

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

THURSDAY, JUNE 21, 2012

SESSION OF 2012

196TH OF THE GENERAL ASSEMBLY

No. 45

### HOUSE OF REPRESENTATIVES

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

#### THE SPEAKER PRO TEMPORE (MATTHEW E. BAKER) PRESIDING

#### PRAYER

HON. JOHN A. LAWRENCE, member of the House of Representatives, offered the following prayer:

Let us pray:

The words of Deuteronomy, chapter 32, verse 7, which are reproduced directly above the Speaker's rostrum within the Apotheosis: "Remember the days of old, consider the years of many generations: Ask thy Father and He will show thee, thy elders, and they will tell thee."

Father, give us a mind to remember those who have come before us, who established this Commonwealth as a land of freedom. Grant us wisdom this day as we seek to carry out the duties that You have assigned to us. Guide us as we deliberate upon the legislation before this House, and lead us that we may advance the interests of the citizens of Pennsylvania in all of our actions, both today and in the days to come.

I humbly offer this in the name of Jesus the Christ. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, the approval of the Journal of Wednesday, June 20, 2012, will be postponed until printed.

#### LEAVES OF ABSENCE

The SPEAKER pro tempore. The majority whip requests leaves of absence for Representative QUINN from Bucks County for the day, Representative METCALFE from Butler County for the day, Representative MICCARELLI from Delaware County for the day, Representative WATSON from Bucks County for the day, and Representative HARPER from Montgomery County for the day. Without objection, the leaves of absence are so granted.

The minority chairman requests a leave of absence for the gentleman, Representative HANNA, from Clinton County for the day, and Representative Dwight EVANS from Philadelphia for the day. Without objection, the leaves of absence will be so granted.

#### MASTER ROLL CALL

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

The following roll call was recorded:

#### PRESENT—194

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

Delozier	Kauffman	Perry	Williams
DeLuca	Kavulich	Petrarca	Youngblood
Denlinger	Keller, F.	Petri	
DePasquale	Keller, M.K.	Pickett	Smith, S.,
Dermody	Keller, W.	Preston	Speaker

**ADDITIONS—0****NOT VOTING—0****EXCUSED—7**

Evans, D.	Harper	Miccarelli	Watson
Hanna	Metcalfe	Quinn	

**LEAVES ADDED—9**

Benninghoff	Gerber	Kotik	Petri
DeLuca	Hennessey	Miller	Preston
George			

**LEAVES CANCELED—6**

Hanna	Metcalfe	Miller	Quinn
Harper	Miccarelli		

The SPEAKER pro tempore. One hundred and ninety-four members having voted on the master roll, a quorum is present.

The House will be at ease.

The House will come to order.

### **RULES AND APPROPRIATIONS COMMITTEE MEETINGS**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Adolph, chairman of the Appropriations Committee, for an announcement.

Mr. ADOLPH. Thank you, Mr. Speaker.

For the members' information, there will be an immediate Rules Committee meeting in room 60, East Wing; an immediate Rules Committee meeting in room 60, East Wing. And then at 11:45 there will be an Appropriations Committee meeting in the majority caucus room. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

There will be an immediate Rules Committee meeting in room 60, East Wing, and an Appropriations Committee meeting at 11:45 in the majority caucus room.

### **REPUBLICAN CAUCUS**

The SPEAKER pro tempore. The Chair recognizes the gentelady, Ms. Major, for a caucus announcement.

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus today at 12 noon. I would ask our Republican members to please report to our caucus room promptly at 12 noon. We would be prepared to come back on the floor at 2 p.m. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady.

### **DEMOCRATIC CAUCUS**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Frankel, for a caucus announcement.

Mr. FRANKEL. Thank you, Mr. Speaker.

Democrats will also caucus at 12 noon; Democrats will caucus at 12 noon. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### **RECESS**

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

### **RECESS EXTENDED**

The time of recess was extended until 2:30 p.m.; further extended until 3 p.m.

### **AFTER RECESS**

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

### **THE SPEAKER PRO TEMPORE (JOHN MAHER) PRESIDING**

### **LEAVES OF ABSENCE**

The SPEAKER pro tempore. The Chair recognizes the majority whip, who asks that the gentleman from Chester County, Representative HENNESSEY, and the gentleman from York County, Representative MILLER, be placed on leave for the balance of the day. Without objection, the leaves are granted.

### **LEAVE OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair recognizes the presence on the floor of the gentelady from Montgomery County, Representative Harper, whose name will be restored to the master roll.

### **BILLS ON CONCURRENCE REPORTED FROM COMMITTEE**

**HB 807, PN 3586**

By Rep. TURZAI

An Act amending the act of July 10, 2008 (P.L.1009, No.78), known as the Biofuel Development and In-State Production Incentive Act, further providing for definitions, for biodiesel content in diesel fuel sold for on-road use and for cellulosic ethanol content in gasoline; providing for blending, registration and other requirements; further providing for department authority and responsibility; providing for fees; establishing the Biofuel Development Account; and imposing penalties.

**RULES.**

**HB 1264, PN 3643**

By Rep. TURZAI

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in depositions and witnesses, providing for expert testimony in certain criminal proceedings.

RULES.

**HB 1349, PN 3773**

By Rep. TURZAI

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

RULES.

**HB 2151, PN 3333**

By Rep. TURZAI

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in snowmobiles and all-terrain vehicles, further providing for registration of snowmobile or ATV, for certificate of title for snowmobile or ATV, for fees and for records; providing for vintage snowmobile permits; and further providing for operation by persons under age sixteen.

RULES.

**BILLS REREPORTED FROM COMMITTEES****HB 1718, PN 3778**

By Rep. TURZAI

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, in subdivision and land development, further providing for contents of subdivision and land development ordinance, for completion of improvements or guarantee thereof prerequisite to final plat approval, and for release from improvement bond.

RULES.

**HB 1719, PN 3779**

By Rep. TURZAI

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in municipal authorities, further providing for purposes and powers.

RULES.

**HB 1868, PN 3510**

By Rep. ADOLPH

An Act amending the act of May 3, 1933 (P.L.242, No.86), referred to as the Cosmetology Law, further providing for eligibility for examination and for limited licenses; and providing for massage therapist practice in licensed cosmetology salons.

APPROPRIATIONS.

**HB 2159, PN 3777**

By Rep. TURZAI

An Act amending Titles 13 (Commercial Code), 30 (Fish) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, revising secured transaction provisions relating to definitions, to control of electronic chattel paper, to location of debtor, to perfection of security interests in property subject to certain statutes, regulations and treaties, to continued perfection of security interest following change in governing law, to interests which take priority over or take free of security interest or agricultural lien, to priority of security interests created by new debtor, to discharge of account debtor, notification of assignment, identification and proof of assignment, restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes

ineffective, to restrictions on assignment of promissory notes, health-care-insurance receivables and certain general intangibles ineffective, to contents of financing statement, record of mortgage as financing statement, time of filing financing statement, to name of debtor and secured party, to effect of certain events on effectiveness of financing statement, to duration and effectiveness of financing statement, effect of lapsed financing statement, to what constitutes filing, effectiveness of filing, to claim concerning inaccurate or wrongfully filed record and to collection and enforcement by secured party; providing for transition provisions for 2012 amendments; imposing duties upon the Department of State and the Department of Transportation; and making editorial changes.

RULES.

**HB 2467, PN 3723**

By Rep. TURZAI

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in certificate of title and security interests, further providing for certificate of salvage required.

RULES.

**SB 9, PN 1838**

By Rep. ADOLPH

An Act requiring identification of lawful presence in the United States as a prerequisite to the receipt of public benefits; prohibiting issuance of access devices to certain persons; and providing for the offense of possession of access device by certain persons.

APPROPRIATIONS.

**SB 1174, PN 2180**

By Rep. ADOLPH

An Act amending the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, further providing for appointment of members of authority, for qualifications, tenure and compensation of members of authority and for organization of authority; and providing for whistleblower hotline, for requirements regarding tenants and landlords in cities of the first class and for reporting by authorities in cities of the first class.

APPROPRIATIONS.

**SB 1308, PN 1732**

By Rep. ADOLPH

An Act authorizing the State System of Higher Education and its employees to enter into certain economic development agreements; providing for approval and notice, for reports and for limitations; and making an inconsistent repeal.

APPROPRIATIONS.

**SB 1321, PN 2237**

By Rep. ADOLPH

An Act amending the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, further providing for definitions, for contents, for plan not affected by certain collective bargaining agreements or settlements, for filing municipal debt adjustment under Federal law and for collective bargaining agreements, furlough of employees and disputes.

APPROPRIATIONS.

**SB 1322, PN 1743**

By Rep. ADOLPH

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in State System of Higher Education, further providing for purposes and general powers.

APPROPRIATIONS.

**SB 1528, PN 2213**

By Rep. ADOLPH

An Act amending the act of June 15, 1982 (P.L.502, No.140), known as the Occupational Therapy Practice Act, further providing for definitions, for creation of board, for requirements for licensure, for practice and referral, for renewal of license and for refusal, suspension or revocation of license; and providing for impaired professionals program.

APPROPRIATIONS.

**BILLS REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND TABLED****SB 1122, PN 2312** (Amended)

By Rep. ADOLPH

A Supplement to the act of April 1, 1863 (P.L.213, No.227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure; and making an appropriation from a restricted account within the Agricultural College Land Scrip Fund.

APPROPRIATIONS.

**SB 1123, PN 2313** (Amended)

By Rep. ADOLPH

A Supplement to the act of July 28, 1966 (3rd Sp.Sess., P.L.87, No.3), known as the University of Pittsburgh—Commonwealth Act, making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

**SB 1124, PN 2314** (Amended)

By Rep. ADOLPH

A Supplement to the act of November 30, 1965 (P.L.843, No.355), entitled "An act providing for the establishment and operation of Temple University as an instrumentality of the Commonwealth to serve as a State-related university in the higher education system of the Commonwealth; providing for change of name; providing for the composition of the board of trustees; terms of trustees, and the power and duties of such trustees; providing for preference to Pennsylvania residents in tuition; providing for public support and capital improvements; authorizing appropriations in amounts to be fixed annually by the General Assembly; providing for the auditing of accounts of expenditures from said appropriations; authorizing the issuance of bonds exempt from taxation within the Commonwealth; requiring the President to make an annual report of the operations of Temple University," making an appropriation for carrying the same into effect; providing for a basis for payments of such appropriation; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

**SB 1125, PN 2315** (Amended)

By Rep. ADOLPH

A Supplement to the act of July 7, 1972 (P.L.743, No.176), entitled "An act providing for the establishment and operation of Lincoln University as an instrumentality of the Commonwealth to serve as a State-related institution in the higher education system of the Commonwealth; providing for change of name; providing for the composition of the board of trustees; terms of trustees, and the power and duties of such trustees; providing for preference to Pennsylvania residents in tuition; authorizing appropriations in amounts to be fixed annually by the General Assembly; providing for the auditing of accounts of expenditures from said appropriations; providing for public

support and capital improvements; authorizing the issuance of bonds exempt from taxation within the Commonwealth; requiring the President to make an annual report of the operations of Lincoln University," making an appropriation for carrying the same into effect; providing for a basis for payments of the appropriation; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

**SB 1126, PN 2316** (Amended)

By Rep. ADOLPH

An Act making appropriations to the Trustees of the University of Pennsylvania.

APPROPRIATIONS.

**LEAVE OF ABSENCE**

The SPEAKER pro tempore. The Chair recognizes the minority leader, who asks that the gentleman from Clearfield County, Mr. GEORGE, be placed on leave for the balance of the day. Without objection, that leave is granted.

**HOUSE BILLS  
INTRODUCED AND REFERRED**

**No. 2489** By Representatives DiGIROLAMO, BISHOP, BOBACK, BOYD, BRENNAN, CALTAGIRONE, CARROLL, CLYMER, D. COSTA, DAVIS, DeLUCA, DONATUCCI, J. EVANS, FARRY, GEIST, GEORGE, GODSHALL, GROVE, HALUSKA, HARHAI, HARKINS, HARPER, HESS, KILLION, KORTZ, KULA, MAHONEY, McGEEHAN, MICOZZIE, MILLARD, MURPHY, MURT, M. O'BRIEN, O'NEILL, PASHINSKI, PETRI, PICKETT, PYLE, READSHAW, ROSS, SABATINA, SANTARSIERO, STABACK, SWANGER and YOUNGBLOOD

An Act amending the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, providing for criminal immunity.

Referred to Committee on JUDICIARY, June 21, 2012.

**No. 2490** By Representatives HORNAMAN, BARBIN, CARROLL, D. COSTA, DALEY, DEAN, DEASY, FRANKEL, FREEMAN, GEORGE, GERGELY, GOODMAN, KORTZ, KOTIK, LONGIETTI, MANN, McGEEHAN, MIRABITO, MULLERY, MUNDY, PARKER, STABACK, STURLA, WATERS, WILLIAMS, YOUNGBLOOD and GIBBONS

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, further providing for proof of identification.

Referred to Committee on STATE GOVERNMENT, June 21, 2012.

**No. 2491** By Representatives MARSHALL, EVANKOVICH, HEFFLEY, TAYLOR, BOBACK, CALTAGIRONE, COHEN, DAVIDSON, DENLINGER, EVERETT, GEIST, GINGRICH, GODSHALL, HESS, KOTIK, MURT, M. O'BRIEN, PICKETT, READSHAW, SABATINA, SCHMOTZER, STERN, SWANGER and JAMES

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for required financial responsibility.

Referred to Committee on TRANSPORTATION, June 21, 2012.

**No. 2492** By Representatives O'NEILL, COHEN, DAVIDSON, DENLINGER, EVERETT, GEIST, GINGRICH, HARKINS, HARPER, JOSEPHS, MANN, MILLER, SCHMOTZER, MURT and D. COSTA

An Act amending the act of May 1, 1933 (P.L.216, No.76), known as The Dental Law, further providing for definitions, for general powers of the State Board of Dentistry, for fees, for reason for refusal, revocation or suspension of license or certificate, for penalties and for reporting of multiple licensure or certification; and providing for restricted faculty license.

