 23 through 30; page 4, lines 1 through 30; page 5, lines 1 through 5, by striking out all of said lines on said pages and inserting

(t) For purposes of computing its net income under this chapter, a taxpayer shall add back all of the following:

(1) Otherwise deductible intangible expenses directly or indirectly paid, accrued or incurred in connection with one or more direct or indirect transactions with one or more related members.

(2) Otherwise deductible interest paid, accrued or incurred to a

related member during the taxable year.

(u) (1) If the related member was subject to tax in this Commonwealth, another state or possession of the United States or a foreign nation or a combination of those governmental entities on a tax base that included the interest expense or intangible expense paid, accrued or incurred by the taxpayer, the taxpayer shall receive a credit against tax due in this Commonwealth in an amount equal to the higher of the tax paid by the related member with respect to the portion of its income representing the interest expense or the intangible expense paid, accrued or incurred by the taxpayer, or the tax that would have been paid by the related member with respect to that portion of its income if:

(A) that portion of its income had not been offset by expenses or losses; or

(B) the tax liability had not been offset by a credit or credits.

(2) The credit determined under subparagraph (1) shall be multiplied by the apportionment factor of the taxpayer in this Commonwealth, but may not exceed the taxpayer's liability in this Commonwealth attributable to the net income taxed as a result of the adjustment required by paragraph (1).

(v) (1) The adjustment required under paragraph (t) and the credit allowed under paragraph (u) shall not apply:

(A) To the portion of the intangible expense that the taxpayer establishes by clear and convincing evidence meets both of the following requirements:

(i) the related member during the same taxable year directly or indirectly paid, accrued or incurred the portion to a person that is not a related member; and

(ii) the transaction giving rise to the intangible expense between the taxpayer and the related member was undertaken for a valid business purpose.

(B) If the taxpayer establishes by clear and convincing evidence that:

(i) the transaction giving rise to interest expense between the taxpayer and the related member was undertaken for a valid business purpose; and

(ii) the interest expense was paid, accrued or incurred using terms that reflect an arm's length relationship.

(C) If the taxpayer establishes by clear and convincing evidence that:

(i) the related member was subject to tax on its net income in this Commonwealth, another state or possession of the United States or a combination of those governmental entities;

(ii) the tax base for the tax included the interest expense or the intangible expense paid, accrued or incurred by the taxpayer; and

(iii) the aggregate effective rate of tax applied to the related member is no less than four per cent.

(D) If the taxpayer establishes by clear and convincing evidence that:

(i) the interest expense or the intangible expense was paid, accrued or incurred to a related member organized under the laws of a country other than the United States;

(ii) the related member's income from the transaction was subject to a comprehensive income tax treaty between the country and the United States;

(iii) the related member's income from the transaction was taxed in the country at a tax rate at least equal to that imposed by the Commonwealth; and

(iv) the interest expense or intangible expense was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(E) If the taxpayer and the department agree in writing to the application or use of alternative adjustments or computations. The department may, in its discretion, agree to the application or use of alternative adjustments or computations when it concludes that in the absence of the agreement the income of the taxpayer would not be properly reflected.

(2) (Reserved).

(w) Nothing under paragraphs (t), (u) or (v) shall be construed to limit or negate the department's authority to enter into agreements and compromises allowed by law.

Amend Bill, page 10, line 30; page 11, lines 1 through 30; page 12, lines 1 through 20, by striking out all of said lines on said pages and inserting

(8) "Aggregate effective rate of tax." The sum of the effective rates of tax imposed by the Commonwealth, another state or a possession of the United States or any combination of those governmental entities on a related member.

(9) "Effective rate of tax." The maximum statutory rate of tax imposed by the Commonwealth, another state or a possession of the United States on a related member's net income multiplied by the apportionment percentage, if any, applicable to the related member under the laws of that jurisdiction. For purposes of this definition, the following shall apply:

(A) The effective rate of tax shall be zero if the related member's net income tax liability in the jurisdiction is reported on a combined or consolidated return including both the taxpayer and the related member where the reported transactions between the taxpayer and the related member are eliminated or offset.

(B) When computing the effective rate of tax for a jurisdiction in which a related member's net income is eliminated or offset by a credit or similar adjustment that is dependent upon the related member either maintaining or managing intangible property or collecting interest income in that jurisdiction, the maximum statutory rate of tax imposed by the jurisdiction shall be decreased to reflect the statutory rate of tax that applies to the related member as effectively reduced by the credit or similar adjustment.

(10) "Interest expense." Amounts directly or indirectly allowed as deductions under section 163 of the Internal Revenue Code of 1986 (26 U.S.C. § 163) for purposes of determining taxable income under the Internal Revenue Code of 1986.

(11) "Intangible expense." The term includes:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property to the extent the amounts are allowed as deductions or costs in determining taxable income before operating loss deductions and special deductions for the taxable year under the Internal Revenue Code of 1986.

2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions.

3. Royalty, patent, technical and copyright fees.

4. Licensing fees.

5. Other similar expenses and costs.

(12) "Intangible property." The term includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets and similar types of intangible assets.

(13) "Related entity." Any of the following:

1. A stockholder who is an individual or a member of the stockholder's family under section 318 of the Internal Revenue Code of 1986 (26 U.S.C. § 318) if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock.

2. A stockholder or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock.

3. A corporation or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code of 1986 if the taxpayer owns, directly, indirectly, beneficially or constructively, at least fifty per cent of the

value of the corporation's outstanding stock. The attribution rules of the Internal Revenue Code of 1986 shall apply for purposes of determining whether the ownership requirements of this definition have been met.

(14) "Related member." A person that, with respect to the taxpayer during all or any portion of the taxable year, is any of the following:

1. A related entity.

2. A component member as defined in section 1563(b) of the Internal Revenue Code of 1986 (26 U.S.C. § 1563(b)).

3. A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code of 1986 (26 U.S.C. § 1563(e)).

4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subclauses 1, 2 and 3.

(15) "Valid business purpose." As follows:

1. One or more business purposes which alone or in combination constitute the primary motivation for a business activity or transaction and the activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer.

2. For the purpose of subclause 1, the following shall apply:

(A) A business purpose shall not include the avoidance or reduction of taxation.

(B) The economic position of the taxpayer shall include an increase in the market share of the taxpayer or the entry by the taxpayer into new business markets.

Amend Bill, page 13, by inserting between lines 24 and 25

Section 4. The addition of section 401(3)1(t), (u), (v) and (w) and (8), (9), (10), (11), (12), (13), (14) and (15) of the act shall apply to taxable years beginning after December 31, 2012.

Amend Bill, page 13, line 25, by striking out "4" and inserting

5

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady from Luzerne, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

I still believe that unitary combined reporting is the most comprehensive and fairest approach to closing all corporate tax loopholes. However, if the General Assembly is unwilling to act to close all corporate tax loopholes, then this amendment is another approach.

This amendment is based on the same premise as HB 2150, but this amendment truly does close the infamous Delaware loophole in the right way. My amendment levels the playing field for Pennsylvania businesses, and unlike the underlying bill, it is more than just window dressing.

I want to make it perfectly clear that HB 2150 simply does not do what the prime sponsor claims it does. HB 2150 does not close the Delaware loophole. The language is so broad and riddled with exceptions that it is ineffective and literally meaningless in terms of closing the Delaware loophole. When corporations skirt their tax obligations, everyone pays more – individuals pay more, families pay more, and our small businesses pay more. Everyone shoulders a greater tax burden because corporations can hire expert accountants to find ways to seek out loopholes in the law to avoid paying their taxes.

My amendment speaks to basic tax fairness. The Delaware loophole is not fair and must be closed. Now, I commend the prime sponsor for acknowledging that the Delaware loophole is a tax avoidance scheme that many corporations are using. We should not require Pennsylvania small businesses and taxpayers

to shoulder the burden while multistate corporations are allowed to shirk their tax obligations.

HB 2150 requires companies to add back expenses to their Pennsylvania income, including interest and expenses paid to related companies in other States, but it offers a broad exception for transactions related to a valid business purpose. This means that a company can easily skirt the law by claiming a valid business purpose. Most similar laws in other States are written to provide clear guidance and makes it hard to avoid compliance, but HB 2150 does not do that.

HB 2150 also requires the Department of Revenue, instead of the company, to bear the burden of proof. This creates an enforcement problem for the department and one that it will be unlikely to meet.

The bill also presumes that transactions conducted at fair market prices are legitimate, which creates a blanket exemption. "Exemption," that is a word that is used constantly when discussing this bill. There are too many exemptions in the bill, which render it meaningless in terms of closing the Delaware loophole.

My amendment was modeled after the Multistate Tax Commission's language which would require corporations to add back expenses to their taxable income for the use of patents, trademarks, copyrights, and interest expenses, all while setting a higher standard for allowing these deductions, and it places the burden of proof on the companies, rather than the Department of Revenue, to show that their deductions are valid. By requiring all income from intangible expenses and interest to be included with only very limited exceptions, the amendment would raise significantly more money for investment in Pennsylvania's economy.

Right now small businesses are paying more because multistate corporations are manipulating the rules to avoid paying their fair share. As Secretary of Revenue, Dan Meuser, told the Associated Press in a recent news article about the Reed bill, we do not want "...a short-term answer that sounds good." He is right. If we want to truly close the Delaware loophole and create real tax fairness, we need 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 Indiana County, Mr. Reed.

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

We would rise in opposition to amendment A09811 much for the same reasons we opposed the previous amendment.

The particular structure of this proposal if fully implemented you might as well be implementing combined unitary reporting as well, and in fact, there is a real-life example to point to on this particular proposal. The State of New York went this far with a particular add-back provision. Very shortly thereafter they repealed half of the law because of the overly cumbersome nature of the accounting procedures both on their job creators and their Department of Revenue. So we actually have a real-life example to point to, a neighboring State with a similar-sized economy, if not a little bit bigger economy, that actually repealed a portion of what is included in this amendment because of the overly burdensome accounting procedures that came with it.

So respectfully, we would ask the members to oppose amendment A09811. Thank you.



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 support of the Mundy amendment.

Mr. Speaker, one of the main issues with the underlying bill is that it would continue to allow corporations to deduct expenses for patents and trademarks simply by claiming it is directly related to a valid business purpose. Chairman Mundy's amendment requires that multiple standards be met before a corporation can deduct interest and intangible expenses and requires that corporations prove that a deduction is legitimate. This puts the burden of proof on the corporation, not the Department of Revenue, as is the case in Reed's bill. Let me repeat that. In Representative Reed's bill, the gentleman from Indiana's bill, the burden of proof is put upon the Department of Revenue. Let me also tell you that in model legislation drafted by the Multistate Tax Commission, the burden of proof is always put on the corporation. Chairman Mundy's amendment puts that burden of proof the same place as the Multistate Tax Commission's model legislation. It puts that burden on the corporations.

If you do not adopt the Mundy amendment, you will in effect make it impossible – the loophole will remain – you will make it impossible for the department to enforce this legislation. You have to accept the Mundy amendment. Mr. Speaker, I urge a "yes" vote on the Mundy 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 Cambria County, Mr. Barbin.

Mr. BARBIN. I would like to interrogate the maker of the amendment.

The SPEAKER. The lady indicates she will stand for interrogation. You may proceed.

Mr. BARBIN. Is the language for the add-back that is included in your amendment, has that come from the Multistate Tax Commission?

Ms. MUNDY. Yes. The amendment is based on the Multistate Tax Commission's model legislation.

Mr. BARBIN. When you were doing your research, when you were doing your research for this amendment, did you also check to see where the maker of the bill's language for the add-back came from? Is the underlying bill's add-back provision used in any other State?

Ms. MUNDY. Not that I know of. It is the weakest provision I have ever seen from any State in the nation.

Mr. BARBIN. On the bill?

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

Mr. BARBIN. I am sorry; on the amendment.