Referred to Committee on PROFESSIONAL LICENSURE, June 21, 2012.

**No. 2495** By Representatives WILLIAMS, BISHOP, B. BOYLE, K. BOYLE, BRADFORD, V. BROWN, BROWNLEE, CALTAGIRONE, CRUZ, DAVIS, DEAN, DEASY, DELISSIO, DeLUCA, DERMODY, DONATUCCI, FRANKEL, FREEMAN, GALLOWAY, GEIST, GEORGE, GOODMAN, HESS, HORNAMAN, JAMES, JOSEPHS, W. KELLER, KIRKLAND, KULA, MANN, MARKOSEK, MILLER, MIRABITO, MURT, MYERS, NEILSON, M. O'BRIEN, PARKER, PAYTON, PRESTON, ROEBUCK, SABATINA, SAINATO, SCHMOTZER, STABACK, STURLA, SWANGER, THOMAS, WATERS, WHEATLEY and YOUNGBLOOD

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in emergency medical services system, further providing for emergency medical services providers.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, June 21, 2012.

**No. 2496** By Representatives BOYD, BARBIN, AUMENT, BAKER, BARRAR, BENNINGHOFF, K. BOYLE, BRENNAN, CALTAGIRONE, CARROLL, CREIGHTON, CUTLER, DENLINGER, ELLIS, J. EVANS, EVERETT, GEIST, GILLESPIE, GRELL, HARHART, HARRIS, HESS, KAUFFMAN, KILLION, MARSHALL, MASSER, METCALFE, MICCARELLI, MILNE, MOUL, M. O'BRIEN, PYLE, ROCK, SANTONI, SONNEY, STABACK, STEVENSON, SWANGER and VEREB

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in alternative form of regulation of telecommunications services, further providing for definitions; providing for nonrural exchanges; and further providing for continuation of commission-approved alternative regulation and network modernization plans, for alternative forms of regulation, for competitive services, for interexchange telecommunications carriers and for additional powers and duties.

Referred to Committee on CONSUMER AFFAIRS, June 21, 2012.

## SENATE BILLS FOR CONCURRENCE

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

### SB 161, PN 2297

Referred to Committee on STATE GOVERNMENT, June 21, 2012.

### SB 920, PN 2301

Referred to Committee on CONSUMER AFFAIRS, June 21, 2012.

### SB 1309, PN 2298

Referred to Committee on FINANCE, June 21, 2012.

### SB 1480, PN 2074

Referred to Committee on APPROPRIATIONS, June 21, 2012.

### SB 1535, PN 2299

Referred to Committee on JUDICIARY, June 21, 2012.

## SUPPLEMENTAL CALENDAR B

### BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2159, PN 3777**, entitled:

An Act amending Titles 13 (Commercial Code), 30 (Fish) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, revising secured transaction provisions relating to definitions, to control of electronic chattel paper, to location of debtor, to perfection of security interests in property subject to certain statutes, regulations and treaties, to continued perfection of security interest following change in governing law, to interests which take priority over or take free of security interest or agricultural lien, to priority of security interests created by new debtor, to discharge of account debtor, notification of assignment, identification and proof of assignment, restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes ineffective, to restrictions on assignment of promissory notes, health-care-insurance receivables and certain general intangibles ineffective, to contents of financing statement, record of mortgage as financing statement, time of filing financing statement, to name of debtor and secured party, to effect of certain events on effectiveness of financing statement, to duration and effectiveness of financing statement, effect of lapsed financing statement, to what constitutes filing, effectiveness of filing, to claim concerning inaccurate or wrongfully filed record and to collection and enforcement by secured party; providing for transition provisions for 2012 amendments; imposing duties upon the Department of State and the Department of Transportation; and making editorial changes.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

**LEAVE OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair recognizes the minority whip, who asks that he himself be removed from the leave list. The Chair is happy to see him with us today.

**BILLS ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 1718, PN 3778**, entitled:

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, in subdivision and land development, further providing for contents of subdivision and land development ordinance, for completion of improvements or guarantee thereof prerequisite to final plat approval, and for release from improvement bond.

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

**DECISION OF CHAIR RESCINDED**

The SPEAKER pro tempore. Without objection, the Chair rescinds the announcement that HB 1718 was agreed to on second consideration.

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

Mr. **CREIGHTON** offered the following amendment No. **A12174**:

Amend Bill, page 10, lines 2 through 9, by striking out all of said lines and inserting

disputed fee is upheld by the arbitrator. The fee of the arbitrator shall be paid by the charging party if the disputed fee is \$2,500 or greater than the payment decided by the arbitrator. The fee of the arbitrator shall be paid in an equal amount by the applicant and the charging party if the disputed fee is less than \$2,500 of the payment decided by the arbitrator.

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

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Representative Creighton, for a brief explanation of his amendment.

Mr. **CREIGHTON**. This basically simplifies some language in the MPC (Municipalities Planning Code) regarding who pays arbitrator's fees. It is a clarifying amendment and is agreed to. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, those in favor shall vote "aye"; those opposed, "nay"—

The Chair rescinds that announcement and recognizes that the gentleman from Northampton County is seeking recognition. For which purpose are you seeking recognition?

Mr. **FREEMAN**. Just to rise and also mention that this is a clarifying amendment. It is agreed to by both parties, both sides of the aisle, and I would urge a "yes" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

(Members proceeded to vote.)

**LEAVE OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair recognizes the presence in the hall of the House of Representative Metcalfe, whose vote will be recorded in the affirmative.

**CONSIDERATION OF HB 1718 CONTINUED**

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

The following roll call was recorded:

**YEAS—194**

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

DePasquale Dermody	Keller, M.K. Keller, W.	Pickett Preston	Smith, S., Speaker
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NAYS—0

NOT VOTING—0

EXCUSED—7

Evans, D. George	Hennessey Miccarelli	Miller Quinn	Watson
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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.)

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The House proceeded to second consideration of **HB 1719, PN 3779**, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in municipal authorities, further providing for purposes and powers.

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

Mr. **CREIGHTON** offered the following amendment No. **A12172**:

Amend Bill, page 8, lines 7 through 21, by striking out all of said lines and inserting

(v) [The fee of the appointed professional for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$2,500 or more, the authority shall pay the fee of the professional. If the amount of the payment required in the decision is less than the original bill by \$2,499 or less, the authority and the property owner shall each pay one-half of the fee of the appointed professional.] The fee of the arbitrator shall be paid by the property owner if the disputed fee is upheld by the arbitrator. The fee of the arbitrator shall be paid by the authority if the disputed fee is \$2,500 or greater than the payment decided by the arbitrator. The fee of the arbitrator shall be paid in an equal amount by the property owner and the authority if the disputed fee is less than \$2,500 of the payment decided by the arbitrator.

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

The SPEAKER pro tempore. On that question of the amendment, the Chair recognizes the gentleman, Representative Creighton, for a brief explanation of his amendment.

Mr. **CREIGHTON**. Again, this amendment simplifies and clarifies the language in the Municipality Authorities Act. It is an agreed-to amendment.

The **SPEAKER** pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Northampton County, Mr. Freeman.

Mr. **FREEMAN**. Thank you, Mr. Speaker. Thank you.

Again, this is simply an agreed-to clarifying amendment. I would urge the House to unanimously adopt the amendment.

The **SPEAKER** pro tempore. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—194

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

NAYS—0

NOT VOTING—0

EXCUSED—7

Evans, D. George	Hennessey Miccarelli	Miller Quinn	Watson
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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 2467, PN 3723**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in certificate of title and security interests, further providing for certificate of salvage required.

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

The SPEAKER pro tempore. On that question, it is the understanding of the Chair that the amendment filed by the gentleman, Mr. Carroll, has been withdrawn. Is that correct? The Chair thanks the gentleman.

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

**STATEMENT BY MR. MICOZZIE**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Micozzie, under unanimous consent.

Mr. MICOZZIE. Thank you, Mr. Speaker.

Mr. Speaker, the insurance industry has found that claim processing time for total-loss vehicles can be greatly reduced when the notary requirements for salvage title documents are removed. When a customer is in custody of a title, they must obtain a notarized signature for the title and other supporting documents before it can be released to the insurance company and payment can be made.

Mr. Speaker, may I have some quiet?

The SPEAKER pro tempore. The gentleman is in order. He is entitled to be heard. Would the conversations in the aisles please suspend. Would those in the aisles who are not members of the chamber please take their conversations to the foreroms.

The gentleman may proceed.

Mr. MICOZZIE. Thank you, Mr. Speaker.

It can often take days, if not weeks, for the documents to be returned to the claim office. This kind of delay is frustrating to the customer who is already without a vehicle, and the delay increases the cost of the claim with additional storage charges

on the totaled vehicle. The notarization requirement has been found to be a delay and a cost to consumers in this instance, not a protection for them.

If the notary requirement is removed, then the customer can sign the appropriate documents the same day as the total-loss discussion with their claim representative. Once all of the documents are received in the claim office, the final payment for the salvage vehicle is made. All paper document requirements of the State are still completed. The salvage team then sends the appropriate paperwork to PENNDOT for application of the salvage title.

It is important to remember that individuals involved in a salvage vehicle situation are customers of the insurance company in question. There is often a personal relationship between the company and its policyholders, which adds safeguards to this transaction which do not exist in other vehicle transactions which also require a notary.

It is also important to remember that the insurance company is taking control of a vehicle which has been subject to a total loss. The notary function does not verify any of the details surrounding the adjustment of the claim. The insurance company does all of that. The extensive involvement between the company and the owner of the vehicle during the specific situation is why PENNDOT agreed with our suggested language. The insurance companies have a vested interest, financial interest, in making sure that the transaction is appropriate, complete, and legal. In short, I do not believe that the notary requirement adds any additional safeguards in these transactions which do not already exist.

The suggested change is similar to the notarization exemption already given to salvage dealers, which is included in section 1162 of the Vehicle Code. The language has been shared with PENNDOT and it meets their approval.

I ask a positive vote on HB 2467. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

**CALENDAR**

**BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 1659, PN 3595**, entitled:

An Act providing for the effective and thorough review of permit applications to the Department of Environmental Protection and other entities to ensure environmental protection and foster economic growth.

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

Mr. **CUTLER** offered the following amendment No. **A12026**:

Amend Bill, page 3, lines 15 through 17, by striking out all of said lines and inserting

- (1) A permit issued solely to comply with Federal law.
- (2) A permit for a project that is subject to an existing specific State statutory or regulatory review deadline that is sooner than the applicable deadline under this act. Any additional permit related to the same project that does not have a specific State statutory or regulatory review deadline shall be reviewed in

accordance with the statutory or regulatory deadline for the permit exempted under this paragraph.

Amend Bill, page 3, line 18, by striking out "(2) an" and inserting

(3) An

Amend Bill, page 3, line 19, by striking out "thereof; or" and inserting

thereof.

Amend Bill, page 3, line 20, by striking out "(3) the" and inserting

(4) The

Amend Bill, page 3, line 22, by inserting after "shall", at their option, have an opportunity to

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Lancaster County, Representative Cutler, for a brief explanation of his amendment.

Mr. CUTLER. Thank you, Mr. Speaker.

Very briefly, this would fix a double negative that is currently contained in the bill and to provide some further clarification regarding the deadlines associated with potential conflicts between State and Federal law.

I appreciate an affirmative vote, and my understanding is, it is an agreed-to amendment with the prime sponsor.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—194

Adolph	DiGirolamo	Killion	Pyle
Aument	Donatucci	Kirkland	Quigley
Baker	Dunbar	Knowles	Rapp
Barbin	Ellis	Kortz	Ravenstahl
Barrar	Emrick	Kotik	Readshaw
Bear	Evankovich	Krieger	Reed
Benninghoff	Evans, J.	Kula	Reese
Bishop	Everett	Lawrence	Roae
Bloom	Fabrizio	Longietti	Rock
Boback	Farry	Mackenzie	Roebuck
Boyd	Fleck	Maher	Ross
Boyle, B.	Frankel	Mahoney	Sabatina
Boyle, K.	Freeman	Major	Saccone
Bradford	Gabler	Maloney	Sainato
Brennan	Galloway	Mann	Samuelson
Briggs	Geist	Markosek	Santarsiero
Brooks	Gerber	Marshall	Santoni
Brown, R.	Gergely	Marsico	Saylor
Brown, V.	Gibbons	Masser	Scavello
Brownlee	Gillen	Matzie	Schmotzer
Burns	Gillespie	McGeehan	Simmons
Buxton	Gingrich	Metcalfe	Smith, K.
Caltagirone	Godshall	Metzgar	Smith, M.
Carroll	Goodman	Micozzie	Sonney
Causser	Grell	Millard	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger

Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neilson	Toepel
Curry	Heffley	Neuman	Toohil
Cutler	Helm	O'Brien, M.	Truitt
Daley	Hess	O'Neill	Turzai
Davidson	Hickernell	Oberlander	Vereb
Davis	Hornaman	Parker	Vitali
Day	Hutchinson	Pashinski	Vulakovich
Dean	James	Payne	Waters
Deasy	Josephs	Payton	Wheatley
DeLissio	Kampf	Peifer	White
DeLozier	Kauffman	Perry	Williams
DeLuca	Kavulich	Petrarca	Youngblood
Denlinger	Keller, F.	Petri	
DePasquale	Keller, M.K.	Pickett	Smith, S.,
Dermody	Keller, W.	Preston	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—7

Evans, D. George	Hennessey Miccarelli	Miller Quinn	Watson
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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?

The SPEAKER pro tempore. For the information of the members, we have an awful long list of votes to be taken today, and I would encourage you to be attentive, because at 2 minutes, 3 minutes per vote times 50, it adds up to 3 hours pretty quickly. So keep that in mind for your own health and welfare.

On the question recurring,

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

Mr. VITALI offered the following amendment No. A10927:

Amend Bill, page 11, by inserting between lines 7 and 8 Section 306. Applicability.