On the amendment, Mr. Speaker, I rise in support of this amendment because the purpose of the underlying bill is to close the loophole. If the language is not the language used by the Multistate Tax Commission and no other State uses the language for the add-back, then you have to ask yourself the question, why is it being used in the underlying bill? We can fix that by accepting the Mundy amendment.

I ask for the support of all the members for the amendment.

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, for the second time.

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

Just a point of clarity. The language in the underlying bill is actually very similar to language that was implemented in nine other States, including the States of Georgia, Indiana, Mississippi, Michigan, New York, Oregon, Rhode Island, Tennessee, and Virginia.

The language proposed in this particular amendment is only similar to language that is out there in three other States – the States of Connecticut, South Carolina, and Wisconsin. I just wanted to point that out for the members' attention. 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 Luzerne County, Ms. Mundy, for the second time.

Ms. MUNDY. Thank you, Mr. Speaker.

First of all, I want to point out that the gentleman from Indiana is just plain wrong about New York State. New York State has unitary combined reporting, not an add-back provision.

And secondly, my research indicates that his language, with all the exceptions and the ways to get around and create new loopholes, is absolutely the weakest add-back provision in any of the States in this entire country, and I would stand by that statement and I would challenge the gentleman to prove otherwise.

We need to close the loophole. It is not fair to most of our businesses who pay their fair share of taxes to allow these companies to escape and avoid their tax obligations. We need revenue for our State budget, which would be accomplished in the early years of this provision, but hopefully over time we can lower our corporate net income tax and not have the highest corporate net income tax in the nation. But let us address the issue of tax fairness by truly closing the Delaware loophole with my amendment that does it the way the Multistate Tax Commission recommends and does it right.

Thank you, Mr. Speaker.

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

Is the gentleman from Luzerne County, Mr. Pashinski, seeking recognition on the amendment?

Mr. PASHINSKI. Yes, Mr. Speaker.

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

Mr. PASHINSKI. Thank you.

May I interrogate the gentelady from Luzerne County?

Could you clarify for me, please—

The SPEAKER. The lady indicates she will stand for interrogation. You may proceed.

Mr. PASHINSKI. Thank you, Mr. Speaker.

Could you clarify for me, please, there has been some discussion about the amount of money that HB 2150 would actually take from the budget as opposed to your proposal, which would actually put money into the budget.

Ms. MUNDY. Let me clarify your question. You are asking how much the underlying Reed bill would generate—

Mr. PASHINSKI. Yes.

Ms. MUNDY. —as opposed to what is—

Mr. PASHINSKI. As opposed to your amendment, which would actually increase the amount of money that would come into the budget.

Ms. MUNDY. The bill costs \$2.7 billion over 8 years. We do not have a number currently on what my amendment would do in terms of revenue.

Mr. PASHINSKI. It was my understanding that if your provision were to be passed, that there would be considerable savings and increases of dollars into our budget.

Ms. MUNDY. That is true.

Mr. PASHINSKI. Okay. So I need to clarify this and I think it is important for everyone to understand that if HB 2150 passes without amendment, \$2.7 billion over 8 years will actually be lost out of our income of the State. We are losing \$2.7 billion, and if your provision, your amendment, was passed, we would actually receive dollars to the good.

Ms. MUNDY. Mr. Speaker, I will refer to the fiscal note offered by the Appropriations Committee. It reads, "A Multistate Tax Commission report done in 2003 estimated that revenues lost to the Commonwealth from tax sheltering to other states ranged from a low of \$209 million to a high of \$449 million. The Department of Revenue estimates that the implementation of the MTC" – Multistate Tax Commission – "language would generate approximately \$170 million per taxable year. Adoption of this amendment would result in increased revenues to Commonwealth estimated to be approximately \$100 million in any taxable year."

Mr. PASHINSKI. Mr. Speaker, is it appropriate for me to interrogate the maker of the bill at this time or do we have to stay on the amendment?

The SPEAKER. The gentleman may interrogate. The gentleman, Mr. Reed, indicates he will stand for interrogation. You may proceed.

Mr. PASHINSKI. Thank you very much, sir.

Could you clarify what your figures indicate by passing HB 2150 as opposed to passing the amendment?

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

I certainly cannot add any clarity to the \$2.7 billion number, because I honestly think it was just randomly chosen, randomly out of the middle of the air, because there is no accuracy to \$2.7 billion. All of the estimates, even by outside organizations, are far, far, far below that estimate. And in fact, if you look at different similar proposals over the years, perhaps if you look at the capital stock and franchise tax, it might be a good particular tax to look at. Before we started phasing out the capital stock and franchise tax 10 years ago and where we are today with the capital stock and franchise tax almost phased out, we are actually collecting more corporate tax revenue today than we were before we started phasing out that tax nearly a decade ago.

And you can look at it from a historical perspective with the Kennedy tax cuts of the 1960s. After implementing tax cuts on job creators, we actually collected more money as a nation than we did before the Kennedy tax cuts were implemented. So not only do we disagree with the \$2.7 billion figure that was apparently brought out of thin air, we actually believe in the long term there will be a revenue gain to the Commonwealth.

In regard to the actual proposed revenue from her particular amendment, what she fails to illustrate is although her amendment changes the add-back provision, it does not change the tax-cut portion of this bill. So although you may see a

difference in the income coming in by \$10, \$20, \$30 million, you are not going to see a change in the tax-cut portion of the bill as well. So you have got to take into account not only the portion of the bill that is being proposed to be changed through amendment A09811, but you have also got to take into account the portion that is not being changed.

Mr. PASHINSKI. I thank the gentleman for that.

Could you clarify what amount of money will be garnered by the State of Pennsylvania's Department of Treasury in the out-coming years, your last 4 years of the 8-year cycle?

Mr. REED. Mr. Speaker, we will, obviously, wait till the fiscal note comes in after it goes through the Appropriations Committee after second consideration, but the best estimates we have thus far, putting together conservative numbers, we believe that the add-back provision itself will bring in an additional \$50 million to the Commonwealth in year 1. The bill was tailored in the short term to gain revenue neutrality in respect to the budget constraints and the budget challenges we are facing in the upcoming fiscal year.

In the out-years, certainly if you look at zero growth in our economy during that timeframe or zero economic development spurred by lowering the 50th worst business tax climate in the nation, certainly you are looking at a decrease in revenues to the Commonwealth. However, if you look at the historical perspective that I cited previously and minimal economic growth during that timeframe, we actually believe that there will be a net gain in revenue in the long run as opposed to a loss.

Mr. PASHINSKI. I appreciate your answers. So thank you very much. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—83

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

#### NAYS—108

Adolph	Farry	Maher	Reed
Aument	Fleck	Major	Reese
Baker	Gabler	Maloney	Roae
Barrar	Geist	Marshall	Rock
Bear	Gillen	Marsico	Ross
Benninghoff	Gillespie	Masser	Saccone
Bloom	Gingrich	Metcalfe	Saylor

Boback	Godshall	Metzgar	Scavello
Boyd	Grell	Miccarelli	Schroder
Brooks	Grove	Micozzie	Simmons
Brown, R.	Hahn	Millard	Sonney
Causar	Harhart	Miller	Stephens
Christiana	Harper	Milne	Stern
Clymer	Harris	Moul	Stevenson
Cox	Heffley	Murt	Tallman
Creighton	Helm	Mustio	Taylor
Culver	Hennessey	O'Neill	Tobash
Cutler	Hess	Oberlander	Toepel
Day	Hickernell	Payne	Toohil
Delozier	Hutchinson	Peifer	Truitt
Denlinger	Kampf	Perry	Turzai
DiGirolamo	Kauffman	Petri	Vereb
Dunbar	Keller, F.	Pickett	Vulakovich
Ellis	Keller, M.K.	Pyle	Watson
Emrick	Killion	Quigley	
Evankovich	Knowles	Quinn	Smith, S.,
Evans, J.	Krieger	Rapp	Speaker
Everett	Lawrence		

NOT VOTING—0

EXCUSED—5

Daley	Hackett	Murphy	Swanger
Davis			

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?

Ms. **MUNDY** offered the following amendment No. **A09837**:

Amend Bill, page 4, line 20, by striking out "THAT WAS DIRECTLY RELATED TO" and inserting incurred for

Amend Bill, page 12, lines 19 and 20, by striking out all of said lines and inserting

The purpose must be established by the taxpayer using clear and convincing evidence, as further defined by department regulation.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

This amendment establishes a higher and clearer standard for the add-back provisions in the bill. It eliminates the arm's length presumption language. It makes the link between the deduction and a valid business purpose more definitive. It places the burden of proof on the company to establish by clear and convincing evidence that they meet the necessary criteria for the deduction rather than placing this burden on the Department of Revenue.

The department is tasked with creating regulations that stipulate what type of evidence needs to be provided to substantiate the validity of a transaction. This helps create clarity that makes it easier for taxpayers to comply with the law.

HB 2150 allows corporations to continue to deduct intangibles such as royalties for patents, copyrights, trademarks, and interest expenses from their taxable income if a transaction is directly related to a valid business purpose. This is a very low threshold to meet, as a transaction itself does not have to have a valid business purpose in order to qualify for the deduction.

The bill also provides that any transaction done at arm's length is presumed to be directly related to a valid business purpose, creating a blanket exemption to the add-back rule. In other words, royalties or other intangible expenses paid to a related company could be set at fair market value and still accomplish the same goal, tax avoidance.

All of the standards set forth in my amendment strengthen the add-back provisions in this bill and are a first step in making this bill a better, more meaningful piece of legislation that actually does close the Delaware loophole.

I ask for an affirmative vote.

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 very much, Mr. Speaker.

We would, again, respectfully ask folks to oppose amendment A09837 for various reasons but primarily for the fact that this particular amendment would be the first time in the history of the Pennsylvania Tax Code that we take a guilty-until-proven-innocent perspective on Pennsylvania taxpayers as opposed to an innocent-until-proven-guilty perspective. We should not be punishing folks who are already playing by the rules, doing the right thing, and deducting appropriately from their Pennsylvania tax liability.

And secondly, our other concern is one of the things that this particular amendment would do through its unintended consequences would basically ensure that we collect very little, if any, tax revenue as a result of the add-back provision for a number of years because almost each and every particular deduction would be tied up in the court system with our attorneys versus any particular business's attorneys trying to prove what is an appropriate deduction and what is not an appropriate deduction.

So we would prefer to keep the bill in its original format, keep the innocent-until-proven-guilty perspective, keep it simple. Let us get the revenue into the Commonwealth, let us lower the business taxes for all businesses to compete on a level playing field across the Commonwealth, and let us get our workers back to work as soon as possible. Thank you very much, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Boyd.

Mr. BOYD. Thank you, Mr. Speaker.

Just real briefly, one of the items that the gentlelady brought up in her support for this amendment I have to take disagreement with. She mentioned that this would be I believe they used the word "fairer" for the taxpayer in this case.

This amendment would create an entirely new standard within the Revenue Code, actually requiring the department to promulgate regulations to define "clear and convincing evidence" of their position on this issue, and anybody who has been through any kind of an audit with the Department of Revenue or has been through any type of a situation like this

would recognize that putting the burden on the taxpayer to argue with the auditor about what is clear and convincing would be problematic to say the least. As the gentleman from Indiana County mentioned – sorry; I forgot; that is a senior moment with gray hair – as the gentleman from Indiana County mentioned, this is really putting the taxpayer in a position to be deemed to be guilty before there was even any consideration. So this really is going to put an undue burden on our businesses.

And in specific, I believe you will find that the Association of Accountants would strongly be opposed to this amendment as it truly would create an accounting nightmare for them to hit a new set of standards when preparing tax returns.

So I would ask the members to vote "no" on amendment A09837. 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 support of the Mundy amendment.