Notwithstanding any other provision of this act, this act shall not apply where the department believes that compliance with this act would compromise the right of the people of this Commonwealth to clean air, pure water or the preservation of the natural, scenic, historic and esthetic values of the environment.

Amend Bill, page 11, line 8, by striking out "306" and inserting 307

Amend Bill, page 11, line 13, by striking out "307" and inserting 308

On the question,

Will the House agree to the amendment?

## AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Vitali, for a brief explanation of his amendment.

Mr. VITALI. Mr. Speaker, I would ask that at this time amendment 10930 be brought up. These amendments are progressive in nature, and I would request there is a certain logical order in which they are called, and if they are done in that way, it could result in less amendments being called. So I would at this time request that amendment 10930 be brought up.

The SPEAKER pro tempore. If the gentleman has a particular order he is interested in, I would suggest that he attend to the rostrum. We will go over his amendment temporarily and proceed with others, and we can discuss an order that would be convenient to him.

(Conference held at Speaker's podium.)

On the question recurring,

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

Mr. FRANKEL offered the following amendment No. **A12071**:

Amend Bill, page 1, line 11, by inserting after "Permit"  
Transparency

Amend Bill, page 6, by inserting between lines 14 and 15  
Section 302.1. Permit and Waiver Transparency Program.

(a) Technology requirement.—As trustees of the environmental rights of the people of this Commonwealth established in section 27 of Article I of the Constitution of Pennsylvania, the General Assembly requires the department to use the same technology for efficient permitting in this act for greater transparency for the public.

(b) Electronic notification.—If the department establishes a department-wide program under section 304 or another program for electronic submission, review and approval of permits, the department shall include a system to electronically notify an applicant or another person who would like to be notified electronically of any or all submissions of applications, deficiencies identified by the department, applicant response and final review and determination under this act.

(c) Notification.—The notification under subsection (b) shall include:

(1) a short summary of the application, deficiency, response or determination;

(2) the use of a waiver, variance or alternative method that is part of the application or determination;

(3) the department office that will review the application or has identified deficiencies or made a determination;

(4) the official permit review schedule for each application; and

(5) whether or not the specific application requires a mandatory public hearing or comment period.

(d) Rights of individuals.—A person may electronically sign up with the department to be notified of all of the applications, deficiencies or determinations or selected applications, deficiencies and determinations chosen individually or in some combination by the location of the project, including county or municipality, the type of permit, waiver, variance or alternative method of compliance or the date of the submission or the name of the permit applicant. Details or a list compiled under this subsection is not available under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(e) Redaction.—The department is authorized to redact

information from a notification for the purpose of homeland security, but must disclose that a specific redaction has occurred and the department is not authorized to limit any information related to the official permit review schedule and whether or not the specific application requires a mandatory public hearing or comment period.

(f) List.—Within 120 days of the effective date of this section, the department shall post on the Internet a list of every waiver or variance requested for a well location restriction and whether or not it was granted for an unconventional gas well or a gas well permitted in this Commonwealth within the last four years. Upon request, the department shall make available a copy of the waiver or variance application and determination.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

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

"Unconventional gas well." As defined in 58 Pa.C.S. § 2301 (relating to definitions).

On the question,

Will the House agree to the amendment?

## AMENDMENT WITHDRAWN

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Allegheny County, Representative Frankel.

The Chair thanks the gentleman for withdrawing that amendment.

On the question recurring,

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

Mr. FRANKEL offered the following amendment No. **A12145**:

Amend Bill, page 1, line 11, by inserting after "Permit"  
Transparency

Amend Bill, page 6, by inserting between lines 14 and 15  
Section 302.1. Permit and Waiver Transparency Program.

(a) Technology requirement.—As trustees of the natural resources of this Commonwealth as established in section 27 of Article I of the Constitution of Pennsylvania, the General Assembly requires the department to use the same technology for efficient permitting in this act for greater transparency for the public.

(b) Electronic notification.—If the department establishes a department-wide program under section 304 or another program for electronic submission, review and approval of permits, the department shall include a system to electronically notify an applicant or another person who would like to be notified electronically of any or all submissions of applications, deficiencies identified by the department, applicant response and final review and determination under this act.

(c) Notification.—The notification under subsection (b) shall include:

(1) a short summary of the application, deficiency, response or determination;

(2) the use of a waiver, variance or alternative method that is part of the application or determination;

(3) the department office that will review the application or has identified deficiencies or made a determination;

(4) the official permit review schedule for each application; and

(5) whether or not the specific application requires a mandatory public hearing or comment period.

(d) Rights of individuals.—A person may electronically sign up with the department to be notified of all of the applications, deficiencies or determinations or selected applications, deficiencies and determinations chosen individually or in some combination by the location of the project, including county or municipality, the type of permit, waiver, variance or alternative method of compliance or the date of the submission or the name of the permit applicant. Details or a list compiled under this subsection is not available under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(e) Redaction.—The department is authorized to redact information from a notification for the purpose of homeland security, but must disclose that a specific redaction has occurred and the department is not authorized to limit any information related to the official permit review schedule and whether or not the specific application requires a mandatory public hearing or comment period.

(f) List.—Within 120 days of the effective date of this section, the department shall post on the Internet a list of every waiver or variance requested for a well location restriction and whether or not it was granted for an unconventional gas well or a gas well permitted in this Commonwealth within the last four years. Upon request, the department shall make available a copy of the waiver or variance application and determination.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

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

"Unconventional gas well." As defined in 58 Pa.C.S. § 2301 (relating to definitions).

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Allegheny County, Mr. Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

Mr. Speaker, the underlying bill changes the Department of Environmental Protection's application and permit process. It details timelines and provides that if the department fails to issue a decision on an application in accordance with the review schedule, the application is approved.

I am weary of this concept to say the least. Mr. Speaker, I believe the argument can be made that HB 1659 in its current form makes DEP more accountable to businesses rather than to the citizens of Pennsylvania, more accountability to money than good environmental policy and environmental safety.

Mr. Speaker, my amendment, A12145, provides that if DEP establishes a department-wide program for electronic submission, review and approval of permits, the department must also establish a system to electronically notify interested parties of any and all submissions of applications.

Mr. Speaker, the amendment provides that DEP has the right to redact certain sensitive information for the sake of homeland security but that notice must be given that information has been redacted.

Mr. Speaker, other States are already doing this. In Mississippi, for instance, an individual can search by county to see which companies have applied for specific permits in that county and also to see the status of each of the applications.

My amendment does not remove a single word from HB 1659. It simply, very simply requires that if the Commonwealth is going to use technology to expedite the approval of permits, it should use that very same technology to create transparent tracking on those requests. DEP already has a

system in place, eFax, that allows individuals to search for approved permits. My amendment would just expand that option to allow interested individuals to review applications that have been submitted to the department as well.

I believe this is a commonsense amendment, and I ask for the members' support. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the question, recognizes the maker, the sponsor of the bill, Representative Jeff Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

I appreciate the gentleman from Allegheny's efforts, and transparency is in everybody's best effort, but I would submit that what the gentleman submits is already being done. If there is a coal operation or a quarry operation or lumbering or gas drilling, people who live in the area are already required to be notified by DEP. The exciting part of the amendment is the electronic portion of it that makes access to the information a little faster.

That said, I think we are reinventing the wheel here, and I would ask for a "no" vote. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes, for the second time, the gentleman from Allegheny County, Representative Frankel.

Mr. FRANKEL. Well, Mr. Speaker, it seems to me that if we really want transparency, ease of access, particularly in a situation where you are looking at these applications for waivers, you have got to have quick access for folks to get to it. So expanding this electronically makes enormous sense. If we are already doing it, let us give the citizens of Pennsylvania better, quicker access so that they can do what they need to do to protect their best interest, not just protect the corporations who are looking for these waivers in applications.

So I think it is a very simple, very small request to make sure that we have the ability to quickly and accurately get this information electronically.

Thank you, Mr. Speaker. I ask for the members to support this commonsense amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—91

Barbin	Deasy	Keller, W.	Petri
Bishop	DeLissio	Kirkland	Preston
Boyle, B.	DeLuca	Kortz	Ravenstahl
Boyle, K.	DePasquale	Kotik	Readshaw
Bradford	Dermody	Kula	Roebuck
Brennan	Donatucci	Longietti	Sabatina
Briggs	Fabrizio	Mahoney	Sainato
Brown, V.	Farry	Mann	Samuelson
Brownlee	Frankel	Markosek	Santarsiero
Burns	Freeman	Matzie	Santoni
Buxton	Galloway	McGeehan	Schmotzer
Caltagirone	Gerber	Mirabito	Smith, K.
Carroll	Gergely	Mullery	Smith, M.
Cohen	Gibbons	Mundy	Staback
Conklin	Goodman	Murphy	Sturla
Costa, D.	Haluska	Myers	Thomas
Costa, P.	Hanna	Neilson	Vitali
Cruz	Harhai	Neuman	Waters
Curry	Harkins	O'Brien, M.	Wheatley

Daley	Hornaman	Parker	White
Davidson	James	Pashinski	Williams
Davis	Josephs	Payton	Youngblood
Dean	Kavulich	Petrarca	

## NAYS—103

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

## NOT VOTING—0

## EXCUSED—7

Evans, D.	Hennessey	Miller	Watson
George	Miccarelli	Quinn	

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. **FRANKEL** offered the following amendment No. **A12146**:

Amend Bill, page 6, by inserting between lines 14 and 15 Section 302.1. Whistleblower protection.

- (a) Protection in the application process.—The following apply:
- (1) An employee of an applicant is deemed an employee under the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law, in regard to good faith reports relating to the identification and elimination of violations of environmental laws and regulations, including:
    - (i) investigations of alleged violations;
    - (ii) inspections of activities subject to regulation under environmental law; and
    - (iii) regulations and responses.
  - (2) An applicant subject to this act is deemed an employer under the Whistleblower Law, in regard to good faith reports relating to the identification and elimination of violations of environmental laws and regulations, including:
    - (i) investigations of alleged violations;

- (ii) inspections of activities subject to regulation under environmental law; and
- (iii) regulations and responses.

(b) Continuing protection.—The following apply:

(1) An employee of a person who has a permit approved by the department is deemed an employee under the Whistleblower Law, in regard to good faith reports relating to the identification and elimination of violations of environmental laws and regulations, including:

- (i) investigations of alleged violations;
- (ii) inspections of activities subject to regulation under environmental law; and
- (iii) regulations and responses.

(2) A person who has a permit approved by the department shall be deemed to be an employer under the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law, in regard to good faith reports of relating to the identification and elimination of violations of environmental laws and regulations, including:

- (i) investigations of alleged violations;
- (ii) inspections of activities subject to regulation under environmental law; and
- (iii) regulations and responses.

(c) Protection for private employees.—Whistleblower protection is provided under this section and the Whistleblower Law for a private employee from a private employer in regard to good faith reports relating to the identification and elimination of violations of environmental laws and regulations, including:

- (1) investigations of alleged violations;
- (2) inspections of activities subject to regulation under environmental law; and
- (3) regulations and responses.

(d) Implementation.—The department shall designate an existing telephone number as a whistleblower hotline and develop, maintain and monitor a whistleblower web page on its publicly available website to explain whistleblower protections under this act, other whistleblower provisions in environmental laws and to accept whistleblower reports.

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

## AMENDMENT WITHDRAWN

The **SPEAKER** pro tempore. The gentleman from Allegheny County indicates he is withdrawing his amendment, which the Chair thanks him and thanks him again for.

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

Mr. **VITALI** offered the following amendment No. **A10930**:

Amend Bill, page 6, lines 13 and 14, by striking out "application shall be deemed " in line 13 and "approved" in line 14 and inserting department shall state in writing the reasons for its failure to reach a decision

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

The **SPEAKER** pro tempore. On the question, the Chair recognizes the gentleman from Delaware County, Representative Vitali, for a brief explanation of his amendment.

Mr. VITALI. Thank you, Mr. Speaker.

And if I may at this point just congratulate the maker of the bill, because I think we share interests, and I think we both want permits to be issued in an expeditious fashion consistent with public health and safety. So I want to commend the gentleman from Indiana County for his great work in this regard.

Mr. Speaker, what this amendment does is it eliminates something called the deemed approved section of this legislation. Right now the bill itself sets out a schedule by which a permit application must follow certain time periods for certain phases to be met. What the bill itself does is says, if it is not done by a specific point in time, that it is deemed approved; in other words, the applicant's permit is deemed approved. Now, I certainly understand the sentiments for this, but I must tell you that this is an extremely dangerous and perhaps one of the most damaging aspects of this bill, and my amendment seeks to correct that.

I first want to say that the Pennsylvania Department of Environmental Protection, headed up by Michael Krancer, opposes the bill and cited specifically, specifically in our conversations, my conversation with his high staffer, the deemed approval provisions as one of the most problematic. So this amendment attempts to address, which in the eyes of the Pennsylvania Department of Environmental Protection, headed by Michael Krancer, a real problem.

The maker of the bill and I share common goals, but I think, according to the Department of Environmental Protection, his bill and this deemed approval will have just the opposite effect as he thinks it will. In other words, according to the Pennsylvania Department of Environmental Protection, if you create a system where a permit is deemed approved in a certain time period regardless of what, what the Department of Environmental Protection will tend to do is deny permit after permit. Let me repeat that. They will deny permit after permit. Rather than having a permit automatically be deemed approved, they will simply deny. Neither of us wants that; neither the maker of the bill nor I want that. Let us try to get out a provision of this bill that the Pennsylvania Department of Environmental Protection deems as perhaps one of the most troubling aspects of this bill.

Mr. Speaker, you do not want permits approved which have not met certain safety standards. That puts the public at risk. I understand the gentleman's frustration. I understand his anecdotal evidence about a person in his district who had to wait 3 or 4 years for a permit, 4 years for that permit. I totally understand that concern, but we are dealing with a State of 12.5 million people, and we cannot let one anecdotal piece of evidence drive a permitting system which affects the entire State.

Mr. Speaker, the problem in permit delays, according to the former southwest regional director of the Department of Environmental Protection, one chief reason for permit delays is not a slothful Department of Environmental Protection, but bad engineering firms composing bad permit applications, which the Department of Environmental Protection then needs to wade through and correct. Mr. Speaker, this bill is not going to solve that problem, but this amendment will help prevent some damaging effects.

Mr. Speaker, one of the problems with permitting delays is inadequate staff, and one way to solve permitting delays is to put more personnel in the permitting application review; hire more people to review permits. Now, Mr. Speaker, regrettably

since 2006 we have cut the Department of Environmental Protection staffing by 300 people, by a full 10 percent. We have cut their complement of workers from 3,000 workers to 2,700. So if we are looking, if we are looking for reasons permits are being delayed, we cannot be surprised if we cut and cut permit reviewers, that there is going to be a turnaround time.

Mr. Speaker, we cannot put, we cannot put the public at risk by saying a permit is automatically granted if it is not issued by a certain time period. That really ignores the complexity of all this. That really ignores all of the individual facts and circumstances that go along with each permit. To say a permit is deemed approved is irresponsible, it is impractical, it does not deal with the world as it is, and it does not solve the problem.

Again, the problem is more staffing for permit review. I spoke to the southwest director of the Department of Environmental Protection, and he said the best way, the best way to get better permit—

The SPEAKER pro tempore. Will the gentleman suspend, please.

### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman from Armstrong County, Representative Pyle, seek recognition?

Mr. PYLE. I have a parliamentary inquiry, Mr. Speaker. Well, actually, it is a working inquiry.

I do not know if he is speaking to A10930 or A10933 that restores all this staffing he wants to restore. Which amendment are we on, sir?

The SPEAKER pro tempore. The gentleman is reminded that we are on amendment A10930, and the order is that which the maker of the amendment expressed his own personal desire for. We appreciate if the accommodation shown by the Chair would be mirrored by your focus on staying on the particular amendment.

Mr. VITALI. Yes, indeed, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. VITALI. Let me just wrap up and let me tie it all in.

The maker of the bill has a deemed approved permitting provision in there ostensibly to get at the problem of delays in permits. My amendment takes that provision out, and the reason for that is that the real reason for delay in permits is bad engineering firms issuing bad applications and inadequate staffing to review permits. So this tends to correct one of the serious flaws in the bill and a problem that the Pennsylvania Department of Environmental Protection, headed by Michael Krancer, who was hired by Tom Corbett, indicated. His office indicated this was one of the most problematic aspects of the bill. I am attempting to correct that. So I would ask for an affirmative vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and reminds the members that we are going to have a long evening, and we need to be mindful of the House protocol that invoking names of those not among us is not appropriate. Now, you can refer to their station, their office, and many other ways, but names are not appropriate.

The Chair recognizes the gentleman from Armstrong County, Mr. Pyle, on the amendment.

Mr. PYLE. Mr. Speaker, thank you for that reminder of what a long night we have in front of us. I will be very, very brief.

I would accept most of the gentleman's argument except for the part about denying permits, because as we all know at DEP, when a permit is denied, they have to return the money to the applicant minus the administrative costs. Instead, what DEP has done is they neither approve nor deny and sit on the money. Now, if you go out and buy a new car and you lay down \$30,000, they may tell you, hey, you have got to wait a week or two before we can take delivery. Well, at the end of those 2 weeks, you are going to ask them, where is my car? And they may give you some kind of excuse about, give us 1 more week.

The guys who are applying for these permits are putting out exorbitant amounts of money and not being told yes or no for 3 and 4 years, which would trigger that clause that made them return the money. That is what is wrong, Mr. Speaker. The government should act more honorably despite who the DEP Secretary is at the time or who it is not.

I would oppose the amendment and ask the members to do the same. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Indiana County, Representative Reed.

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

We would ask the members to oppose amendment A10930. Basically, in essence, this amendment would nullify the original intent of the bill and would allow DEP to continue to delay permits in perpetuity with just offering any old explanation they may wish to offer as a rationale for doing so.

In today's day and age, with the national and State economies where they are, we cannot afford to hinder job creation any length of time more than is exactly needed to protect the environment and our citizens across the Commonwealth. So we would ask the members to defeat this amendment. Thank you.

The SPEAKER pro tempore. On the question, those in favor shall vote "aye"; those—

The Chair rescinds the announcement and recognizes, on the delayed swing, the Representative from Delaware, Representative Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

I just wanted to make sure I was the last.

I wanted to just point one final thing out. Another thing my amendment does, instead of having the permit deemed approved, it would say, within the time period prescribed, it would require that the DEP state in writing its reasons to not make a decision. So there would be that reason, there would be that reason that the gentleman is calling for. So that concern I hope is addressed, and I would ask for an affirmative vote.

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

The following roll call was recorded:

YEAS—95

Barbin	DeLissio	Kirkland	Petrarca
Bishop	DeLuca	Kortz	Preston
Boyle, B.	DePasquale	Kotik	Ravenstahl
Boyle, K.	Dermody	Kula	Readshaw
Bradford	DiGirolamo	Longietti	Roebuck
Brennan	Donatucci	Mahoney	Ross
Briggs	Fabrizio	Mann	Sabatina
Brown, V.	Frankel	Markosek	Sainato
Brownlee	Freeman	Matzie	Samuelson
Burns	Galloway	McGeehan	Santarsiero

Buxton	Gerber	Mirabito	Santoni
Caltagirone	Gergely	Mullery	Schmotzer
Carroll	Gibbons	Mundy	Smith, K.
Cohen	Goodman	Murphy	Smith, M.
Conklin	Haluska	Mustio	Staback
Costa, D.	Hanna	Myers	Sturla
Costa, P.	Harhai	Neilson	Thomas
Cruz	Harkins	Neuman	Vitali
Curry	Harper	O'Brien, M.	Waters
Daley	Hornaman	O'Neill	Wheatley
Davidson	James	Parker	White
Davis	Josephs	Pashinski	Williams
Dean	Kavulich	Payton	Youngblood
Deasy	Keller, W.	Peifer	

NAYS—97

Adolph	Evans, J.	Knowles	Reese
Aument	Everett	Krieger	Roae
Baker	Farry	Lawrence	Rock
Barrar	Gabler	Mackenzie	Saccone
Bear	Geist	Maher	Saylor
Benninghoff	Gillen	Major	Scavello
Bloom	Gillespie	Maloney	Simmons
Boback	Gingrich	Marshall	Sonney
Boyd	Godshall	Marsico	Stephens
Brooks	Grell	Masser	Stern
Brown, R.	Grove	Metcalfe	Stevenson
Causer	Hackett	Metzgar	Swanger
Christiana	Hahn	Micozzie	Tallman
Clymer	Harhart	Millard	Taylor
Cox	Harris	Milne	Tobash
Creighton	Heffley	Moul	Toepel
Culver	Helm	Murt	Toohil
Cutler	Hess	Oberlander	Truitt
Day	Hickernell	Payne	Turzai
Delozier	Hutchinson	Perry	Vereb
Denlinger	Kampf	Pickett	Vulakovich
Dunbar	Kauffman	Pyle	
Ellis	Keller, F.	Quigley	Smith, S.,
Emrick	Keller, M.K.	Rapp	Speaker
Evankovich	Killion	Reed	

NOT VOTING—2

Fleck	Petri
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EXCUSED—7

Evans, D.	Hennessey	Miller	Watson
George	Miccarelli	Quinn	

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

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

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Vitali, and inquires, we have the order that you presented, and you mentioned that in consideration for accommodating the order you would desire, there were some amendments that we would not need to discuss. Can you tell me at this time which amendments you intend to withdraw?

Mr. VITALI. At this time I definitely intend to withdraw 10995.

The SPEAKER pro tempore. There is no amendment 10995.

Mr. VITALI. 10955; 10955.

The SPEAKER pro tempore. So you are withdrawing amendment A10955. The Chair thanks the gentleman.

And you intend to offer eight other amendments. Is that correct?

Mr. VITALI. I may be withdrawing others, depending on what amendments go in.

The SPEAKER pro tempore. The Chair thanks the gentleman for the consideration.

On the question recurring,

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

Mr. VITALI offered the following amendment No. **A10929**:

Amend Bill, page 4, line 15, by striking out "A" and inserting  
If practicable, a

Amend Bill, page 4, line 27, by inserting after "time,"  
if practicable,

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

If practicable, application

Amend Bill, page 5, line 9, by striking out "Final" and inserting  
If practicable, final

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Delaware County, Representative Vitali, for a brief explanation of his amendment.

Mr. VITALI. Thank you, Mr. Speaker.

This amendment deals with the section of the maker's bill regarding the application section, and what the bill itself does is sets out certain time periods for each of these sections. It states the time period for application completeness and technical review; it states a time period for final review and determination; it sets out what must be given, when the official permit review schedule must be given, and so forth.

What this amendment does is adds flexibility to that schedule so that if it is not practical, for example, to have a final review and determination within 60 days, DEP would be relieved of that responsibility. In other words, it would require the final review and determination within 60 days only if practical. It would require the application for completeness and technical review within 30 days if practical.

The reality here again is this: Certain ironclad time periods simply cannot be met for various reasons. With regard to the previous amendment, we talked about how it is the opinion of many, including the former southwest regional director, that many times delays are caused by bad engineering firms composing bad applications, not giving the DEP what it wants, not having accurate information, having pieces of the application missing, and when you are faced with bad applications, there will be delays. It may not always be possible to make guidelines. So this puts that flexibility of a practicability requirement in there.

I just want to remind the body that the permitting process does not exist solely for the benefit and pleasure and convenience of the applicant. What we are really talking about is public health and safety, and if permits are issued improperly, if permits are issued prematurely, public health and safety is put

at risk. So we all need flexibility in meeting deadlines as does the DEP.

We also mentioned in the previous amendment the discussion of having adequate staffing to do the job and how inadequate staffing will inevitably lead to delays and how we have cut the Department of Environmental Protection's budget substantially since 2006.

So this simply provides flexibility in the application schedule set out by the gentleman, and I would ask for an affirmative vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana County, Representative Pyle.

Mr. PYLE. Thanks.

Would the Speaker recognize the gentleman—

The SPEAKER pro tempore. Armstrong.

Mr. PYLE. —from Armstrong, too. Thank you.

The SPEAKER pro tempore. The gentleman indicates he will receive your interrogation. You may proceed.

Mr. PYLE. Thank you, Mr. Speaker.

Not an interrogation; a statement.

The SPEAKER pro tempore. Do you wish to speak on the amendment, Mr. Pyle?

Mr. PYLE. I would, Mr. Speaker. Thank you.

The SPEAKER pro tempore. Please. You may proceed.

Mr. PYLE. Mr. Speaker, I really do not know that if we asked 203 people here, if we could come up with a common definition for "practical." It is a subjective term.

I would ask for a "no" vote. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman for his succinct remarks.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—85

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

NAYS—109

Adolph	Evans, J.	Kula	Rapp
Aument	Everett	Lawrence	Reed
Baker	Farry	Mackenzie	Reese
Barbin	Fleck	Maher	Roae

Barrar	Gabler	Major	Rock
Bear	Geist	Maloney	Ross
Benninghoff	Gillen	Marshall	Saccone
Bloom	Gillespie	Marsico	Saylor
Boback	Gingrich	Masser	Scavello
Boyd	Godshall	Metcalfe	Simmons
Brooks	Grell	Metzgar	Sonney
Brown, R.	Grove	Micozzie	Stephens
Causar	Hackett	Millard	Stern
Christiana	Hahn	Milne	Stevenson
Clymer	Harhart	Moul	Swanger
Cox	Harris	Murt	Tallman
Creighton	Heffley	Mustio	Taylor
Culver	Helm	Neuman	Tobash
Cutler	Hess	O'Neill	Toepel
Davis	Hickernell	Oberlander	Toohil
Day	Hutchinson	Payne	Truitt
Delozier	Kampf	Peifer	Turzai
Denlinger	Kauffman	Perry	Vereb
DiGiroalamo	Keller, F.	Petrarca	Vulakovich
Dunbar	Keller, M.K.	Petri	
Ellis	Killion	Pickett	Smith, S., Speaker
Emrick	Knowles	Pyle	
Evanovich	Krieger	Quigley	

NOT VOTING—0

EXCUSED—7

Evans, D.	Hennessey	Miller	Watson
George	Miccarelli	Quinn	

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. **VITALI** offered the following amendment No. **A12122**:

Amend Bill, page 9, lines 29 and 30; page 10, lines 1 through 20, by striking out "PLAN TO IMPROVE PERMIT EFFICIENCIES." in line 29, all of line 30 on page 9 and all of lines 1 through 20 on page 10 and inserting

(Reserved).

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Vitali, for a brief explanation of his amendment.

Mr. **VITALI**. Thank you, Mr. Speaker.

Probably the most problematic part of this bill is the part that creates this privatization of the permitting process, and again, this is one reason why the Pennsylvania Department of Environmental Protection opposes this amendment.

Mr. Speaker, this has been described as one form, this privatization, this suggested privatization of the permitting process, letting non-DEP employees get into the permit-approving process, has been described as having the fox guard the henhouse, Mr. Speaker.

Mr. Speaker, the granting – the review of a permit, as has been explained to me, is not simply a matter of going down a punch list to see if all items are present. It requires judgment. It

requires imposing conditions to protect public health and safety. It is more than just going down a punch list.

Mr. Speaker, to illustrate this point, a former DEP regional director cited an example of a company, Sechan Industries. They wanted to put a landfill next to McConnells Mill State Park, which is a jewel in our State park system. Now, if you just look at the permit application, yes, all of the elements were there. A couple of things that required judgment: A, this company was an environmental criminal, having been convicted criminally of environmental crimes. Two, a landfill—

The SPEAKER pro tempore. The Chair will remind the gentleman that he is on his own amendment, A12122, and would ask him to direct his remarks to that subject. Thank you.

Mr. **VITALI**. Thank you, Mr. Speaker.

This amendment, because it deletes the privatization section of the bill, requires an explanation of why the privatization section is bad, and that is what I am trying to do in my discussion.