Mr. Speaker, I am concerned about the objections raised from the other side in that they continually assert that this language would somehow create problems. This language is modeled after the model bill. This is what is drafted in the model bill. This is very similar to what is drafted in the model bill. The multistate task force adopted this. This is in law in other States. This is the model language. It is not going to create problems. It is going to solve problems. In order for this to be effective, we need to make sure that the burden of proof is in the appropriate place. The Mundy amendment does that; the Reed bill does not.

We urge an affirmative vote for the Mundy amendment. 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 Luzerne County, Ms. Mundy, for the second time.

Ms. MUNDY. Thank you, Mr. Speaker.

I reject the notion that this amendment or any of the legislation that I have put forth this afternoon is punishing companies who are paying their fair share and playing by the rules. The point is, they are not. Many companies, many multistate, multinational corporations are not playing by fair rules. They are using corporate loopholes to avoid paying their fair share, and obviously, the gentleman from Indiana believes that that is true or he would not be putting forth a bill to close a loophole that companies are using to use tax avoidance schemes to avoid paying their fair share of taxes.

So, Mr. Speaker, I would ask that we try to at least, if we are not willing to do the whole job, at least let us do part of the job in the right way by tightening up the standards for the add-back provisions and supporting this amendment.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—83

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

#### NAYS—108

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

#### NOT VOTING—0

#### EXCUSED—5

Daley	Hackett	Murphy	Swanger
Davis			

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?

Ms. **MUNDY** offered the following amendment No. **A09865**:

Amend Bill, page 4, lines 20 and 21, by striking out all of line 20 and "**PURPOSE**" in line 21 and inserting if the transaction giving rise to the interest expenses and costs or intangible expenses and costs has a valid business purpose and economic substance and contains terms and conditions comparable to a similar arms-length transaction between unrelated parties. Tax avoidance may not be a significant motivation of entering into the transaction. The affiliated entity involved in the transaction may not be primarily engaged in the acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property. If the development, purchase of or other costs related to the intangible property giving rise to the payment were shared in any way by the party making the payment, the party making the payment must have been compensated at a fair market, arms-length price for the costs. If the party making the payment was not compensated, the interest expenses and costs or intangible expenses and costs shall not be deductible

Amend Bill, page 12, lines 19 and 20, by striking out all of line 19 and "directly related to a valid business purpose" in line 20 and inserting

The purpose must be established by the taxpayer using clear and convincing evidence, as further defined by department regulation

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

#### AMENDMENT WITHDRAWN

The SPEAKER. On that question, the Speaker recognizes the lady from Luzerne County, Ms. Mundy.

Ms. **MUNDY**. Mr. Speaker, it has become abundantly clear that the majority of members in this chamber are not interested in closing the Delaware loophole, and so I will not burden you with yet another attempt to do so, and I will withdraw this amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the lady.

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

Mr. **REED** offered the following amendment No. **A10001**:

Amend Bill, page 5, line 3, by striking out "**TRANSACTION**" and inserting payment

Amend Bill, page 5, line 5, by striking out the period after "**COST**" and inserting , and is equal to or less than the taxpayer's proportional share of the transaction. The taxpayer's proportional share shall be based on relative sales, assets, liabilities or another reasonable method.

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

The SPEAKER. For the information of the members, amendment A10001 was a replacement amendment from amendment A09869.

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 very much, Mr. Speaker.

This amendment seeks to strengthen and amend the conduit provision that already exists within the bill to ensure that Pennsylvania taxpayers do not claim deductions above their fair share of intangible expenses paid to an affiliate that then pays a third party for use of those intellectual or intangible expenses.

So it seeks to strengthen that provision and ensure that an additional loophole is not created through the original intent of the bill, and I would ask for the members to support the amendment. Thank you.

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**. Mr. Speaker, I rise in opposition to the Reed amendment.

This amendment, although I am sure the intention was not such, but it actually waters down the standard by allowing the add-back exemption if the payment to the unrelated party is equal to or less than the taxpayer's proportional share of the transaction. So while I am sure that the gentleman was well intended, his amendment does not strengthen the bill. In fact, it weakens it.

HB 2150 as currently drafted would allow a corporation to deduct an intangible or interest expense for a transaction where the affiliated entity in turn passed the payment on to an unrelated party, a third party. Based on the language in the bill, it would seem that the entire payment had to be passed on to the unrelated party in order for the corporation to deduct the expense.

Again, this amendment waters down this standard by allowing the add-back exemption if the payment to the unrelated party is equal to or less than the taxpayer's proportional share of the transaction. This could result in a situation where a corporation pays an affiliate \$1 million to use an intangible – for example, use of a trademark, copyright, etc. – and gets to deduct the whole expense, the entire amount paid to the affiliated entity, simply because the affiliated entity passed \$1, passed \$1 on to their unrelated party as part of the transaction.

This amendment actually creates another loophole that allows multistate corporations to continue skirting their tax obligation in Pennsylvania while seniors and middle-class families are once again left holding the bag.

I would advocate a "no" vote for the Reed amendment. Thank you, Mr. Speaker.

#### LEAVES OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence on the floor of the gentleman from Delaware County, Mr. Hackett, and the gentleman, Mr. Daley, from Washington County. Their names will be added back to the master roll call, without objection.

**CONSIDERATION OF HB 2150 CONTINUED**

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

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Petri.

Mr. PETRI. Mr. Speaker, I would encourage the members to support this amendment. This amendment effectively allows a corporation which has subsidiaries to pay one tax, as they should, on the whole amount without having to pay two or three times. Let me give you a quick hypothetical. Let us assume you are a corporation and you have five subsidiaries and you make payments to those five subsidiaries. Without this amendment, it could be interpreted that you would have to pay six times on the same revenue.

So I think this is a logical amendment, and I would ask the members to support it so that we do not double-tax corporations. Thank you.

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

The following roll call was recorded:

**YEAS—112**

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

**NAYS—81**

Barbin	Deasy	Josephs	Payton
Bishop	DeLissio	Kavulich	Petrarca
Boyle, B.	DeLuca	Keller, W.	Preston
Boyle, K.	Dermody	Kirkland	Ravenstahl
Bradford	Donatucci	Kortz	Readshaw
Brennan	Evans, D.	Kotik	Roebuck
Briggs	Fabrizio	Kula	Sabatina
Brown, V.	Frankel	Longietti	Sainato
Brownlee	Freeman	Mahoney	Samuelson
Burns	Galloway	Mann	Santarsiero
Buxton	George	Markosek	Santoni
Caltagirone	Gerber	Matzie	Smith, K.
Carroll	Gergely	McGeehan	Smith, M.

Cohen	Gibbons	Mullery	Staback
Conklin	Goodman	Mundy	Sturla
Costa, D.	Haluska	Myers	Vitali
Costa, P.	Hanna	Neuman	Waters
Cruz	Harhai	O'Brien, M.	Wheatley
Curry	Harkins	Parker	White
Daley	Hornaman	Pashinski	Youngblood
Davidson			

NOT VOTING—0

EXCUSED—3

Davis	Murphy	Swanger
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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. **STURLA** offered the following amendment No. **A09885**:

Amend Bill, page 1, line 11, by striking out "AND,"  
Amend Bill, page 1, line 12, by inserting after "tax"  
; and providing for a power of the Department of Revenue  
Amend Bill, page 13, lines 14 through 23, by striking out all of  
said lines and inserting  
January 1, 2015, and each taxable year  
thereafter, the tax rate is 8.5% unless  
corporate net income tax collections in  
the previous fiscal year were greater  
than the corporate net income tax  
collections in the second most recent  
fiscal year. If corporate net income tax  
collections increase, the department  
may decrease the rate in an amount  
equal to the increase in corporate net  
income taxes collected, unless  
otherwise provided by the General  
Assembly. The Secretary of the Budget  
shall certify total corporate net income  
taxes collected and an increase or  
decrease in the amount collected.

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

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

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, this amendment would lessen the fiscal impact of the bill and help control the long-term revenue losses by freezing the CNI tax at an 8.5-percent rate unless CNI collections increase. Now, the maker of the bill said he fully expects CNI revenues to increase as a result of this legislation. If that is in fact the case, that would guarantee that the CNI rate would continue to decline as proposed under the initial bill, even with this amendment.

What this amendment does not allow to happen is that if the economy softens and if in fact revenues do not increase, we would not continue to lower the tax in the out-years and

continue to run up a deficit in terms of the revenue being brought into the State. Specifically, the amendment maintains the initial CNI rate reduction from 9.99 to 9.49 in 2014, and it provides that the tax for 2015 and beyond shall be locked at 8.5 percent unless the CNI collections in the previous fiscal year were greater than the CNI collections in the second most recent fiscal year. So if CNI collections increase, the Department of Revenue may decrease the rate in an amount equal to the increase of CNI taxes collected. It could actually accelerate it faster than the bill provides. The Secretary of the Budget is responsible for certifying the total CNI collected as well as the increase or decrease in the amount collected, the same person that tells us whether our budget is balanced.

This is a commonsense approach to this. It is a no-risk amendment. It says we think there is a possibility that this could be good, but if it is not, if it is costing money to the State of Pennsylvania and it is going to result in lower revenue collections and as a result lower money, amounts of dollars available, for schools or social services or higher education, then the rate does not change.

I appreciate an affirmative 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 Indiana County, Mr. Reed.

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

I appreciate the gentleman from Lancaster County's intent and I think it is an admirable intent. I do believe there is an unfortunate set of unintended consequences because of the actual drafting of the language within the proposal. The net impact of the proposal would be basically ensuring that corporate tax revenues are frozen in time from this day forward for the next 200, 300, 400 years. For instance, if we are collecting \$2 billion today, we will continue to collect \$2 billion no matter what in perpetuity, because every time revenues increase over the amount that are paid today, the income rate will continue to drop to the point where it could get down to .5 percent or 1 percent. Had a similar provision been in place during the Kennedy administration, the revenue collections to the Federal government in 1961 of \$94 billion would have been frozen in time. Just by 1968, revenue collections had increased to \$153 billion. The country would have missed out on \$59 billion worth of additional revenue to operate the government during the 1960s.

So although I appreciate the intent and I really do think it is an admirable goal to ensure and minimize the revenue impact on the General Fund budget over the next couple years, I do think we need to ensure that we do not have the unintended consequence that as the economy recovers, as economic growth is spurred, and as revenues increase in the out-years, particularly 10, 20, 30 years from now, that we are not freezing in time our corporate tax revenue collections on this date in 2012.

So regrettably and respectfully, I would ask that the members oppose amendment A09885. 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 Lancaster County, Mr. Sturla, for the second time.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, the amendment does not take the tax rate lower than what is prescribed in the bill at its lowest rate. So you would never completely eliminate it, but it does allow for that rate to be taken down as we know that the revenue is there. And even if it did do what the sponsor of the bill says it does, and I do not believe it does, would that not be wonderful if we could take the CNI rate down to 1 in the State of Pennsylvania and be the lowest of any State in the nation for corporate net income taxes and still generate the same amount of money that we are generating for the State today? Would that not be wonderful? If you vote against this, you are saying, no, that would not be wonderful. We are going to take it down to a certain rate whether we can afford it or not, but then we are not going to take it any further than that.

Now, I do not believe that the amendment does what the maker of the bill says it does. I think it does what I say it does, but the reality is that either way the taxpayers in the State of Pennsylvania and the businesses in the State of Pennsylvania would benefit as a result of this amendment because we would not be just willy-nilly deciding upfront that we are going to reduce taxes to a certain rate not knowing what the fiscal impact is.

As was pointed out, we do not have a fiscal impact bill on this. In fact, when I asked the Independent Fiscal Office to tell me how much this bill would cost, they said they could not calculate it yet. This amendment ensures that you do not dig yourself a deeper hole. Now, if you want to roll the dice and hope that 2 years from now or 3 years from now you are not another couple hundred million dollars in the hole, then go ahead, but you cannot say you did not see it coming because you had an opportunity to prevent that from happening with this amendment.