Mr. Speaker, the permit application process requires judgment, and in this particular case it would be very poor judgment to put a landfill right next to one of the crown jewels of our park system. That comes from judgment. It is not simply going down a punch list to see if an engineering study is there and this thing is there and this thing is there. It requires judgment.

It also requires the imposition of conditions. DEP simply does not look at a permit application and say approved or denied. That is not what they do. What they do is, in cases where they approve permits, they make a judgment as to what conditions have to be imposed to protect public health and safety in issuing the permit. That requires judgment; that requires discretion. You cannot farm this out to a private firm.

Mr. Speaker—

The SPEAKER pro tempore. Has the gentleman concluded his remarks?

Mr. **VITALI**. No. The gentleman is just gathering his thoughts, Mr. Speaker.

The SPEAKER pro tempore. We are all waiting with great expectations. You may proceed.

Mr. **VITALI**. Thank you, Mr. Speaker.

Mr. Speaker, the privatization of the permitting process presents many questions that have simply not been answered, like who pays, who pays for the private expert? Does the public have access to this private person who is reviewing the process? How do our right-to-know laws affect this? Does the public have a right to know if you have reviews being done by a private person? If the permit is challenged, who handles the legal funds? Who handles the legal defense?

Mr. Speaker, there are many unanswered questions with regard to this privatization system. We would not privatize our State Police, Mr. Speaker. It is highly inappropriate to privatize this permitting process. It has a populist, it has a populist feel to it, but some things simply do not lend themselves to privatization.

Mr. Speaker, there is a problem, there is a problem when you solicit, when you go out into the private sector to solicit experts' opinions. I used to do plaintiffs' injury work, and there was a whole stable of doctors who could give you pro-plaintiff expert opinions and another stable of doctors, and the people, the lawyers knew them, who could give you pro-defense opinions, and those doctors knew that if they wanted a continual, continual flow of business, they needed to have their opinions

consistent with the people who are paying them. And I fear, I fear that if we privatize and we start paying private engineering firms to render opinions as to whether a permit is in compliance or not, they will soon learn how they can keep a continual flow of fees coming in by shaping their opinions, just as doctors in the injury field know that. Mr. Speaker, privatization is a bad idea. My amendment would delete this section of the bill.

Mr. Speaker, this is also impractical because this, according to the maker of the bill, would be required to be implemented in 90 days, 90 days. So if we pass this bill before the summer break, would that be September?

Mr. Speaker, this is a bad idea. It puts the public health and safety at risk. It puts our State lands at risk. I ask for an affirmative vote to my amendment. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Armstrong County, Representative Petri, on the amendment.

Mr. PYLE. He is from Bucks.

The SPEAKER pro tempore. The gentleman defers to his colleague from Bucks County, Representative Petri, on the amendment.

Mr. PETRI. Thank you, Mr. Speaker.

Mr. Speaker, may I interrogate the maker of this amendment, please?

The SPEAKER pro tempore. The gentleman indicates he will receive your interrogation. You may proceed.

Mr. PETRI. Mr. Speaker, would it be your intent— Strike that. Would it be your desire, Mr. Speaker, to ensure that the existing standards be followed to a letter in T by an outside entity?

Mr. VITALI. Mr. Speaker, is that directed towards me?

Mr. PETRI. Yes, sir; yes, Mr. Speaker.

Mr. VITALI. My intent would be to delete this provision of the bill and deal with improvement of the permitting process by— And let me say this: The DEP in 2 weeks intends to come out with a streamlined permitting system. I was told that by the chief of staff of the DEP head today. So—

The SPEAKER pro tempore. The gentleman will suspend and remind the members the purpose of interrogation is to derive information concerning the amendment, but the person asking the question— You are entering into debate.

Do you have any further interrogation, Mr. Petri?

Mr. VITALI. If I could answer that question, Mr. Speaker. I was asked for the intent and I wanted to give the intent.

The SPEAKER pro tempore. Mr. Vitali, please be focused on the question that is before you. You may continue.

Mr. VITALI. Okay. I will pause and I will wait for another question at this point.

Mr. PETRI. Mr. Speaker, that ends my interrogation of the maker of the amendment. Then may I now interrogate the maker of the bill?

The SPEAKER pro tempore. The maker of the bill indicates you may proceed.

Mr. PETRI. Mr. Speaker, is it your intent in fashioning this bill that the independent reviewers would be required to follow all existing rules and regulations without any discretion?

Mr. PYLE. Not really, Mr. Speaker. Mr. Speaker, under the bill, all reviewers of permits would have to meet DEP's strict qualifications and expectations. Essentially, the bill provides outside capital for extra sets of eyes that must answer to DEP standards.

Mr. PETRI. Okay.

On the bill, Mr. Speaker?

The SPEAKER pro tempore. The gentleman may proceed on the amendment.

Mr. PETRI. Mr. Speaker, there are other departments within this Commonwealth that are looking at this as a method, and, Mr. Speaker, I would comment that as an example, PENNDOT has recently implemented a similar procedure. What I was impressed by, Mr. Speaker, was what I am concerned about with respect to this measure, and that is that there not be any discretion, that the third party is simply following all of the strict rules and guidelines and has absolutely no discretion.

Mr. Speaker, in this instance I can support this, I can support the bill, and I would ask that the members defeat this amendment because it is a major cost savings, number one, for the Commonwealth.

Number two, it will speed up the process. One of the complaints we often have, Mr. Speaker, is that, unfortunately, some State agencies have not been as responsive as they should be to people and to taxpayers in trying to get things accomplished, and, Mr. Speaker, in this economy that creates tremendous problems, and we have heard about these problems for a long time. So the question really is, Mr. Speaker, are we going to do something about these concerns or are we going to continue to allow the current system to bog down to a point where there is lack of responsiveness?

Mr. Speaker, I think as State Representatives we have often had questions about different agencies that come into the office and why did it take so long? Mr. Speaker, in my own circumstance I can talk about circumstances where somebody trying to get a pool permit could not get a timely response from a soil conservationist, PENNDOT, or whomever it might be, and that frustrates people to a tremendous degree.

The key factor here for me is public health and safety. If I thought for a moment that was going to be jeopardized, I could not support this measure, but when the legislative intent was clearly stated by the maker and that is that there would be absolutely no discretion to vary from the strict interpretations and requirements, I feel comfortable that it is a reasonable safeguard.

And quite frankly, Mr. Speaker, it is going to be up to DEP as to how often and how frequently they allow third parties to review this. So if they have a moment's concern, they would stop the process. They would say, you can no longer review these permits; you are not doing it properly; you are injuring people. That is what the department is there for. I think this makes a whole lot of sense. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, on the question of the amendment, the gentleman from Allegheny County, the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman who just spoke was correct. The people of Pennsylvania expect us to protect the environment. They expect us to come to Harrisburg and pass laws that will protect the environment, and the Department of Environmental Protection has employees whose job right now is to review permit applications. That is their job. They are accountable. They are accountable to their supervisors, to the department, and to this legislature.

Now, the inherent conflicts of interest that have been stated by the gentleman from Delaware County are in this bill. Businesses cannot patrol themselves. The applicant cannot be the decisionmaker here. If we are about protecting our environment, we need to be having the Department of Environment Protection have independent people reviewing these permit applications, making their decisions, and if there is a problem with the permitting process, we should work with the department to improve it, to make it better, to make it more accountable, to make it part of our government and part of our responsibility, not some corporation's responsibility, but ours to protect our environment.

This amendment should be supported. It is a good amendment, and it is crucial to the future of the environment of Pennsylvania.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the question of the amendment, recognizes the gentleman from Bucks County, Representative Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Mr. Speaker, the fundamental problem with this bill is addressed by this amendment, and that fundamental problem, Mr. Speaker, is the fact that it sets up a very real conflict of interest. Under this bill, permitting review authority could go to the employee of a company that is submitting the application for their permit provided that employee is qualified under the new program. That sets up a direct conflict of interest. Pennsylvania law, Federal law, the laws of the 49 other States are replete with provisions that try to avoid such obvious conflicts of interest. How we could today even be considering a bill that does this, frankly, astounding, Mr. Speaker, but that is exactly what this bill does.

And as for the ability of the DEP to somehow override what these independent, private permit reviewers do, this bill requires that the DEP meet a standard that they likely, in most cases, cannot meet, a standard of clearly erroneous. Mr. Speaker, this is really an attempt by private industry to go well beyond what we as the General Assembly representing the interests of the people of Pennsylvania should be giving them.

I am sympathetic to the desire to fix the problems in our permitting process. I am sympathetic to making sure that permits are reviewed in an expeditious way, that permitting fees are not held for long periods of time, and that officials do not sit on permits, but giving private parties the authority to review their own applications is patently absurd and certainly a bridge too far in trying to reform our permitting process.

And for that reason I urge all of my colleagues on both sides of the aisle to vote "yes" for this amendment to change this bill to require that DEP officials review permits, not private officials. Thank you.

The SPEAKER pro tempore. On the question of the amendment, the Chair recognizes the gentleman from Armstrong County, Representative Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

I could not agree with the gentleman from Bucks more. Perhaps he has not reviewed the bill, because right there within the bill are the safeguards he has asked for. DEP is the final yes-or-no checkoff. The people who are doing these private reviews, who are paid from outside sources, have to be approved by DEP. DEP has controls and checks in the balance

of this corporate swindle, as it is being painted, built right into the bill where DEP at any time can say no, and that is part of the problem, because the minute they say no, they have got to give the money back, and they do not like doing that.

This bill started as a money-back bill. So I would ask, at what point does this lack of trust originate? Is it that we do not trust DEP to train these private reviewers well enough? Is it that we do not trust DEP to check the yes-or-no box right?

Sorry, Mr. Speaker. I have got to oppose this amendment and ask that the members do the same.

The SPEAKER pro tempore. On the amendment, the Chair recognizes, for the second time, the gentleman from Bucks County, Representative Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Mr. Speaker, I am sorry; I misspoke a moment ago. I forgot that in our Environmental Resources and Energy Committee, the very weak standard of clearly erroneous, which would have given the DEP at least a slight chance of overturning the decision of one of these private permit reviewers, was taken out. So even that standard is now gone out of this bill.

This bill essentially gives private entities who have a direct conflict of interest, potentially, with this permit application the ability to make the decision on this application. It is absolutely insane.

The SPEAKER pro tempore. On the question of the amendment, the Chair recognizes the gentleman from Indiana County, Representative Reed.

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

While understanding the gentleman from Bucks County's concerns, they are somewhat irrelevant because this legislation would only give DEP the ability to develop a plan they deem appropriate for the use of a third-party reviewer. That plan can be as minimal or as maximum as DEP determines is appropriate. They get to determine the parameters. They get to determine whether they use it or not. They get to determine whether they get halfway through the program and maybe they want to cease using it. DEP has the authority to do so.

Either you trust DEP or you do not. You cannot have it both ways. Either you trust DEP or you do not. Mr. Speaker, we trust DEP and would ask the members to oppose this amendment. Thank you.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentlelady, Representative Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

If you trust DEP, do not vote for this amendment or this bill because they are not in support of the bill.

You cut DEP's complement by 300 people and then you expect them to review permits timely or, worse yet, to somehow certify and review the work of third-party reviewers. What am I missing here? That makes absolutely no sense to me.

This is the privatization of the DEP permitting process, and as the Representative from Bucks said earlier, it is a complete conflict of interest. It allows companies to self-regulate. They do not do that very well, which is why we have a DEP, which is why we have environmental laws. Our Constitution mandates that we protect our air, our water, and our land, and our property values.

Vote "yes" for the Vitali amendment and "no" on the underlying bill. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman from Armstrong County, Representative Pyle.

Mr. PYLE. Thank you, Mr. Speaker.  
Knowing it is a very long day, I will not belabor the point. Perhaps I need to speak more slowly.

DEP sets the rules for the reviewers. DEP is the final checkoff on whether or not the permit gets completed, approved, or denied. How is that not trusting DEP?

Mr. Speaker, the previous speaker asked, should we privatize it? We cut them. I would like to remind the body, these permits I am complaining about being neither approved nor denied are 3 and 4 years old. Perhaps a little self-introspection would go a long way, Mr. Speaker.

I would ask for a "no" vote on the Vitali amendment.

The SPEAKER pro tempore. On the amendment, those in favor shall vote "aye"; those opposed—

The clerk will rescind the board and remind Mr. Vitali to seek recognition timely.

You are recognized for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

Again, I am trying to exercise the courtesy of being the last member to speak on his own amendment, so that is why I was trying not to get to the microphone—

The SPEAKER pro tempore. The Chair can handle that for you, Mr. Vitali. Just raise your hand.

You may proceed.

Mr. VITALI. Thank you, Mr. Speaker.

Mr. Speaker, I just want to be clear about a few things. This amendment seeks to strike out the privatization process, which is 22 lines long starting on page 9. It is very quick to read, if you choose to right now.

The maker of the bill is describing more certainty to the bill than the language lends. This bill, those 22 lines, does not answer the questions of, who chooses the private entity? Who pays for it? What happens in an appeal? How to ensure that there is no conflict of interest? How does the public— Can the public contact the private permit issuer? How can the public get information from the private permit reviewer under the Right-to-Know Law? None of these questions are answered. Nothing is specified, but the DEP is required to implement, not develop, implement, implement in 90 days.

Mr. Speaker, I agree with the gentlelady who just spoke. Let us trust the DEP. The DEP thinks this is a bad idea. Trust the DEP – that is their business – and vote "yes" on my amendment. Thank you.

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

The following roll call was recorded:

YEAS-91

Barbin	Deasy	Kirkland	Ravenstahl
Bishop	DeLissio	Kortz	Readshaw
Boyle, B.	DeLuca	Kotik	Roebuck
Boyle, K.	DePasquale	Kula	Ross
Bradford	Dermody	Longietti	Sabatina
Brennan	Donatucci	Mahoney	Sainato
Briggs	Fabrizio	Mann	Samuelson
Brown, V.	Frankel	Markosek	Santarsiero
Brownlee	Freeman	Matzie	Santoni
Burns	Galloway	McGeehan	Schmotzer
Buxton	Gerber	Mirabito	Smith, K.
Caltagirone	Gergely	Mullery	Smith, M.

Cohen	Gibbons	Mundy	Staback
Conklin	Goodman	Murphy	Stephens
Costa, D.	Haluska	Myers	Sturla
Costa, P.	Hanna	Neilson	Thomas
Cruz	Harhai	Neuman	Vitali
Curry	Harkins	O'Brien, M.	Waters
Daley	Hornaman	Parker	Wheatley
Davidson	James	Pashinski	White
Davis	Josephs	Payton	Williams
Day	Kavulich	Petrarca	Youngblood
Dean	Keller, W.	Preston	

NAYS-103

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

NOT VOTING-0

EXCUSED-7

Evans, D.	Hennessey	Miller	Watson
George	Miccarelli	Quinn	

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

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Hanna, the minority whip, who asks that the gentleman from Allegheny County, Representative PRESTON, be placed on leave for the balance of the day. Without objection, leave will be granted.

GUEST INTRODUCED

The SPEAKER pro tempore. The Chair also welcomes to the House the esteemed attorney from Pittsburgh, Mr. Jeffrey Letwin, who is standing to the left of the rostrum. Welcome to the hall of the House.

**CONSIDERATION OF HB 1659 CONTINUED**

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

Mr. **VITALI** offered the following amendment No. **A12124**:

Amend Bill, page 10, line 1, by striking out "IMPLEMENT" and inserting

prepare

Amend Bill, page 10, line 20, by striking out "REPRESENTATIVES." and inserting

Representatives for review and comment. No plan may be implemented without an act of the General Assembly.

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

The **SPEAKER** pro tempore. On the amendment, the Chair recognizes the gentleman from Delaware County, Mr. Vitali, for a brief explanation of your amendment.

Mr. **VITALI**. Thank you, Mr. Speaker.

This amendment also deals with those same 22 lines that require privatization of the permitting process, but I think there is an important difference here. Rather than delete that section, it makes slight changes. Rather than saying the DEP shall implement this within 90 days, it says it shall prepare, it shall prepare a plan within 90 days and then submit it to the legislature for its comment and approval. Rather than saying that DEP is going to on their own do this plan with all these unanswered questions in 90 days, it says it has to just develop the plan, develop a proposal for privatization and then give that proposal to us, give that proposal to us for our comment and review. That really puts some important safeguards in, because we then would be in control of seeing whether certain safeguards are in place to protect the public. We will be assuming our obligations to make sure this privatization plan is a good one. We can deal with the issues of who gets the – did the DEP choose the right person as to who would select the consulting firm? What about the public's access to this information? Did the DEP adequately provide for that? What happens in the case of appeals? What about the right-to-know information? What about protecting about a conflict of interest between the applicant and the consultant?

The DEP, under my amendment, would simply develop a plan within 90 days, not implement it, develop it, and then give it to us for our comment and review. This way we can fulfill our duty as a legislative body in protecting the public's health and welfare.

So I would urge a "yes" vote for this.

The **SPEAKER** pro tempore. The Chair thanks the gentleman and, on the question, recognizes the gentleman from Armstrong County, the prime sponsor of the underlying legislation, Representative Pyle.

Mr. **PYLE**. Thank you, Mr. Speaker.

And I want to tip my hat to the gentleman from Delaware County acknowledging that the General Assembly should be the primogenitor of that plan. Mr. Speaker, I thought that was what we were doing right now.

Thank you.

The **SPEAKER** pro tempore. On the amendment, those in favor shall vote "aye"; those opposed, "nay." Members—Mr. Vitali.

The clerk will strike the vote.

The gentleman, Mr. Vitali, is seeking recognition for the second time on the amendment. You may proceed.

Mr. **VITALI**. Mr. Speaker, it might be a safe assumption that I want to speak last on each of these amendments to avoid this confusion each time.

The **SPEAKER** pro tempore. Are you speaking on the amendment, Mr. Vitali? Please proceed.

Mr. **VITALI**. I am right now.

I just want to clarify the final comment that the maker of the bill said. We are not at this moment going to be the final arbiters of the plan because there is no plan. There is no plan. The plan is to be implemented within 90 days. No plan exists. This bill has not become law. The DEP has not started to prepare the plan. This plan would require many details, many aspects. We are not the final arbiters. We have not reviewed it. We have not even seen it yet.

Under my amendment, the amendment on the board now, we would have the opportunity to see this amendment, to deliberate about it, to discuss it, to decide if some of it is good, all of it is good, or none of it is good. Mr. Speaker, if we truly want to be the final judges of this plan, we need to vote "yes" for this amendment. I ask for a "yes" vote.

The **SPEAKER** pro tempore. On the question, the Chair recognizes, for the second time, the gentleman from Armstrong County, Mr. Pyle.

Mr. **PYLE**. Thank you, Mr. Speaker.

Not to correct the Speaker, but you will be second from last speaker.

If the gentleman would like to look at page 10, line 16, "A COPY OF THE PLAN SHALL BE SUBMITTED TO ALL MEMBERS OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND THE..." ERE "COMMITTEE OF THE HOUSE OF REPRESENTATIVES." I believe that addresses the gentleman's amendment, which renders it moot, and I would ask for a negative vote.

The **SPEAKER** pro tempore. The Chair thanks the gentleman and would remind members that ordinary courtesy of the House is to allow the maker of the amendment or a bill the final word other than one of the leaders. So I would hope that we can respect that, but I would ask the maker, the sponsors of bills and amendments, to seek recognition appropriately.

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

The following roll call was recorded:

**YEAS—76**

Bishop	Dean	Hornaman	Pashinski
Boyle, B.	Deasy	James	Payton
Boyle, K.	DeLissio	Josephs	Ravenstahl
Bradford	DeLuca	Keller, W.	Roebuck
Brennan	DePasquale	Kirkland	Sabatina
Briggs	Dermody	Kortz	Samuelson
Brown, V.	Donatucci	Kula	Santarsiero
Brownlee	Fabrizio	Mahoney	Santoni

Burns	Frankel	Mann	Schmotzer
Buxton	Freeman	Markosek	Smith, M.
Caltagirone	Galloway	Matzie	Staback
Cohen	Gerber	McGeehan	Sturla
Conklin	Gergely	Mirabito	Thomas
Costa, P.	Gibbons	Mundy	Vitali
Cruz	Goodman	Murphy	Waters
Curry	Haluska	Myers	Wheatley
Daley	Hanna	Neilson	White
Davidson	Harhai	O'Brien, M.	Williams
Davis	Harkins	Parker	Youngblood

NAYS—117

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

NOT VOTING—0

EXCUSED—8

Evans, D.	Hennessey	Miller	Quinn
George	Miccarelli	Preston	Watson

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?

**STATEMENT BY MR. PERRY**

The SPEAKER pro tempore. For what purpose does the gentleman from York County, Representative Perry, seek recognition?

Mr. PERRY. Thank you, Mr. Speaker.

Just unanimous consent.

The SPEAKER pro tempore. The gentleman is recognized under unanimous consent.

Mr. PERRY. My 1-year-old daughter, Mattea Cecile Perry, is here with us today. I thought it might be her only chance to get to the floor in the next 18 or 20 years. So she wants to say hi. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman for giving the members something to applaud today.

**CONSIDERATION OF HB 1659 CONTINUED**

On the question recurring,

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

Mr. VITALI offered the following amendment No. **A12123**:

Amend Bill, page 9, line 30, by striking out "90 DAYS" and inserting  
one year

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Delaware County, Representative Vitali, for a brief explanation of his amendment.

Mr. VITALI. Thank you, Mr. Speaker.

This amendment deals with the same subject matter of the previous two amendments, which are those 22 lines in the maker's bill which would privatize the permitting process. The bill itself requires the implementation of the plan within 90 days. This would extend that time period to 1 year. We talked before about all of the unanswered questions. We talked before about limited resources of the DEP. To expect that they would be able to implement this within 90 days is not realistic. One year is much more realistic, and I would ask for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the member from Indiana County, the majority Policy Committee chairman, Representative Reed.

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

We would respectfully ask the members to oppose this amendment. Thank you.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman from Allegheny County, Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

This is a very simple amendment that allows the Department of Environmental Protection sufficient time to do their job correctly on this issue, to make it more efficient, but we want to be careful. We do not want to ride roughshod and make sure if something is done poorly.

Ultimately, what we have been doing throughout the rejection of these amendments, through, actually, the passage of Act 13, was giving the industry the upper hand here. This at least allows the Department of Environmental Protection, which is under so much stress from cuts to this budget, to have sufficient time to do its job correctly to implement this plan.

So I would urge the members to support the Vitali amendment. Thank you.

The SPEAKER pro tempore. On the amendment, is anyone else seeking recognition?

The Chair recognizes the gentleman from Delaware County, Representative Vitali, for the second time.

The gentleman waives off. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—86

Barbin	Deasy	Josephs	Payton
Barrar	DeLissio	Kampf	Petri
Bishop	DeLuca	Keller, W.	Ravenstahl
Boyle, B.	DePasquale	Kirkland	Readshaw
Boyle, K.	Dermody	Kortz	Roebuck
Bradford	Donatucci	Kula	Sabatina
Brennan	Fabrizio	Mahoney	Samuelson
Briggs	Frankel	Mann	Santarsiero
Brown, V.	Freeman	Markosek	Santoni
Brownlee	Galloway	Matzie	Schmotzer
Burns	Gerber	McGeehan	Smith, M.
Buxton	Gergely	Mirabito	Staback
Caltagirone	Gibbons	Mundy	Stephens
Cohen	Gingrich	Murphy	Sturla
Conklin	Goodman	Myers	Thomas
Costa, P.	Haluska	Neilson	Vitali
Cruz	Hanna	Neuman	Waters
Curry	Harhai	O'Brien, M.	Wheatley
Daley	Harkins	O'Neill	White
Davidson	Harper	Parker	Williams
Davis	Hornaman	Pashinski	Youngblood
Dean	James		

NAYS—107

Adolph	Everett	Lawrence	Reed
Aument	Farry	Longietti	Reese
Baker	Fleck	Mackenzie	Roae
Bear	Gabler	Maher	Rock
Benninghoff	Geist	Major	Ross
Bloom	Gillen	Maloney	Saccone
Boback	Gillespie	Marshall	Sainato
Boyd	Godshall	Marsico	Saylor
Brooks	Grell	Masser	Scavello
Brown, R.	Grove	Metcalfe	Simmons
Carroll	Hackett	Metzgar	Smith, K.
Causar	Hahn	Micozzie	Sonney
Christiana	Harhart	Millard	Stern
Clymer	Harris	Milne	Stevenson
Costa, D.	Heffley	Moul	Swanger
Cox	Helm	Mullery	Tallman
Creighton	Hess	Murt	Taylor
Culver	Hickernell	Mustio	Tobash
Cutler	Hutchinson	Oberlander	Toepel
Day	Kauffman	Payne	Toohil
Delozier	Kavulich	Peifer	Truitt
Denlinger	Keller, F.	Perry	Turzai
DiGirolamo	Keller, M.K.	Petrarca	Vereb
Dunbar	Killion	Pickett	Vulakovich
Ellis	Knowles	Pyle	
Emrick	Kotik	Quigley	Smith, S., Speaker
Evanovich	Krieger	Rapp	
Evans, J.			

NOT VOTING—0

EXCUSED—8

Evans, D. George	Hennessey Miccarelli	Miller Preston	Quinn Watson
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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. **VITALI** offered the following amendment No. **A10932**:

Amend Bill, page 11, line 14, by striking out "120 days" and inserting  
one year

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

AMENDMENT WITHDRAWN

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Delaware County, Representative Vitali, for a brief explanation of his amendment.

Mr. **VITALI**. Mr. Speaker, I will be withdrawing the balance of my amendments.

The SPEAKER pro tempore. The Chair applauds the gentleman.

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

Ms. **MUNDY** offered the following amendment No. **A10246**:

Amend Bill, page 6, lines 10 through 14, by striking out all of said lines and inserting

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the department will automatically refund the application fee and the applicant may pursue one of the following options:

(i) Request the department to continue reviewing the application and agree on a deadline for a decision.

(ii) Request the department to make a decision within 30 days based on the current record.

(4) The department's failure to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2) will not affect the department's decision on the permit application, nor will the application be deemed approved if the department fails to meet the established due date.

Amend Bill, page 10, lines 1 through 4, by striking out "USE QUALIFIED " in line 1, all of lines 2 and 3 and "REVIEWS AS A WAY TO " in line 4

Amend Bill, page 10, lines 7 through 16, by striking out "THE PLAN SHALL IDENTIFY HOW THE " in line 7, all of lines 8 through 15 and "DEDICATED TO REVIEWING OTHER FACETS OF THE APPLICATION." in line 16

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

AMENDMENT WITHDRAWN

The SPEAKER pro tempore. On that question, the Chair recognizes the gentlelady from Luzerne County, Representative Mundy.

The lady indicates that amendment is being withdrawn and thanks her.

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

Ms. **MUNDY** offered the following amendment No. **A12045**:

Amend Bill, page 6, lines 10 through 14, by striking out all of said lines and inserting

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the department will automatically refund the application fee and the applicant may pursue one of the following options:

(i) Request the department to continue reviewing the application and agree on a deadline for a decision.

(ii) Request the department to make a decision within 30 days based on the current record.

(4) The department's failure to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2) will not affect the department's decision on the permit application, nor will the application be deemed approved if the department fails to meet the established due date.

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

AMENDMENT WITHDRAWN

The SPEAKER pro tempore. On that question— Oh; that amendment is also being withdrawn. The Chair thanks the lady.

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

Ms. **MUNDY** offered the following amendment No. **A12041**:

Amend Bill, page 10, lines 1 through 4, by striking out "USE QUALIFIED " in line 1, all of lines 2 and 3 and "REVIEWS AS A WAY TO " in line 4

Amend Bill, page 10, lines 7 through 16, by striking out "THE PLAN SHALL IDENTIFY HOW THE " in line 7, all of lines 8 through 15 and "DEDICATED TO REVIEWING OTHER FACETS OF THE APPLICATION." in line 16

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

AMENDMENT WITHDRAWN

The SPEAKER pro tempore. That amendment is also being withdrawn. The Chair thanks the lady.