I encourage a positive vote 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 Lancaster County, Mr. Boyd.

Mr. BOYD. I was wondering if the maker would stand for a brief question of the amendment?

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

Mr. BOYD. I was reviewing the amendment real quickly, and I noticed that the word "may" is in there, that it says I believe it is the Secretary may reduce the tax rate if the collections were higher in the subsequent year. Is that correct?

Mr. STURLA. That is correct, Mr. Speaker.

Mr. BOYD. Thank you, Mr. Speaker.

If I can just speak briefly on the bill?

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

Mr. BOYD. One of the concerns that I have with the gentleman's amendment, and I certainly understand his intent by doing this, is, I believe the way he has this drafted he is really putting tax rates and tax policy in the hands of the Secretary, who may or may not adjust rates accordingly. It does not say that they shall if the revenue is a certain level. And I guess what concerns me is businesspeople primarily are looking for

predictability. Just tell me what the rate is going to be when so I know what to plan for and how to do my long-term strategic planning. The way this amendment is drafted, the tax rate can vary from year to year, and it seems to me that—

And another question I had in my mind was, I wonder what happens if it lowers 1 year and then the next year revenue does not come in, can the Secretary take it back up?

So I just do not think this is very prudent tax policy at all, allowing the Secretary to define tax rates as opposed to having it done statutorily, the way we should do it, and that rests on us. So for that reason, Mr. Speaker, I would oppose the amendment.

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

The following roll call was recorded:

YEAS—68

Bishop	Daley	Hornaman	Pashinski
Boyle, B.	Davidson	Kavulich	Payton
Boyle, K.	Deasy	Keller, W.	Preston
Bradford	DeLissio	Kirkland	Ravenstahl
Brennan	DeLuca	Kortz	Readshaw
Briggs	Dermody	Kotik	Roebuck
Brown, V.	Donatucci	Kula	Sabatina
Brownlee	Evans, D.	Longiatti	Samuelson
Buxton	Fabrizio	Mahoney	Santarsiero
Caltagirone	Frankel	Mann	Santoni
Carroll	Freeman	Markosek	Smith, K.
Cohen	Galloway	Matzie	Staback
Conklin	George	McGeehan	Sturla
Costa, D.	Goodman	Mullery	Waters
Costa, P.	Haluska	Myers	Wheatley
Cruz	Hanna	O'Brien, M.	White
Curry	Harkins	Parker	Youngblood

NAYS—124

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

NOT VOTING—1

Josephs

EXCUSED—3

Davis

Murphy

Swanger

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?

Mrs. **DAVIDSON** offered the following amendment  
No. **A09883**:

Amend Bill, page 13, lines 14 through 21, by striking out all of said lines and inserting

<u>January 1, 2015, through December 31,</u>	
<u>2015</u>	<u>9.49%</u>
<u>January 1, 2016, through December 31,</u>	
<u>2016</u>	<u>7.99%</u>
<u>January 1, 2017, through December 31,</u>	
<u>2017</u>	<u>7.49%</u>
<u>January 1, 2018, through December 31,</u>	
<u>2018</u>	<u>7.15%</u>

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

The **SPEAKER**. On that question, the Speaker recognizes the lady from Delaware County, Mrs. Davidson.

Mrs. **DAVIDSON**. Thank you. Thank you, Mr. Speaker.

First of all, I want to say that I appreciate the maker of the bill, the gentleman from Indiana, in his attempt to close the Delaware loophole and also to reduce the CNI, which I do believe is too high and has a negative impact on the business climate.

This amendment, Mr. Speaker, does lower the corporate net income tax rate similar to the bill and it does take the CNI from 9.9 percent to 6.99 percent. However, this amendment delays the revenue loss or potential revenue loss to a later year.

The intent of this amendment, Mr. Speaker, is to make the bill revenue-neutral through the third year. After that the rate would decline more quickly so that in the later years we still have the intent of the bill, which is to reduce the CNI to 6.99 percent.

Specifically, this amendment provides for a timing change to delay revenue losses to 2016. This amendment gives us 3 fiscal years to evaluate to determine whether or not we are seeing the kind of revenue increases that we expect to see.

Right now, Mr. Speaker, the Pennsylvania Budget and Policy Center cannot say how the revenue will be generated or revenue will be lost. Even the Independent Fiscal Office that was set up by this legislature last year has not provided information about the effect of this legislation if we do the add-back provisions and then also correspondingly reduce the CNI.

We cannot afford, Mr. Speaker, large revenue losses in the short term while the economy is still weak. Mr. Speaker, that would be fiscally irresponsible. If we can see in the third year



that the economy is doing well and that General Fund revenues are still beginning to rise, then we can just continue down the same path.

Mr. Speaker, this amendment, according to the fiscal note, will add \$26.8 million to the General Fund, and more importantly, Mr. Speaker, we can test this bill in year 3 to evaluate the effects since there is a lot of ambiguity as to what this will actually mean to our General Fund. We can test three things, Mr. Speaker. We can test to see whether or not there is in fact an overuse of the exceptions to the add-back rules. We can also test to see if the Department of Revenue is overburdened by their new responsibilities to prove whether or not exceptions are taking place legitimately, and then we can also see how our General Fund balance is being affected.

So, Mr. Speaker, I would ask for a "yes" vote for this very small change to make sure that we are not doing harm to our Commonwealth's General Fund at a time when the economy cannot undergird it.

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 Chester County, Mr. Kampf.

Mr. KAMPF. Thank you, Mr. Speaker.

On the gentlelady's amendment, the job creators that I spoke to about this indicated that the delay in the phaseout of the stock and franchise tax was something that was a disappointment to them over the last 5 or 6 years, and they are not terribly happy that even the phase-down of the net profits tax is taking time, and I think that the reason they are saying that is I do not know if anybody knows, but the Tax Foundation in Washington just ranked Pennsylvania dead last in the country, number 50, in terms of the tax burden that we impose on our job creators other than manufacturers. So if you are a business in Pennsylvania, you are taxed at the highest rate in the country.

Our job creators need tax relief today, and postponing this relief in the gentleman's bill another year is postponing a chance for a good recovery for Pennsylvania, it is postponing a chance for Pennsylvania to be competitive with our sister States, and it is postponing a chance for people who are on the unemployment lines today to get back to work. We cannot delay. We need to help our job creators.

So I urge the members to oppose this amendment. Thank you, Mr. Speaker.

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

Is the lady, Mrs. Davidson, seeking recognition for a second time? I do not see anybody else seeking recognition.

The lady from Delaware County, Mrs. Davidson, is recognized on the amendment for the second time.

Mrs. DAVIDSON. Thank you, Mr. Speaker.

In reference to the job creators that are not really creating jobs, I would just like to say and correct the record that we would be doing the drop-down from 9.99 percent to 9.49 percent as it is in the underlying bill. We would just have an opportunity to delay it in order to get real data for 2 years to see where we are in terms of job creation, in terms of revenue generations for our General Fund and this economy. So there is a reduction in the CNI throughout the time period of this amendment. So I just wanted to make that correction, Mr. Speaker. Thank you.

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

The following roll call was recorded:

YEAS—70

Bishop	Deasy	Keller, W.	Preston
Boyle, B.	DeLissio	Kirkland	Ravenstahl
Boyle, K.	DeLuca	Kortz	Readshaw
Bradford	Dermody	Kotik	Roebuck
Brennan	Donatucci	Kula	Sabatina
Briggs	Evans, D.	Longietti	Sainato
Brown, V.	Fabrizio	Mahoney	Samuelson
Brownlee	Frankel	Mann	Santarsiero
Buxton	Freeman	Markosek	Santoni
Caltagirone	Gergely	Matzje	Smith, K.
Cohen	Gibbons	McGeehan	Sturla
Conklin	Goodman	Mirabito	Thomas
Costa, D.	Haluska	Myers	Vitali
Costa, P.	Hanna	O'Brien, M.	Waters
Cruz	Harhai	Parker	Wheatley
Curry	Harkins	Pashinski	White
Daley	Hornaman	Payton	Youngblood
Davidson	Josephs		

NAYS—123

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

NOT VOTING—0

EXCUSED—3

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

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

Mr. **WHITE** offered the following amendment  
No. **A010031**:

Amend Bill, page 1, line 11, by inserting after "DISCOUNT;" providing for a tax credit for adoption of dog or cat;  
Amend Bill, page 2, by inserting between lines 21 and 22 Section 1.1. The act is amended by adding a section to read:  
Section 314.1. Tax Credit for Adoption of Dog or Cat.—(a) A taxpayer shall be allowed a credit against the tax otherwise due under this article for the cost of adopting a dog or cat from a qualifying pound, shelter, society or association for the prevention of cruelty to animals, humane society or dog, cat or other protective or rescue association located in this Commonwealth. The amount of the credit shall be three hundred dollars (\$300) per taxable year.

(b) The department shall not approve, in the aggregate, more than seven million five hundred thousand (\$7,500,000) dollars of tax credits under this section in any calendar year.

(c) No taxpayer who has been convicted of a violation of 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal) or 5511 (relating to cruelty to animals) may be eligible for the tax credit under this section.

Amend Bill, page 13, by inserting between lines 24 and 25 Section 3.1. The addition of section 314.1 of the act shall apply to tax years beginning after December 31, 2011.

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

The **SPEAKER**. For the information of the members, this is a replacement amendment for amendment A09816.

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.

I rise in support of this amendment. What this is, is the first of its kind at legislation anywhere in the nation. It will provide a \$300 one-time credit for people that adopt a dog or a cat from a qualified shelter. This will actually save taxpayer money, and it will reduce the cost on government in dealing with these strays.

I would ask for your support. 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 very much, Mr. Speaker.

Unfortunately, although we all believe that folks should take care of their dogs and kitties and go out and adopt an animal from the neighborhood shelter and save a dog or a kitty's life, we do believe that today in this legislation it is focused on job creation, putting food on families' tables, making sure our hardworking citizens continue to be hardworking citizens.

So unfortunately, we would oppose this amendment and certainly encourage folks to go out and adopt a pet, and we certainly would be open to looking at other programs in the future to ensure that that occurs in an expedited fashion.

So, Mr. Speaker, unfortunately, we would rise in opposition to amendment A10031. Thank you.

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

The following roll call was recorded:

YEAS—96

Barbin	DeLuca	Kortz	Preston
Bishop	DePasquale	Kotik	Ravenstahl
Boyle, B.	Dermody	Kula	Readshaw
Boyle, K.	Donatucci	Longietti	Roebuck
Bradford	Evans, D.	Maher	Sabatina
Brennan	Evans, J.	Mahoney	Sainato
Briggs	Fabrizio	Mann	Samuelson
Brown, R.	Frankel	Markosek	Santarsiero
Brown, V.	Freeman	Matzie	Santoni
Brownlee	Galloway	McGeehan	Scavello
Burns	George	Metzgar	Schroder
Buxton	Gerber	Miccarelli	Simmons
Caltagirone	Gergely	Micozzie	Smith, K.
Carroll	Gibbons	Mirabito	Smith, M.
Cohen	Goodman	Mullery	Staback
Conklin	Haluska	Mundy	Stephens
Costa, D.	Hanna	Mustio	Sturla
Costa, P.	Harhai	Myers	Thomas
Cruz	Harkins	Neuman	Tobash
Curry	Hornaman	O'Brien, M.	Toepel
Daley	Josephs	Parker	Waters
Davidson	Kavulich	Pashinski	Wheatley
Deasy	Keller, W.	Payton	White
DeLissio	Kirkland	Petrarca	Youngblood

NAYS—97

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

NOT VOTING—0

EXCUSED—3

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

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

Mr. **THOMAS** offered the following amendment  
No. **A10048**:

Amend Bill, page 1, line 11, by striking out "AND,"  
Amend Bill, page 1, line 12, by inserting after "tax"  
; and providing for the Keystone Job Training Tax Credit  
Amend Bill, page 13, by inserting between lines 24 and 25  
Section 4. The act is amended by adding an Article to read:

ARTICLE XVIII-E

KEYSTONE JOB TRAINING TAX CREDIT

Section 1801-E. Definitions.