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

Ms. **MUNDY** offered the following amendment No. **A12056**:

Amend Bill, page 1, line 1, by striking out "Providing" and inserting

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in development, further providing for definitions, for well permits and for well location restrictions; providing for disposal of wastewater from oil and gas activities targeting unconventional shale formations, for cumulative impacts study and

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. Section 3203 of Title 58 of the Pennsylvania Consolidated Statutes, added February 14, 2012 (P.L.87, No.13), is amended by adding definitions to read:

§ 3203. Definitions.

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

\* \* \*

"Best management practices." Activities, facilities, measures, planning or procedures used to minimize accelerated erosion and sedimentation and manage stormwater to protect, maintain, reclaim and restore the quality of waters and the existing and designated uses of waters of this Commonwealth before, during and after earth disturbance activities.

\* \* \*

"Erosion and sediment control permit." A permit issued by the department and required for earth disturbance activities associated with oil and gas activities.

"Erosion and sediment control plan." A site-specific plan consisting of both drawings and narrative that identifies best management practices to minimize accelerated erosion and sedimentation before, during and after earth disturbance activities.

"Floodplain." The lands adjoining a river or stream that have been or may be expected to be inundated by flood waters in a 100-year frequency flood. Unless otherwise specified, the boundary of the floodplain is as indicated on maps and flood insurance studies provided by the Federal Emergency Management Agency or equivalent floodplain maps and studies. In an area where no such maps or studies have defined the boundary of the 100-year floodplain, absent evidence to the contrary, the floodplain extends from the river or stream to 100 feet from the top of streambank.

\* \* \*

"Postconstruction stormwater management plan." A site-specific plan identifying best management practices to manage changes in stormwater runoff volume, rate and water quality after earth disturbance activities have ended and the project site is permanently stabilized.

\* \* \*

"Top of streambank." The first substantial break in slope between the edge of the bed of the stream and the surrounding terrain.

\* \* \*

Section 2. Sections 3211(a) and 3215(f) of Title 58, added February 14, 2012 (P.L.87, No.13), are amended and the sections are amended by adding subsections to read:

§ 3211. Well permits.

(a) Permit required.—No person shall drill or alter a well, except for alterations which satisfy the requirements of subsection (j), without having first obtained a well permit under subsections (a.1), (b), (b.1), (b.2), (c), (d) and (e), or operate an abandoned or orphan well unless in compliance with subsection (l). A copy of the permit shall be kept at the well site during preparation and construction of the well site or access road during drilling or alteration of the well. No person shall be required to obtain a permit to redrill a nonproducing well if the redrilling:

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

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

(a.1) Erosion and sediment control permit.—The department shall require an erosion and sediment control permit for all earth disturbance associated with oil and gas activities targeting unconventional shale formations. The department may not approve a permit application for an erosion and sediment control permit unless the application affirmatively demonstrates and the department finds on the basis of the department's review of the information in the application and a site visit that the following conditions are met:

(1) The permit application is complete and accurate.

(2) The permit application contains an erosion and sediment control plan and a postconstruction stormwater management plan and the plans and designs are complete and technically sufficient to meet the requirements of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and 25 Pa. Code Chs. 93 (relating to water quality standards) and 102 (relating to erosion and sediment control).

(3) The permit application contains a detailed survey conducted by a certified professional wetland scientist of all waters of this Commonwealth, including wetlands, seeps and intermittent and ephemeral streams, located in or adjacent to the proposed earth disturbance and all such waters are clearly marked on the plans.

(4) The requirements of The Clean Streams Law and 25 Pa. Code Chs. 93, 102 and 105 (relating to dam safety and waterway management).

(5) The assessment of the probable cumulative impacts of all anticipated oil or gas drilling activities within the same 12-digit hydrologic unit code watershed on waters of this Commonwealth has been made by the department in consultation with the Department of Conservation and Natural Resources and the Pennsylvania Fish and Boat Commission and the activities proposed under the application have been designed to prevent adverse cumulative impacts to waters of this Commonwealth.

(6) The proposed activities are protective of existing and designated uses of waters of this Commonwealth and would not cause or contribute to a violation of water quality standards.

(7) The applicant has provided a complete copy of the permit application to the applicable municipality, county, county conservation district, the Pennsylvania Fish and Boat Commission, community water system as defined in section 3 of the act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act, and provided them with the opportunity to comment.

(8) Notice of the department's receipt of the application has been published in the Pennsylvania Bulletin and a newspaper of general circulation in the area of the proposed activities and the public has been given at least 30 days from the date of publication to comment.

\*\*\*

§ 3215. Well location restrictions.

\*\*\*

(b.1) Prohibition.—No well site may be prepared or well drilled within a floodplain.

\*\*\*

[(f) Floodplains.—

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

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

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

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

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

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

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

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

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

\*\*\*

Section 3. Title 58 is amended by adding sections to read:

§ 3218.6. Disposal of wastewater from oil and gas activities targeting unconventional shale formations.

(a) Moratorium.—Notwithstanding any other provision of law, a moratorium is established during which no new discharges of wastewater from oil and gas activities targeting unconventional shale formations to surface waters of this Commonwealth may be permitted. This moratorium shall expire when the department completes the evaluation required in subsection (b).

(b) Duties of department.—Within three years of the effective date of this section, the department shall complete an evaluation of nondischarge alternatives to surface water discharge of such wastewater, including deep well injection. The department shall provide public notice and opportunity for comment as it develops the evaluation. If as a result of this evaluation the department determines that nondischarge alternatives are environmentally sound, protective of water quality and cost effective, the department shall prohibit the discharge of wastewater from oil and gas activities targeting

unconventional shale formations and require disposal by nondischarge alternatives, provided the disposal is authorized by permit.

(c) Tracking system.—Within 180 days of the effective date of this section, the department shall establish an online electronic tracking system for the reporting and tracking of storage, transportation and disposal of wastewater from oil and gas activities targeting unconventional shale formations. The tracking system must be readily accessible online by the department and the public and allow for the tracking of the amount, type and location of the wastewater on a daily basis through the use of tracking numbers unique to each transport unit. The tracking system shall require persons who generate, store, transport or dispose the wastewater to record and provide information to the tracking system necessary to track the amount, type and location of the wastewater on a daily basis from generation to ultimate disposal.

§ 3273.2. Cumulative impacts study.

By May 1, 2014, the department, the Department of Conservation and Natural Resources, the Pennsylvania Fish and Boat Commission and the Pennsylvania Game Commission shall jointly complete a comprehensive study of the probable cumulative impacts of the anticipated oil and gas activities in this Commonwealth. The study must analyze impacts to the Commonwealth's land, air and water, including, but not limited to, Statewide, regional and local air quality, surface and ground water quality and quantity, streams, wetlands, vernal pools and other waters of this Commonwealth, publicly and privately owned forests and other natural habitat, wildlife and aquatic life and recreational economies, and shall provide recommendations for avoiding, minimizing and mitigating the impacts.

Section 4. Title 58 is amended by adding a part to read:

#### PART IV

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT REVIEW AND ISSUANCE

##### Chapter

51. Preliminary Provisions

53. Permit Issuance

#### CHAPTER 51

#### PRELIMINARY PROVISIONS

##### Sec.

5101. Short title of part.

5102. Definitions.

§ 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

Section 102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.
- (4) Permit modifications.
- (5) Permit transfers.
- (6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration, license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver,

assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

#### CHAPTER 53 PERMIT ISSUANCE

##### Sec.

5301. Applicability.

5302. Permit submission process.

5303. Plan to improve permit efficiencies.

5304. Establishment of department-wide program.

5305. Appealable actions.

5306. Construction.

§ 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

(1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the issuance of such permit;

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

§ 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

§ 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

§ 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

§ 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than the department and the authority to issue decisions that are binding on such entities.

§ 5306. Construction.

Nothing in this part shall be construed to modify:

(1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or

(2) the authority to implement a Federal law or program.

Section 5. This act shall take effect as follows:

(1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentlelady, Representative Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

This amendment would require drilling companies to obtain an erosion and sediment control permit from DEP, in addition to a regular well permit, for all earth disturbance activities associated with unconventional shale formations.

Approval of the E&S permit application would require an actual on-site visit by DEP and would also require a detailed survey to be conducted by a certified professional wetland scientist with expertise on all waters of the Commonwealth.

In addition, this proposal would prohibit drilling from taking place in a floodplain and establish a moratorium during which wastewater from oil and gas activities could not be discharged into surface waters. The moratorium would expire when DEP completes an evaluation of nondischarge alternatives of this wastewater.

It is important to note that nothing in current law prevents drilling companies from discharging frack fluid into rivers and streams. Secretary Krancer issued a letter last year to ask drilling companies to voluntarily stop this practice, but this request is not by any means a legally enforceable requirement.

This amendment would also require DEP to create an online electronic tracking system to report the storage, transportation, and disposal of wastewater from drilling. This would hold drilling companies accountable for how they discard wastewater containing harmful chemicals from fracking.

Finally, this amendment would require DEP, DCNR (Department of Conservation and Natural Resources), the Fish and Boat Commission, and the Game Commission to jointly complete a cumulative impact study of oil and gas activities by May 1, 2014.

As you can see, this amendment offers many environmental protections that are not currently in State law. I ask for your affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

## GERMANENESS QUESTIONED

The SPEAKER pro tempore. The Chair recognizes, on the amendment, the gentleman from Armstrong County, Representative Pyle.

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

Mr. Speaker, a few things. I appreciate the lady's efforts and I understand there is quite a bit of concern. She lives in a part of the State that was ravaged by floods. So floodplains are a concern.

But, Mr. Speaker, sadly, I have got to argue that this amendment is not germane. A Title 27 bill dealing with permitting, and what the lady's amendment does is it guts the bill and changes it to a Title 58 bill. I would argue and move that this amendment is not germane.

The SPEAKER pro tempore. The gentleman has made a motion that the bill is not germane.

On the question,  
Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentlelady from Luzerne County, Representative Mundy.

Ms. MUNDY. Mr. Speaker, first, I would point out that this is not a title whatever bill that the gentleman indicated. It is a freestanding act.

Secondly, the title of the bill, HB 1659, states that it provides, and I quote, "...for the effective and thorough review of permit applications to the Department of Environmental Protection and other entities to ensure environmental protection and foster economic growth." Based on that, I would say that the purpose of HB 1659 – and as such, its single subject – is to ensure environmental protection and foster economic growth through an effective permit review process.

This amendment is germane to HB 1659 because its purpose also is to ensure environmental protection through the permit review process by requiring drilling companies to obtain an erosion and sediment control permit from DEP, in addition to a regular well permit, for all earth disturbance activities associated with unconventional shale formations.

So, Mr. Speaker, the amendment is germane to the bill, and I would ask that the members vote that it is germane.

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Indiana County, the majority policy chairman, Representative Reed.

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

I rise in support of the motion on germaneness.

This bill is not germane for a number of different reasons, but primarily because the bill as drafted actually exempts permits issued under Title 58 and then to attempt to move the bill into Title 58 when the original bill did not even apply to Title 58 is more than enough reason to vote that it is not germane.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman, the minority leader, from Allegheny County, Representative Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is germane. In reviewing the language of this bill, there is a section that deals with the preapplication meeting, and when you are involved with that preapplication meeting, you have got to discuss several items, two of which are water intake points and discharge outfalls. Certainly, they have to do with water quality, water management, as does this amendment.

The amendment is germane, and we should be allowed to vote. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, those who believe the amendment is germane shall vote "yes"; those who believe the amendment is not germane shall vote "no."

On the question recurring,  
Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

YEAS—88

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

NAYS—105

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

NOT VOTING—0

EXCUSED—8

Evans, D.	Hennessey	Miller	Quinn
George	Miccarelli	Preston	Watson

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

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

Mr. **MIRABITO** offered the following amendment  
No. **A12058**:

Amend Bill, page 1, lines 1 through 4, by striking out all of said lines and inserting  
Amending Titles 58 (Oil and Gas) and 72 (Taxation and Fiscal Affairs) of the Pennsylvania Consolidated Statutes, further providing for distribution of unconventional gas well fee; providing for Department of Environmental Protection permit review and issuance; providing for the establishment, implementation and administration of the Marcellus Shale Job Creation Tax Credit; and imposing additional duties on the Department of Community and Economic Development.

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. Section 2314(c.1) of Title 58 of the Pennsylvania Consolidated Statutes is amended by adding a paragraph to read:  
§ 2314. Distribution of fee.

\* \* \*

(c.1) Additional distributions.—From fees collected under this chapter and deposited in the fund for 2011 and each year thereafter:

\* \* \*

(7) Twenty-five million dollars to the Department of Community and Economic Development for the Marcellus Shale Job Creation Tax Credit.

\* \* \*

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

#### PART IV

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT REVIEW AND ISSUANCE

#### Chapter

#### 51. Preliminary Provisions

#### 53. Permit Issuance

#### CHAPTER 51

#### PRELIMINARY PROVISIONS

#### Sec.

#### 5101. Short title of part.

#### 5102. Definitions.

#### § 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

#### Section 5102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.
- (4) Permit modifications.
- (5) Permit transfers.
- (6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration, license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver,

assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

#### CHAPTER 53 PERMIT ISSUANCE

#### Sec.

#### 5301. Applicability.

#### 5302. Permit submission process.

#### 5303. Plan to improve permit efficiencies.

#### 5304. Establishment of department-wide program.

#### 5305. Appealable actions.

#### 5306. Construction.

#### § 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

(1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the issuance of such permit;

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

#### § 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

#### § 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

#### § 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

#### § 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than the department and the authority to issue decisions that are binding on such entities.

#### § 5306. Construction.

Nothing in this part shall be construed to modify:

- (1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or
- (2) the authority to implement a Federal law or program.