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

"Department." The Department of Community and Economic Development of the Commonwealth.

"Eligible job." A full-time job in this Commonwealth, the annual wage, excluding benefits, for which is at least equal to 150% of the Federal minimum wage. The term shall not include a temporary or seasonal job.

"Job training." Training designed to provide a trainee with the skills and knowledge necessary to meet a company's specifications for an occupation or trade that results in the trainee's employment or continued employment in an eligible job with the company in this Commonwealth.

"Job training tax credits." Tax credits for providing job training authorized under this article.

"Qualified tax liability." The liability for taxes imposed under Article III, IV, VI, VII, VIII, IX or XV. The term shall not include liability for any tax withheld or required to be withheld by a taxpayer from an employee under Article III.

"Small business." Any of the following with fewer than 100 employees at the time the taxpayer applies for a job training tax credit under this article and which is operating in this Commonwealth:

- (1) A for-profit corporation.
- (2) A limited liability company.
- (3) A partnership.
- (4) A proprietorship.

"Start date." The effective date of this section.

"Taxpayer." A small business subject to a tax imposed under Article III, IV, VI, VII, VIII, IX or XV.

"Trainee." An individual receiving job training for which a taxpayer applies for a job training tax credit under this article.

"Year four." A one-year period immediately following the end of year three.

"Year one." A one-year period immediately following the start date.

"Year three." A one-year period immediately following the end of year two.

"Year two." A one-year period immediately following the end of year one.

Section 1802-E. Job training tax credits.

(a) Criteria.—A taxpayer that provides job training from and after the start date shall be entitled to a job training tax credit against the taxpayer's qualified liability as provided under this article. To be eligible for a tax credit, the taxpayer must certify and agree in the taxpayer's application to all of the following:

- (1) The taxpayer shall maintain the operation of its small business in this Commonwealth for at least five years following the taxable year for which the taxpayer first claims a job training tax credit awarded under this article.
- (2) The taxpayer has the ability to provide a level of job training appropriate for the employment or continued employment of the trainee, as determined by the department.

(3) During each taxable year that the taxpayer claims a job training tax credit, the taxpayer shall dedicate at least 25% of a trainee's work time to job training for at least six months during the trainee's first year of employment.

(4) If the job training credit is for a new employee, the individual was hired for a new position in the taxpayer's small business or was hired to fill the position of another employee who voluntarily separated from employment with the taxpayer.

(b) Amount.—The following shall apply:

(1) The tax credit shall be equal to \$1,500 for each trainee and shall be available for each taxable year that the taxpayer provides job training through the end of the taxable year in which the end of year four occurs.

(2) Notwithstanding paragraph (1), a taxpayer may not claim more than an aggregate of \$100,000 of job training tax credits in any taxable year.

(c) Eligibility for other tax credits.—A taxpayer that claims tax credits under any other Federal or State law shall be eligible for a job training tax credit if the taxpayer also meets the requirements of this article.

Section 1803-E. Application and award.

(a) Application.—A taxpayer wishing to claim a job training tax credit shall apply to the department on a form required by the department. The application shall contain information as the department deems necessary for the department to determine that the taxpayer is entitled to the tax credit or credits for which the taxpayer is applying.

(b) Priority.—The department shall review and approve or disapprove applications in the order in which they are received and shall give priority to applications from taxpayers applying for tax credits for the following types of trainees:

(1) A dislocated worker as defined in section 701-A of the act of December 18, 2001 (P.L.949, No.114), known as the Workforce Development Act, who meets any of the following criteria:

- (i) Has been terminated or laid off or has received notice of termination or layoff and is eligible for or has exhausted unemployment compensation benefits.
- (ii) Is unlikely to return to the industry or occupation in which the individual was employed.
- (iii) Has been terminated or received notice of termination as a result of the permanent closure or relocation of a plant, facility or plant operation in which the individual was employed.
- (iv) Is chronically unemployed.
- (v) Has limited opportunities of employment in the geographic area in which the individual resides.
- (vi) Is an individual who may face substantial barriers to employment because of age or disability.

(2) An individual who has been unemployed for at least six consecutive months.

(3) An underemployed individual who requires training to meet industry demands or increased employment opportunities.

(4) An individual who will receive job training related to a high priority occupation within this Commonwealth, as identified in consultation with the Department of Labor and Industry, including a green job, a clean and renewable energy job or a job within an industry cluster.

(c) Award.—Upon determining that the taxpayer is entitled to one or more job training tax credits, the department shall award the credits and issue a job training tax credit certificate to the taxpayer.

Section 1804-E. Limitations.

(a) Use by taxpayer.—A taxpayer may not carry over, carry back, assign or obtain a refund of any portion of a job training tax credit.

(b) Aggregate amount of awards.—Twenty-five percent of the amount available for tax credits under section 1804-B(e) in any fiscal year shall be available for job training credits under this article.

(c) Length of program.—A taxpayer shall not be entitled to a job training tax credit in taxable years ending December 31 of the year in which the end of year four occurs and beyond.

Section 1805-E. Repayment and penalty.

(a) Repayment.—A taxpayer who has claimed one or more job training tax credits and fails to meet any of the criteria required under section 1802-E or a taxpayer who has received a job training tax credit in error shall repay to the Commonwealth the amount of all tax credits claimed.

(b) Penalty.—If it is determined that the failure or error referred to under subsection (a) occurred as a result of fraud perpetrated by the taxpayer, the taxpayer, in addition to being required to repay the amount of all tax credits claimed, shall be subject to other appropriate penalties and remedies as provided by law.

Section 1806-E. Reports.

(a) Taxpayer reports.—Within 30 days following the close of each taxable year that a taxpayer claims a job training tax credit awarded under this article, the taxpayer shall submit a written report to the department describing all job training provided to trainees hired in new positions in the taxpayer's small business during the taxable year.

(b) Department reports.—On or before March 1 of each calendar year, the department shall submit a written report to the Governor, the Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representative and the Minority Leader of the House of Representatives containing the following information:

(1) A list of all job training tax credit certificates issued by the department during the previous calendar year and the name and location of each taxpayer to whom the certificates were issued.

(2) An analysis of the effectiveness of the job training tax credits issued in creating new eligible jobs or retaining existing eligible jobs.

(3) Any other information the department deems relevant with respect to the job training tax credit program established under this article.

Section 1807-E. Notice.

The department shall, no later than 60 days following the effective date of this section, post the following on its publicly accessible Internet website:

(1) The availability and start date of the job training tax credits.

(2) Guidelines for the awarding of the job training tax credits.

(3) A downloadable copy of the application form.

Amend Bill, page 13, line 25, by striking out "4" and inserting

5

On the question,

Will the House agree to the amendment?

The SPEAKER. For the information of the members, this is also a replacement amendment. It replaces amendment A09860.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I encourage support for amendment 10048, and I look no further than—

The SPEAKER. Will the gentleman suspend.

The House will please come to order. It is difficult hearing. Thank you very much. I appreciate it.

The gentleman from Philadelphia may proceed.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I look no further than to the author of this bill, because just as the last amendment and at the beginning of this discussion, he made it very clear that this is about jobs, this is about job creation, this is about job retention. And, Mr. Speaker, I know that he knows that the world has changed. We are living in a very aggressive global marketplace, one that requires skills different than was offered during the industrial age. And, Mr. Speaker, in this marketplace this amendment would allow small businesses to provide the kind of training which is necessary for a majority of Pennsylvanians to participate in the global marketplace. And, Mr. Speaker, we have more college graduates today with degrees in areas that do not align with the marketplace, and this will help provide them with the kind of training that they need to transition into global marketplace job opportunities.

And so, Mr. Speaker, I ask for support of my colleagues on both sides of the aisle in making this happen.

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

On that question, the Speaker recognizes the gentleman from Centre County, Mr. Benninghoff.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

I just had a question of the maker of the amendment, if I might?

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

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

I know this is an important issue to the chairman. I just want to make clarification. These \$1500 tax credits, are these for all new hires or could these also be utilized for people that are currently employed?

Mr. THOMAS. Well, Mr. Speaker, this will be for new hires and this will be for people who have been out of the job market for 6 months or longer and need transition skills.

Mr. BENNINGHOFF. None of this would be used for current employees?

Mr. THOMAS. Pardon me?

Mr. BENNINGHOFF. None of this would be used for any current employees?

Mr. THOMAS. No.

Mr. BENNINGHOFF. Okay. Thank you.

Mr. Speaker, if I may, just on the amendment?

The SPEAKER. Is the gentleman seeking recognition on the amendment?

Mr. BENNINGHOFF. Yes. Thank you.

The SPEAKER. He is in order and may proceed.

Mr. BENNINGHOFF. Very briefly, I commend the maker for his intentions. I am just concerned about the overall fiscal cost, where we are going to find the money to do this, and I have some concerns that we are trying to provide tax credits to create jobs and for training. I think the goal should be trying to do whatever it is that we need to, either reducing tax rates to allow employers to invest the money in training people or we should be investing in trying to create the jobs themselves, not be paying for retraining afterwards.

Thank you.

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

(Members proceeded to vote.)

**LEAVE OF ABSENCE**

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

**CONSIDERATION OF HB 2150 CONTINUED**

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

The following roll call was recorded:

**YEAS—86**

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

**NAYS—106**

Adolph	Everett	Krieger	Reed
Aument	Farry	Lawrence	Reese
Baker	Gabler	Maher	Roae
Barrar	Geist	Major	Rock
Bear	Gillen	Maloney	Ross
Benninghoff	Gillespie	Marshall	Saccone
Bloom	Gingrich	Marsico	Saylor
Boback	Godshall	Masser	Scavello
Boyd	Grell	Metcalfe	Schroder
Brooks	Grove	Metzgar	Simmons
Brown, R.	Hackett	Miccarelli	Sonney
Causar	Hahn	Micozzie	Stephens
Christiana	Harhart	Millard	Stern
Clymer	Harper	Miller	Stevenson
Cox	Harris	Milne	Tallman
Creighton	Heffley	Moul	Taylor
Culver	Helm	Mustio	Tobash
Cutler	Hennessey	O'Neill	Toepel
Day	Hess	Oberlander	Toohil
Delozier	Hickernell	Payne	Truitt
Denlinger	Hutchinson	Peifer	Turzai
DiGirolamo	Kampf	Perry	Verab
Dunbar	Kauffman	Pickett	Vulakovich
Ellis	Keller, F.	Pyle	Watson

Emrick	Keller, M.K.	Quigley	
Evankovich	Killion	Quinn	Smith, S.,
Evans, J.	Knowles	Rapp	Speaker

NOT VOTING—0

EXCUSED—4

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

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

Mr. **BRIGGS** offered the following amendment  
No. **A09822**:

Amend Bill, page 1, line 11, by striking out "AND,"  
Amend Bill, page 1, line 12, by inserting after "tax"  
; and providing for a tobacco products tax  
Amend Bill, page 13, by inserting between lines 24 and 25  
Section 4. The act is amended by adding an article to read:

ARTICLE XII-A

TOBACCO PRODUCTS TAX

Section 1201-A. Definitions.

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

"Cigar." Any roll of tobacco wrapped in tobacco, not including little cigars.

"Cigarette." Includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco, and shall not include cigars or roll your own tobacco. The term shall include little cigars.

"Consumer." An individual who purchases tobacco products for personal use and not for resale.

"Contraband." Any tobacco product for which the tax imposed by this article has not been paid.

"Dealer." A wholesaler or retailer. Nothing in this article shall preclude any person from being a wholesaler or retailer, provided the person meets the requirements for a license in each category of dealer.

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

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

"Manufacturer." A person that produces tobacco products.

"Person." An individual, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, conservator, any political subdivision of the Commonwealth or any other state. Whenever used in any of the provisions of this article prescribing or imposing penalties, the word "person" as applied to a partnership, unincorporated association or other joint venture, means the partners or members thereof, and as applied to a corporation, means all the officers and directors thereof.

"Purchase price." The total value of anything paid or delivered, or promised to be paid or delivered, whether it be money or otherwise, in complete performance of a sale or purchase, without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor or service, interest or discount

paid or allowed after the sale is consummated, any other taxes imposed by the Commonwealth or any other expense.

"Retailer." A person that purchases or receives tobacco products from any source for the purpose of sale to a consumer, or who owns, leases or otherwise operates one or more vending machines for the purpose of sale of tobacco products to the ultimate consumer. The term includes a vending machine operator or a person that buys, sells, transfers or deals in tobacco products and is not licensed as a tobacco products wholesaler under this article.

"Roll-your-own tobacco." Any tobacco which, because of its appearance, type, packaging or labeling, is suitable for use and is likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of reporting sales of this product under the act of June 22, 2000 (P.L.394, No.54), known as the Tobacco Settlement Agreement Act, 0.09 ounces of tobacco shall constitute one individual unit sold.

"Sale." Any transfer of ownership, custody or possession of tobacco products for consideration; any exchange, barter or gift; or any offer to sell or transfer the ownership, custody or possession of tobacco products for consideration.

"Taxpayer." Any person subject to tax under this article.

"Tobacco products." Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, roll-your-own tobacco, snuff, dry snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or ingesting or for smoking in a pipe or otherwise, or both for chewing and smoking. The term does not include cigarettes.

"Unclassified importer." A person in this Commonwealth that acquires a tobacco product from any source on which the tax imposed by this article was not paid and that is not a person otherwise required to be licensed under the provisions of this article. The term includes, but is not limited to, consumers who purchase tobacco products using the Internet or mail order catalogs for personal possession or use in this Commonwealth.

"Vending machine operator." A person who places or services one or more tobacco product vending machines whether owned, leased or otherwise operated by the person at locations from which tobacco products are sold to the consumer. The owner or tenant of the premises upon which a vending machine is placed shall not be considered a vending machine operator if the owner's or tenant's sole remuneration therefrom is a flat rental fee or commission based upon the number or value of tobacco products sold from the machine, unless the owner or tenant actually owns the vending machine or leases the vending machine under an agreement whereby any profits from the sale of the tobacco products directly inure to the owner's or tenant's benefit.

"Wholesaler." A person engaged in the business of selling tobacco products that receives, stores, sells, exchanges or distributes tobacco products to retailers or other wholesalers in this Commonwealth or retailers who purchase from a manufacturer or from another wholesaler who has not paid the tax imposed by this article.

Section 1202-A. Incidence and rate of tax.

(a) Imposition.—A tobacco products tax is hereby imposed on the dealer, manufacturer or any person at the time the tobacco product is first sold to a retailer in this Commonwealth at the rate of 30% on the purchase price charged to the retailer for the purchase of any tobacco product. The tax shall be collected from the retailer by whomever sells the tobacco product to the retailer and remitted to the department. Any person required to collect this tax shall separately state the amount of tax on an invoice or other sales document.

(b) Retailer.—If the tax is not collected by the seller from the retailer, the tax is imposed on the retailer at the time of purchase at the same rate as in subsection (a) based on the retailer's purchase price of the tobacco products. The retailer shall remit the tax to the department.

(c) Unclassified importer.—The tax is imposed on an unclassified importer at the time of purchase at the same rate as in subsection (a) based on the unclassified importer's purchase price of the tobacco

products. The unclassified importer shall remit the tax to the department.

(d) Exceptions.—The tax shall not be imposed on any tobacco products that:

(1) are exported for sale outside this Commonwealth; or

(2) are not subject to taxation by the Commonwealth pursuant to any laws of the United States.

(e) Article II.—Unless otherwise specifically noted, the provisions of Article II shall apply to the returns, payment, penalties, enforcement, collections and appeals of the tax imposed on other tobacco products.

Section 1203-A. Floor tax.

(a) Payment.—Any retailer that, as of the effective date of this article, possesses tobacco products subject to the tax imposed by section 1202-A, shall pay the tax on the tobacco products in accordance with the rates specified in section 1202-A. The tax shall be paid and reported on a form prescribed by the department within 90 days of the effective date of this section.

(b) Administrative penalty; license.—If a retailer fails to file the report required by subsection (a) or fails to pay the tax imposed by subsection (a), the department may, in addition to the interest and penalties provided in section 1215-A, do any of the following:

(1) Impose an administrative penalty equal to the amount of tax evaded or not paid. The penalty shall be added to the tax evaded or not paid and assessed and collected at the same time and in the same manner as the tax.

(2) Suspend, revoke or refuse to issue the retailer's license.

(c) Criminal penalty.—In addition to any penalty imposed under subsection (b), a person that willfully omits, neglects or refuses to comply with a duty imposed under subsection (a) commits a misdemeanor and shall, if convicted, be sentenced to pay a fine of not less than \$2,500 nor more than \$5,000, to serve a term of imprisonment not to exceed 30 days, or both.

Section 1204-A. Remittance of tax to department.

Wholesalers, retailers, unclassified importers and manufacturers shall file monthly reports on a form prescribed by the department by the 20th day of the month following the sale or purchase of tobacco products from any other source on which the tax levied by this article has not been paid. The tax is due at the time the report is due. The department may require the filing of reports and payment of tax on a less frequent basis at its discretion.

Section 1205-A. (Reserved).

Section 1206-A. Procedures for claiming refund.

A claim for a refund of tax imposed by this article under section 3003.1 and Article XXVII shall be in the form and contain the information prescribed by the department by regulation.

Section 1207-A. Sales or possession of tobacco product when tax not paid.

(a) Sales or possession.—Any person who sells or possesses any tobacco product for which the proper tax has not been paid commits a summary offense and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of not less than \$100 not more than \$1,000 or to imprisonment for not more than 60 days, or both, at the discretion of the court. Any tobacco products purchased from a wholesaler properly licensed under this article shall be presumed to have the proper taxes paid.

(b) Tax evasion.—Any person that shall falsely or fraudulently, maliciously, intentionally or willfully with intent to evade the payment of the tax imposed by this article sells or possesses any tobacco product for which the proper tax has not been paid commits a felony and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of not more than \$15,000 or to imprisonment for not more than five years, or both, at the discretion of the court.

Section 1208-A. Assessment.

The department is authorized to make the inquiries, determinations and assessments of the tax, including interest, additions and penalties, imposed by this article.

Section 1209-A. (Reserved).

Section 1210-A. (Reserved).

Section 1211-A. Failure to file return.

Where no return is filed, the amount of the tax due may be assessed and collected at any time as to taxable transactions not reported.

Section 1212-A. False or fraudulent return.

Where the taxpayer willfully files a false or fraudulent return with intent to evade the tax imposed by this article, the amount of tax due may be assessed and collected at any time.

Section 1213-A. Extension of limitation period.

Notwithstanding any other provision of this article, where, before the expiration of the period prescribed for the assessment of a tax, a taxpayer has consented, in writing, that the period be extended, the amount of tax due may be assessed at any time within the extended period. The period so extended may be extended further by subsequent consents, in writing, made before the expiration of the extended period.

Section 1214-A. Failure to furnish information, returning false information or failure to permit inspection.

(a) Penalty.—Any taxpayer who fails to keep or make any record, return, report, inventory or statement, or keeps or makes any false or fraudulent record, return, report, inventory or statement required by this article commits a misdemeanor and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of \$500 and to imprisonment for not more than one year, or both, at the discretion of the court.

(b) Examination.—The department is authorized to examine the books and records, the stock of tobacco products and the premises and equipment of any taxpayer in order to verify the accuracy of the payment of the tax imposed by this article. The person subject to an examination shall give to the department or its duly authorized representative, the means, facilities and opportunity for the examination. Willful refusal to cooperate with or permit an examination to the satisfaction of the department shall be sufficient grounds for the suspension or revocation of a taxpayer's license. In addition, a person who willfully refuses to cooperate with or permit an examination to the satisfaction of the department commits a misdemeanor and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of \$500 or to imprisonment for not more than one year, or both, at the discretion of the court.

(c) Records; dealer or manufacturer.—A dealer or manufacturer shall keep and maintain for a period of four years records in the form prescribed by the department. The records shall be maintained at the location for which the license is issued.

(d) Reports.—A dealer or manufacturer shall file reports at times and in the form prescribed by the department.

(e) Records; manufacturer or wholesaler.—A manufacturer or wholesaler located or doing business in this Commonwealth who sells tobacco products to a wholesale license holder in this Commonwealth shall keep records showing:

(1) The number and kind of tobacco products sold.

(2) The date the tobacco products were sold.

(3) The name and license number of the dealer the tobacco products were sold to.

(4) The total weight of each of the tobacco products sold to the license holder.

(5) The place where the tobacco products were shipped.

(6) The name of the common carrier.

(f) Manufacturer or wholesaler.—A manufacturer or wholesaler shall file with the department, on or before the 20th of each month, a report showing the information listed in subsection (e) for the previous month.

Section 1215-A. Other violations; peace officers; fines.

Sections 1278, 1279, 1280 and 1291 are incorporated by reference into and shall apply to the tax imposed by this article.

Section 1216-A. (Reserved).

Section 1217-A. (Reserved).

Section 1218-A. (Reserved).

Section 1219-A. Records of shipments and receipts of tobacco products required.

The department may, in its discretion, require reports from any common or contract carrier who transports tobacco products to any point or points within this Commonwealth, and from any bonded warehouseman or bailee who has in the possession of the warehouseman or bailee any tobacco products. The reports shall contain the information concerning shipments of tobacco products that the department determines to be necessary for the administration of this article. All common and contract carriers, bailees and warehousemen shall permit the examination by the department or its authorized agents of any records relating to the shipment or receipt of tobacco products.

Section 1220-A. Licensing of dealers and manufacturers.

(a) Prohibition.—No person, unless all sales of tobacco products are exempt from Pennsylvania tobacco products tax, shall sell, transfer or deliver any tobacco products in this Commonwealth without first obtaining the proper license provided for in this article.

(b) Application.—An applicant for a dealer's or manufacturer's license shall complete and file an application with the department. The application shall be in the form and contain information prescribed by the department and shall set forth truthfully and accurately the information desired by the department. If the application is approved, the department shall license the dealer or manufacturer for a period of one year and the license may be renewed annually thereafter.

Section 1221-A. Licensing of manufacturers.

Any manufacturer doing business within this Commonwealth shall first obtain a license to sell tobacco products by submitting an application to the department containing the information requested by the department and designating a process agent. If a manufacturer designates no process agent, the manufacturer shall be deemed to have made the Secretary of State its agent for the service of process in this Commonwealth.

Section 1222-A. Licensing of wholesalers.

(a) Requirements.—Applicants for a wholesale license or renewal of that license shall meet the following requirements:

(1) The premises on which the applicant proposes to conduct business are adequate to protect the revenue.

(2) The applicant is a person of reasonable financial stability and reasonable business experience.

(3) The applicant, or any shareholder controlling more than 10% of the stock if the applicant is a corporation or any officer or director if the applicant is a corporation, shall not have been convicted of any crime involving moral turpitude.

(4) The applicant shall not have failed to disclose any material information required by the department, including information that the applicant has complied with this article by providing a signed statement under penalty of perjury.

(5) The applicant shall not have made any material false statement in the application.

(6) The applicant shall not have violated any provision of this article.

(7) The applicant shall have filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan.

(b) Multiple locations.—The wholesale license shall be valid for one specific location only. Wholesalers with more than one location shall obtain a license for each location.

Section 1223-A. Licensing of retailers.

Applicants for retail license or renewal of that license shall meet the following requirements:

(1) The premises in which the applicant proposes to conduct business are adequate to protect the revenues.

(2) The applicant shall not have failed to disclose any material information required by the department.

(3) The applicant shall not have any material false statement in the application.

(4) The applicant shall not have violated any provision

of this article.

(5) The applicant shall have filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan.

Section 1224-A. License for tobacco products vending machines.

Each tobacco products vending machine shall have a current retail license which shall be conspicuously and visibly placed on the machine. There shall be conspicuously and visibly placed on every tobacco products vending machine the name and address of the owner and the name and address of the operator.

Section 1225-A. License fees and issuance and display of license.

(a) At the time of making any application or license renewal application:

(1) An applicant for a tobacco products manufacturers license shall pay the department a license fee of \$1,500.

(2) An applicant for a wholesale tobacco products dealer's license shall pay to the department a license fee of \$1,500.

(3) An applicant for a retail tobacco products dealer's license shall pay to the department a license fee of \$25.

(4) An applicant for a vending machine tobacco products dealer's license shall pay to the department a license fee of \$25.

(b) Proration.—Fees shall not be prorated.

(c) Issuance and display.—On approval of the application and payment of the fees, the department shall issue the proper license which must be conspicuously displayed at the location for which it has been issued.

Section 1226-A. Electronic filing.

The department may at its discretion require that any or all returns, reports or registrations that are required to be filed under this article be filed electronically. Failure to electronically file any return, report, registration or other information the department may direct to be filed electronically shall subject the taxpayer to a penalty of 5% of the tax due on the return, up to a maximum of \$1,000, but not less than \$10. This penalty shall be assessed at any time and collected in the manner provided in this article. This penalty shall be in addition to any civil penalty imposed in this article for failure to furnish information or file a return. The criminal penalty for failure to file a return electronically shall be the same as the criminal penalty for failure to furnish information or file a return under this article.

Section 1227-A. Expiration of license.

(a) Expiration.—A license shall expire on the last day of June next succeeding the date upon which it was issued unless the department at an earlier date suspends, surrenders or revokes the license.

(b) Violation.—After the expiration date of the license or sooner if the license is suspended, surrendered or revoked, it shall be illegal for any dealer to engage directly or indirectly in the business heretofore conducted by the dealer for which the license was issued. Any licensee who shall, after the expiration date of the license, engage in the business theretofore conducted by the licensee either by way of purchase, sale, distribution or in any other manner directly or indirectly engaged in the business of dealing with tobacco products for profit shall be in violation of this article and be subject to the penalties provided in this article.

Section 1228-A. Administration powers and duties.

(a) Department.—The administration of this article is hereby vested in the department. The department shall adopt rules and regulations for the enforcement of this article. The department may impose fees as may be necessary to cover the costs incurred in administering this section.

(b) Joint administration.—The department is authorized to jointly administer this article with other provisions of this act, including joint reporting of information, forms, returns, statements, documents or other information submitted to the department.

Section 1229-A. Sales without license.

(a) Penalty.—Any person who shall, without being the holder of a

proper unexpired dealer's license, engage in purchasing, selling, distributing or in any other manner directly or indirectly engaging in the business of dealing with tobacco products for profit commits a summary offense and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of not less than \$250 nor more than \$1,000, or to imprisonment for not more than 30 days, or both, at the discretion of the court.

(b) Prima facie evidence.—Open display of tobacco products in any manner shall be prima facie evidence that the person displaying such tobacco products is directly or indirectly engaging in the business of dealing with tobacco products for profit.

Section 1230-A. Violations and penalties.

(a) Suspension.—The license of any person who violates this article may be suspended after due notice and opportunity for a hearing for a period of not less than five days or more than 30 days for a first violation and shall be revoked or suspended for any subsequent violation.

(b) Fine.—In addition to the provisions of subsection (a), upon adjudication of a first violation, the person shall be fined not less than \$2,500 nor more than \$5,000. For subsequent violations, the person shall, upon adjudication thereof, be fined not less than \$5,000 nor more than \$15,000.

(c) Civil penalty.—A person who violates section 1214-A (b), (c), or (d), or 1225-A(c), shall be subject to a civil penalty not to exceed \$300 per violation but shall not be subject to subsections (a) and (b).

Section 1231-A. Property rights.

(a) Incorporation.—Subject to subsection (b), section 1285 is incorporated by reference into and shall apply to this article.

(b) Alterations.—

(1) References in section 1285 to cigarettes shall apply to tobacco products in this article.

(2) References in section 1285 to 2,000 or more unstamped cigarettes shall apply to tobacco products worth at least \$500 in this article.

(3) References in section 1285 to more than 200 unstamped cigarettes shall apply to tobacco products worth at least \$50 in this article.

Section 1232-A. Sample of tobacco products.

(a) Samples.—The department shall, by regulation, govern the receipt, distribution of and payment of tax on sample tobacco products issued for free distribution.

(b) Construction.—Nothing in this article or the regulations promulgated under this article shall prohibit the bringing into this Commonwealth by a manufacturer samples of tobacco products to be delivered and distributed only through licensed dealers or the manufacturers or their sales representatives. The tax shall be paid by the manufacturer provided all such packs bear the legend "all applicable State taxes have been paid." Under no circumstances shall any untaxed tobacco products be sold within this Commonwealth.

Section 1233-A. Labeling and packaging.

It shall be unlawful to knowingly possess, sell, give, transfer or deliver to any person, any tobacco product where the packaging of which has been modified or altered by a person other than the original manufacturer. Modification or alteration shall include the placement of a sticker, writing or mark to cover information on the packages. For purposes of this section, a tobacco product package shall not be construed to have been modified or altered by a person other than the manufacturer if the most recent modification or alteration was made by the manufacturer or person authorized by the manufacturer and approved by the department.

Section 1234-A. Information exchange.

The department is authorized to exchange information with any other Federal, State or local enforcement agency for purposes of enforcing this article.

Amend Bill, page 13, line 25, by striking out "4" and inserting



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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Briggs.

Mr. BRIGGS. Thank you, Mr. Speaker.

Amendment 9822 is attempting to close a loophole in Act 48 of 2009 when we taxed cigarillos, little cigars, at the same rate of cigarettes. It included an exemption which did not include cigars or smokeless tobacco. This loophole makes Pennsylvania the only State that does not have an excise tax on smokeless tobacco and one of only two States that does not include cigars. Amendment 9822 proposes to close this loophole in the cigarette and cigarillo tax, to remove these exemptions and to include other tobacco products.

This is not a tax increase but will eliminate a special privilege given to those products and will level the playing field. It also saves lives. This is a loophole that drives young people to smokeless forms of tobacco, which is highly addictive. If kids did not have the low-cost smokeless option, many would never become addicted at all.

I ask my colleagues to please support amendment 9822. Thank you very much.

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

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Bear.

Mr. BEAR. Thank you, Mr. Speaker.

While it may be fashionable to put additional taxes on the tobacco industry, it does have consequences. In Lancaster County one of the things that is supporting dairy farms is the fact that dairy farmers can also do tobacco, and that helps supplement, basically, their income and also as well as the dairy operation.

So I just think before we vote for something like this, you have to think about what does this mean to the industry, what does it mean to agriculture, and certainly in Lancaster County, what does it mean for dairy operations?

So I 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—69

Bishop	DeLissio	Keller, W.	Petri
Boyle, B.	Dermody	Kirkland	Preston
Boyle, K.	Donatucci	Kula	Ravenstahl
Bradford	Evans, D.	Longietti	Roebuck
Brennan	Fabrizio	Mahoney	Ross
Briggs	Frankel	Mann	Sabatina
Brown, V.	Freeman	Markosek	Santarsiero
Brownlee	Galloway	McGeehan	Santoni
Buxton	Gerber	Miccarelli	Smith, M.
Caltagirone	Goodman	Mirabito	Staback
Carroll	Hackett	Mundy	Stephens
Cohen	Hanna	Murt	Sturla
Conklin	Harkins	Myers	Thomas
Costa, P.	Harper	O'Brien, M.	Vitali
Cruz	Hornaman	Parker	Waters

Curry Davidson Deasy	Josephs Kavulich	Pashinski Payton	Wheatley Youngblood
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NAYS—123

Adolph Aument	Evans, J. Everett	Kortz Kotik	Rapp Readshaw
Baker	Farry	Krieger	Reed
Barbin	Gabler	Lawrence	Reese
Barrar	Geist	Maher	Roae
Bear	George	Major	Rock
Benninghoff	Gergely	Maloney	Saccone
Bloom	Gibbons	Marshall	Sainato
Boback	Gillen	Marsico	Samuelson
Boyd	Gillespie	Masser	Saylor
Brooks	Gingrich	Matzie	Scavello
Brown, R.	Godshall	Metcalfe	Schroder
Burns	Grell	Metzgar	Simmons
Causer	Grove	Micozzie	Smith, K.
Christiana	Hahn	Millard	Sonney
Clymer	Haluska	Miller	Stern
Costa, D.	Harhai	Milne	Stevenson
Cox	Harhart	Moul	Tallman
Creighton	Harris	Mullery	Taylor
Culver	Heffley	Mustio	Tobash
Cutler	Helm	Neuman	Toepel
Daley	Hennessey	O'Neill	Toohil
Day	Hess	Oberlander	Truitt
DeLozier	Hickernell	Payne	Turzai
DeLuca	Hutchinson	Peifer	Vereb
Denlinger	Kampf	Perry	Vulakovich
DePasquale	Kauffman	Petrarca	Watson
DiGirolamo	Keller, F.	Pickett	White
Dunbar	Keller, M.K.	Pyle	
Ellis	Killion	Quigley	Smith, S.,
Emrick	Knowles	Quinn	Speaker
Evankovich			

NOT VOTING—0

EXCUSED—4

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

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

**MOTION TO RECONSIDER  
AMENDMENT A10031**

The SPEAKER. The Speaker is in receipt of a motion to reconsider. Pursuant to rule 26, we, the undersigned, move that the vote by which the House defeated amendment A10031 to HB 2150 on the 1st of May be reconsidered. The motion is filed by Representative Hanna and Representative Dermody.

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

The SPEAKER. Is the gentleman, Mr. Turzai, seeking recognition on the motion to reconsider?

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

I urge the members to vote against reconsidering amendment 10031. This underlying issue has been addressed and voted down in appropriate fashion. It should not be reconsidered.

In significant part, this is a business tax reduction bill to provide for a stimulus in the economy, private-sector job creation. If anyone wants to move legislation for a dog or cat adoption tax credit, they need to make that particular case in separate legislation. I am not sure how that stimulates job creation in the Commonwealth of Pennsylvania and would ask everybody to vote against the motion for reconsideration. Thank you.

The SPEAKER. On the motion to reconsider, the Speaker recognizes the gentleman from Washington County, Mr. White.

Mr. WHITE. Thank you, Mr. Speaker.

I urge the members for a "yes" vote on the reconsideration motion. You know, we are talking about dogs and cats, and I will be the first to admit I have two dogs and I recently got a cat, which I have not always been the biggest fan of. But one thing I have learned about cats and I think it should apply here, cats have nine lives, so should this amendment. Vote "yes" for reconsideration.

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

The following roll call was recorded:

YEAS—84

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

NAYS—107

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

Culver	Helm	Murt	Tallman
Cutler	Hennessey	Mustio	Taylor
Day	Hess	O'Neill	Tobash
Delozier	Hickernell	Oberlander	Toepel
Denlinger	Hutchinson	Payne	Toohil
DiGirolamo	Kampf	Peifer	Truitt
Dunbar	Kauffman	Perry	Turzai
Ellis	Keller, F.	Petri	Vereb
Emrick	Keller, M.K.	Pickett	Vulakovich
Evankovich	Killion	Pyle	Watson
Evans, J.	Knowles	Quigley	

NOT VOTING—1

Smith, S., Speaker

EXCUSED—4

Davis	Fleck	Murphy	Swanger
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Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

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

The SPEAKER. For the information of the members, the following amendments violate House rule 20, which provides that no bill shall be passed containing more than one subject: amendments A09825 and A09841, pertaining to property taxes, which are not contained in the Tax Reform Act; and amendment A09950, which distributes money from the Marcellus extraction tax to entities not related to the tax and, thus, violates the PAGE case. Therefore, it is the ruling of the Chair that these amendments are out of order.

RULING OF CHAIR APPEALED

Mr. DERMODY. Mr. Speaker?

The SPEAKER. Does the gentleman, Mr. Dermody, seek recognition?

Mr. DERMODY. Yes, I do, Mr. Speaker.

The SPEAKER. For what purpose?

Mr. DERMODY. To appeal the ruling of the Chair, Mr. Speaker.

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. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, if cats and dogs do not violate the single-subject rule, property tax relief for our people should not violate the single-subject rule either. This bill is about tax breaks, corporate tax breaks. With these amendments, we have an opportunity to give the people of Pennsylvania, every Pennsylvanian, a property tax break.

Now, back on December 5, 2011 – and we brought this up before – while we were considering HB 1644, you ruled that a bill dealing with agricultural surplus property was germane, or

in other words, did not violate the single-subject rule to an amendment that abolished the office of jury commissioner. Mr. Speaker, obviously surplus agricultural property and the office of jury commissioner have nothing to do with each other, but at the time you took a very broad view of what constitutes a single subject. Before us today are amendments to a tax reform code, dealing with taxation in the Commonwealth. It is taxation. It does not get any more germane than that. It does not violate the single-subject rule.

And furthermore, Mr. Speaker, we have a long history in the House of considering amendments to the Tax Reform Code to be a single subject. For example, in 2009 this House passed HB 1531, which started off as a two-page bill that dealt solely with the Military Family Relief Assistance Program. By the time 1531 was signed into law, it became a 173-page bill dealing with wide-ranging topics within the Tax Reform Code, such as the personal income tax, the capital stock and franchise tax, the gross receipts tax, cigarette tax, for research and development tax credit, for an educational improvement tax credit, and for tax amnesty provisions, and it goes on and on. All of these provisions are in the Tax Reform Code or did not violate the single-subject code. We just voted on a tax credit for cats and dogs. We were allowed to vote on the bill dealing with cats and dogs. It did not violate the single-subject rule. We could have before us amendments that deal with property tax relief for every Pennsylvanian, and we ought to be able to deal with those as we dealt with cats and dogs.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to appeal the ruling of the Chair, the Speaker recognizes the gentleman from Allegheny County, Mr. Turzai.

Mr. TURZAI. I certainly appreciate the good gentleman from Allegheny County, the minority leader's attempt, but I would ask everybody to please vote against his motion to appeal the Chair. The minority, as we well know, when they had control of this particular legislature, spent the last 4 years trying to raise taxes on the citizens of Pennsylvania, and here we are with an opportunity to get to the underlying bill that would stimulate private-sector job creation so that employers stay here, expand here, locate here, or start up here.

In the city of Philadelphia, the court adopted a practical germaneness test where the single-subject requirement is satisfied so long as the legislation at issue possesses some single unifying subject to which all of the provisions of the act are relevant. However, reasonably broad topics, such as those that are put here, are designed to in fact demean the process and do not fit the definition of the single-subject rule. The Speaker clearly has ruled appropriately, and we should be able to move forward to the underlying bill that provides impetus for private-sector job creation in the Commonwealth of Pennsylvania.

I would ask the members to please uphold the ruling of the Chair.

The SPEAKER. On the motion to appeal 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 in opposition to the Speaker's ruling on these property tax amendments. Mr. Speaker, to pass muster under the single-subject standard, an act must have a single unifying subject to which all of its provisions are germane. Mr. Speaker, the single unifying subject of HB 2150 is the Tax

Reform Code, or in other words, taxation here in the Commonwealth, and in reality, tax breaks, and as the bill is currently written, for corporations.

Mr. Speaker, these amendments, these property tax amendments also provide for taxation in the Commonwealth by reducing all property taxes, taxes for all taxpayers after December 31, 2012. In other words, a tax break for people, not just corporations, but a tax break for people. Mr. Speaker, the bill deals with taxation in the Commonwealth and my amendment deals with taxation in the Commonwealth by eliminating property taxes. It does not get any more germane than that.

Mr. Speaker, the people of Pennsylvania cannot and will not be fooled. This vote is really a vote on whether or not you want to eliminate property taxes in Pennsylvania. This vote is really a vote on whether you are only for tax breaks for corporations or whether you support tax breaks for people, your constituents, your property tax payers.

Mr. Speaker, my amendment is a vote to give real tax relief to Pennsylvanians, not just to multistate corporations that are not already paying their fair share. I ask my colleagues to join me in opposing the ruling of the Chair.

Thank you, Mr. Speaker.

The SPEAKER. On the motion to appeal the ruling of the Chair, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Mr. Speaker, the Supreme Court in *Citizens United* declared that corporations are people too, and while I do not agree with that decision, if corporations are people too, then this underlying bill is about taxing people, and if this underlying bill is about taxing people, then this amendment is germane and should be ruled in order, and I would ask members to vote accordingly. Thank you, Mr. Speaker.

The SPEAKER. 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—108

Adolph	Farry	Maher	Reed
Aument	Gabler	Major	Reese
Baker	Geist	Maloney	Roac
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	Tallman
Creighton	Helm	Mustio	Taylor
Culver	Hennessey	O'Neill	Tobash
Cutler	Hess	Oberlander	Toepel
Day	Hickernell	Payne	Toohil
Delozier	Hutchinson	Peifer	Truitt
Denlinger	Kampf	Perry	Turzai
DiGirolamo	Kauffman	Petri	Vereb

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

NAYS—84

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

NOT VOTING—0

EXCUSED—4

Davis	Fleck	Murphy	Swanger
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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. It is the information of the Speaker that the other amendments that have been filed to HB 2150 have been withdrawn.

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

(Bill as amended will be reprinted.)

SUPPLEMENTAL CALENDAR A

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 1141, PN 1909**, entitled:

An Act amending the act of November 29, 2004 (P.L.1282, No.158), known as the Manufactured Housing Improvement Act, expanding the coverage of the act to relocated housing.

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—191

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

NAYS—1

Metzgar

NOT VOTING—0

EXCUSED—4

Davis Fleck Murphy Swanger

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

\* \* \*

The House proceeded to third consideration of **HB 527, PN 494**, entitled:

An Act establishing an emergency medical services memorial flag; and imposing duties on the Pennsylvania Emergency Health Services Council and the Bureau of Emergency Medical Services in the Department of Health.

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 finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—192

Adolph	Dunbar	Kirkland	Quigley
Aument	Ellis	Knowles	Quinn
Baker	Emrick	Kortz	Rapp
Barbin	Evankovich	Kotik	Ravenstahl
Barrar	Evans, D.	Krieger	Readshaw
Bear	Evans, J.	Kula	Reed
Benninghoff	Everett	Lawrence	Reese
Bishop	Fabrizio	Longietti	Roe
Bloom	Farry	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	Samuelson
Briggs	Gerber	Marsico	Santarsiero
Brooks	Gergely	Masser	Santoni
Brown, R.	Gibbons	Matzie	Saylor
Brown, V.	Gillen	McGeehan	Scavello
Brownlee	Gillespie	Metcalfe	Schroder
Burns	Gingrich	Metzgar	Simmons
Buxton	Godshall	Miccarelli	Smith, K.
Caltagirone	Goodman	Micozzie	Smith, M.
Carroll	Grell	Millard	Sonney
Causar	Grove	Miller	Staback
Christiana	Hackett	Milne	Stephens
Clymer	Hahn	Mirabito	Stern
Cohen	Haluska	Moul	Stevenson
Conklin	Hanna	Mullery	Sturla
Costa, D.	Harhai	Mundy	Tallman
Costa, P.	Harhart	Murt	Taylor

Cox	Harkins	Mustio	Thomas
Creighton	Harper	Myers	Tobash
Cruz	Harris	Neuman	Toepel
Culver	Heffley	O'Brien, M.	Toohil
Curry	Helm	O'Neill	Truitt
Cutler	Hennessey	Oberlander	Turzai
Daley	Hess	Parker	Vereb
Davidson	Hickernell	Pashinski	Vitali
Day	Hornaman	Payne	Vulakovich
Deasy	Hutchinson	Payton	Waters
DeLissio	Josephs	Peifer	Watson
DeLozier	Kampf	Perry	Wheatley
DeLuca	Kauffman	Petrarca	White
Denlinger	Kavulich	Petri	Youngblood
DePasquale	Keller, F.	Pickett	
Dermody	Keller, M.K.	Preston	Smith, S., Speaker
DiGirolamo	Keller, W.	Pyle	
Donatucci	Killion		

NAYS—0

NOT VOTING—0

EXCUSED—4

Davis Fleck Murphy Swanger

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

**BILLS RECOMMITTED**

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 84;  
HB 254;  
HB 1616;  
HB 1908;  
HB 1909;  
HB 2116;  
HB 2150; and  
HB 2285.

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

**BILLS REMOVED FROM TABLE**

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

HB 1047;  
HB 1484;  
HB 1780; and  
SB 342.

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

### CALENDAR CONTINUED

#### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 511, PN 466**, entitled:

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, in health and accident insurance, providing for access to community pharmacy services.

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

#### BILL TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 511 be removed from the active calendar and placed on the tabled calendar.

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

#### BILL REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 511 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.

\* \* \*

The House proceeded to second consideration of **HB 955, PN 3072**, entitled:

An Act amending Titles 4 (Amusements) and 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, revising grants to fire companies and volunteer services in the areas of scope, administration, programs, expiration of authority and special provisions; providing for grants to volunteer quick response services; and making a related repeal.

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

#### BILL TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 955 be removed from the active calendar and placed on the tabled calendar.

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

#### BILL REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 955 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.

#### VOTE CORRECTIONS

The SPEAKER. Is the lady from Philadelphia, Ms. Josephs, seeking recognition for the purpose of correcting the record?

Ms. JOSEPHS. Yes, Mr. Speaker. Thank you, Mr. Speaker.

On amendment 9885 to HB 2150, my switch malfunctioned. I was not recorded. I would like to be recorded in the affirmative. Thank you, Mr. Speaker.

The SPEAKER. The lady's remarks will be noted for the record.

For what purpose does the lady from Luzerne County, Ms. Mundy, seek recognition?

Ms. MUNDY. To correct the record, Mr. Speaker.

The SPEAKER. The lady may state her correction.

Ms. MUNDY. On amendment 9883, I was recorded in the negative. I would wish to be recorded in the affirmative.

The SPEAKER. These remarks will be noted on the record.

#### REMARKS SUBMITTED FOR THE RECORD

Mr. PETRI submitted the following remarks for the Legislative Journal:

Mr. Speaker, it is my privilege to bring to the attention of the Speaker and the members of the Pennsylvania House of Representatives the names of Jonathan Cohen and Robert Devon Longmore, who have recently been awarded Scouting's highest honor – Eagle Scout.

Mr. Speaker, I would like to read to the members of the House of Representatives the following citation.

Whereas, Jonathan Cohen and Robert Devon Longmore have earned the Eagle Award in Scouting. This is the highest award that Boy Scouts can bestow and as such represents great sacrifice and tremendous effort on the part of these young men. They are members of Troop 147.

Now therefore, Mr. Speaker and members of the House of Representatives, it is my privilege to congratulate and place in the Legislative Journal the names of Jonathan Cohen and Robert Devon Longmore.

#### 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 this House, the Speaker recognizes the gentleman, Mr. Kampf, from Chester County, who moves that this House do adjourn until Wednesday, May 2, 2012, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 6:12 p.m., e.d.t., the House adjourned.