Section 3. Title 72 is amended by adding a part to read:

### PART III TAX CREDITS

#### Chapter

#### 31. Marcellus Shale Job Creation Tax Credit

#### CHAPTER 31

#### MARCELLUS SHALE JOB CREATION TAX CREDIT

#### Sec.

#### 3101. Definitions.

#### 3102. Eligibility.

#### 3103. Application process.

#### 3104. Tax credits.

#### 3105. Prohibitions.

#### 3106. Penalties.

#### 3107. Annual reports.

#### 3108. Notice of availability of tax credits.

#### § 3101. Definitions.

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

"Base period." As follows:

(1) Except as set forth in paragraph (2), the three years immediately preceding the date on which a company may begin creating new jobs which may be eligible for job creation tax credits.

(2) If a company has been in business in this Commonwealth for less than three years, the period which it has been in business in this Commonwealth.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Job creation tax credits." Tax credits for job creation for which the department has issued a certificate under this chapter.

"New job." A full-time job, the average hourly rate, excluding benefits, for which must be at least 350% of the Federal minimum wage, created within a municipality located in this Commonwealth by a company within three years from the start date. The term includes a job which was previously held by a nonresident and is filled by a resident. The term does not include a temporary or seasonal job.

"Nonresident." An individual who does not reside in this Commonwealth.

"Qualified apprenticeship training program." A program registered with the Apprenticeship and Training Council within the Department of Labor and Industry that is in compliance with applicable Federal and State laws and regulations and which requires at least 2,000 but not more than 10,000 hours of on-the-job apprenticeship training.

"Resident." Any natural person who is considered a resident of this Commonwealth under the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Start date." The date on which a company may begin creating new jobs which may be eligible for job creation tax credits.

"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.

#### § 3102. Eligibility.

In order to be eligible to receive job creation tax credits under this chapter, a company must demonstrate to the department the following:

(1) The company's financial stability and the project's financial viability.

(2) The company's express intent to maintain operations in this Commonwealth for a period of five years from the date the company submits its tax credit certificate to the Department of Revenue.

(3) The company is in conformity with industry laws and regulations overseen and enforced by the Department of Environmental Protection.

#### § 3103. Application process.

(a) Application.—A company must complete and submit to the department a job creation tax credit application along with a copy of the permit issued by the Department of Environmental Protection providing that the company has obtained the necessary permit allowing the company to drill in this Commonwealth or a statement from the

Department of Environmental Protection stating the same. The Department of Environmental Protection shall notify the Department of Labor and Industry, the Department of Revenue and the department upon suspension or revocation of drilling permits or other changes that affect the company's ability to continuously drill in this Commonwealth.

(b) Applicant priority.—The department shall give priority to eligible applicants that will place the following workers in new jobs:

(1) Workers who have completed a qualified apprenticeship training program or a job training program approved by the Department of Labor and Industry.

(2) Dislocated workers under the act of December 18, 2001 (P.L.949, No.114), known as the Workforce Development Act, who meet any one of the following conditions:

(i) Have been terminated or laid off or have received notice of termination or layoff, and are eligible for or have exhausted unemployment compensation benefits.

(ii) Are unlikely to return to the industry or occupation in which the individuals were employed.

(iii) Have 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 individuals were employed.

(iv) Are chronically unemployed.

(v) Have limited opportunities of employment in the geographic area in which the individuals reside.

(vi) Are individuals who may face substantial barriers to employment because of age or disability.

(3) Workers who have been unemployed for at least six months.

(4) Underemployed workers who require skill training to meet industry demands or increase employment opportunities.

(c) Approval.—If the department approves the company's application, the department and the company shall execute a commitment letter containing the following:

(1) A description of the project.

(2) The number of new jobs to be created.

(3) The amount of private capital investment in the project.

(4) The maximum job creation tax credit amount the company may claim.

(5) A signed statement that the company intends to maintain its operation in this Commonwealth for five years from the start date.

(6) A signed statement from the company that the company will provide to the department a list of workers which satisfies the requirements of subsection (b) for which the company will claim tax credit, including documentation of each worker's status as a resident of this Commonwealth.

(7) Such other information as the department deems appropriate.

(d) Commitment letter.—After a commitment letter has been signed by both the Commonwealth and the company, the company shall receive a job creation tax credit certificate and filing information. § 3104. Tax credits.

(a) Maximum amount.—A company may claim a tax credit of \$2,500 per new job created and up to the maximum job creation tax credit amount specified in the commitment letter.

(b) Determination of new jobs created.—

(1) New jobs shall be deemed created in year one to the extent that the company's average employment by quarter during year one exceeds the company's average employment level during the company's base period, as adjusted for any job held by a nonresident during the period which is no longer held by a nonresident.

(2) New jobs shall be deemed created in year two to the extent that the company's average employment by quarter during

year two exceeds the company's average employment by quarter during year one.

(3) New jobs shall be deemed created in year three to the extent that the company's average employment by quarter during year three exceeds the company's average employment by quarter during year two.

(c) Applicable taxes.—A company may apply the tax credit to 100% of the company's corporate net income tax, capital stock and franchise tax or the capital stock and franchise tax of a shareholder of the company if the company is a Pennsylvania S corporation, personal income tax or the personal income tax of shareholders of a Pennsylvania S corporation or any combination thereof.

(d) Tax credit term.—A company may claim the job creation tax credit for each new job created, as approved by the department, for a period determined by the department but not to exceed five years from the date the company first submits a job creation tax credit certificate.

(e) Availability of tax credits.—Each fiscal year, \$25,000,000 in tax credits shall be made available to the department and may be awarded by the department in accordance with this chapter.

§ 3105. Prohibitions.

The following actions with regard to job creation tax credits are prohibited:

(1) Approval of jobs that have been created prior to the start date, unless the job was held by a nonresident who has been replaced by a resident.

(2) The assignment, transfer or use of credits by any other company, provided, however, that tax credits may be assigned in whole or in part to an affiliated entity. As used in this paragraph, the term "affiliated entity" means an entity which is part of the same "affiliated group," as defined by section 1504(a)(1) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)(1)), as the company awarded the credit.

§ 3106. Penalties.

(a) Failure to create jobs.—A company which receives job creation tax credits and fails to create the approved number of new jobs within three years of the start date will be required to refund to the Commonwealth the total amount of credit or credits granted.

(b) Waiver.—The department may waive the penalties outlined in subsection (a) if it is determined that a company's operations were not maintained or the new jobs were not created because of circumstances beyond the company's control. Such circumstances include natural disasters or unforeseen industry trends.

§ 3107. Annual reports.

(a) Contents.—The department shall provide an annual report on job creation tax credits which at a minimum shall include:

(1) A list of all job creation tax credit certificates provided during the previous fiscal year.

(2) The name and location of each company receiving job creation tax credit certificates.

(3) An analysis of the job creation tax credits' ability to create jobs in this Commonwealth.

(4) Any other information that may be deemed relevant by the department.

(b) Submission.—The annual report shall be submitted to the Governor, the Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives and the Minority Leader of the House of Representatives by March 1 of the first full year following the effective date of this section and March 1 of each year thereafter.

§ 3108. Notice of availability of tax credits.

The department shall publish notice of the availability of the job creation tax credit on its publicly accessible Internet website and make information available annually to the Department of Labor and Industry Workforce Investment Board for distribution to local boards.

Section 4. This act shall take effect as follows:

(1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.

(2) The remainder of this act shall take effect immediately.

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

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Lycoming County, Representative Mirabito.

Mr. MIRABITO. Mr. Speaker, this amendment would institute a tax credit for companies creating jobs in Pennsylvania in the drilling industry, \$2500.

I would urge the members to support it. It will ensure that the work that is being done in the Marcellus Shale creates jobs for Pennsylvanians. We know from a study that was done that the estimate was 50,000 jobs, but we only created about half of them.

So I would urge the members to support this. It is an opportunity to tell the folks back home that you are working to create jobs in Pennsylvania.

**GERMANENESS QUESTIONED**

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Indiana County, Representative Reed.

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

We would make a similar argument as to what was made on the previous amendment, moving this particular bill into Title 58 let alone the provisions that create a new tax credit. It is certainly not a Tax Code bill. We do not believe it is appropriate to move it into a Title 58 bill.

So we would move that this amendment is not germane and ask the members to vote accordingly. Thank you.

The SPEAKER pro tempore. The gentleman from Indiana County, Mr. Reed, has raised a question of whether amendment A12058 is germane.

Under House rule 27, questions involving whether an amendment is germane shall be subject to decision by the House.

On the question,  
Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Lycoming County, Representative Mirabito.

Mr. MIRABITO. Mr. Speaker, I have to vigorously object to characterizing this as not germane. As you know, under the germaneness rule, a statute can contain any number of provisions that are expressed in the title. The title of HB 1659 is, quote, "...to ensure environmental protection and foster economic growth." That is exactly what this amendment does, Mr. Speaker. It fosters economic growth.

Mr. Speaker, this amendment is about creating jobs, and the purpose of HB 1659 in the title is to create and foster economic growth. So I would argue that this amendment actually does what the maker of the bill is intending to do. For that reason I would say that you cannot get any more germane when you

are offering a tax credit that is going to create jobs when that is what is in the title of the bill, and I would argue that it is germane.

I would ask the members to support it on this procedural motion. Thank you.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Armstrong County, Mr. Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

Mr. Speaker, I could not agree with the gentleman from Lycoming more. Job creation is at the forefront of everybody's thoughts, and I think the idea of developing the Marcellus further and job creation is splendid, and the minute he writes the bill, I will put my name on it, but this, Mr. Speaker, sadly, is a Tax Code bill, not a permitting bill, and I have got to support the gentleman from Indiana's motion that this is not germane.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the minority leader, the gentleman from Allegheny County, Representative Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, we have heard from the gentleman from Lycoming state why this certainly is germane. It certainly deals with economic development. We all know that tax credits are the thing of the day over there on your side. We are interested in tax credits. We are just trying to do one here. So I have got to believe you are all for this being germane. So we ought to vote that it is germane because it is. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, those who believe the amendment is germane will vote "yes"; those who believe the amendment is not germane will vote "no."

On the question recurring,  
Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

YEAS—88

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

NAYS—105

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

NOT VOTING—0

EXCUSED—8

Evans, D.	Hennessey	Miller	Quinn
George	Miccarelli	Preston	Watson

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

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

Mr. **BRADFORD** offered the following amendment No. **A12054**:

Amend Bill, page 1, line 1, by striking out "Providing" and inserting  
Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in development, further providing for hydraulic fracturing chemical disclosure requirements; and providing

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. Section 3222.1(b)(10) and (11) of Title 58 of the Pennsylvania Consolidated Statutes, added February 14, 2012 (P.L.87, No.13), are amended to read:

§ 3222.1. Hydraulic fracturing chemical disclosure requirements.

\* \* \*

(b) Required disclosures.—

\* \* \*

(10) A vendor, service company or operator shall identify the specific identity and amount of any chemicals claimed to be a trade secret or confidential proprietary information to any health professional who requests the information [in writing if the health professional executes a confidentiality agreement and provides a written statement of

need for the information indicating all of the following:

(i) The information is needed for the purpose of diagnosis or treatment of an individual.

(ii) The individual being diagnosed or treated may have been exposed to a hazardous chemical.

(iii) Knowledge of information will assist in the diagnosis or treatment of an individual].

The health professional may disclose the information received from a vendor, service company or operator to any person that the health professional determines is necessary for the diagnosis or treatment of an individual, including, but not limited to, another health professional, a patient and a public health official.

(11) If a health professional determines that a medical emergency exists and the specific identity and amount of any chemicals claimed to be a trade secret or confidential proprietary information are necessary for emergency treatment, the vendor, service provider or operator shall immediately disclose the information to the health professional [upon a verbal acknowledgment by the health professional that the information may not be used for purposes other than the health needs asserted and that the health professional shall maintain the information as confidential. The vendor, service provider or operator may request, and the health professional shall provide upon request, a written statement of need and a confidentiality agreement from the health professional as soon as circumstances permit, in conformance with regulations promulgated under this chapter]. The health professional may disclose the information received from a vendor, service company or operator to any person that the health professional determines is necessary for emergency treatment, including, but not limited to, another health professional, a patient and a public health official.

\* \* \*

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

PART IV

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PERMIT REVIEW AND ISSUANCE

Chapter

51. Preliminary Provisions

53. Permit Issuance

CHAPTER 51

PRELIMINARY PROVISIONS

Sec.

5101. Short title of part.

5102. Definitions.

§ 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

Section 102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.
- (4) Permit modifications.
- (5) Permit transfers.
- (6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration, license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver, assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

#### CHAPTER 53 PERMIT ISSUANCE

Sec.

5301. Applicability.

5302. Permit submission process.

5303. Plan to improve permit efficiencies.

5304. Establishment of department-wide program.

5305. Appealable actions.

5306. Construction.

§ 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

(1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the issuance of such permit;

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

§ 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

§ 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

§ 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

§ 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than the department and the authority to issue decisions that are binding on such entities.

§ 5306. Construction.

Nothing in this part shall be construed to modify:

(1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or

(2) the authority to implement a Federal law or program.

Section 3. This act shall take effect as follows:

(1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.

(2) The remainder of this act shall take effect immediately.

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

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Representative Bradford, for a brief explanation of your amendment.

Mr. BRADFORD. Thank you, Mr. Speaker.

I stand to offer an amendment that simply would add some language in that I know we can all agree to create greater transparency in Act 13, which had provided for certain language, the so-called gag rule exception that has permitted doctors and public health officials from freely speaking about the need in the Marcellus Shale bill to discuss issues of potentially confidential information. Obviously, public health should supersede anything regarding confidentiality agreements the doctors are forced to enter. This is an opportunity to bring that amendment forward and to vote on that, and I hope we could do that today.

The SPEAKER pro tempore. The Chair thanks the gentleman.

**GERMANENESS QUESTIONED**

The SPEAKER pro tempore. The Chair recognizes the majority Policy Committee chairman from Indiana County, Representative Reed.

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

To remain consistent throughout the afternoon and into the evening, although the issue may be a legitimate topic of debate, we do believe that it is not an appropriate topic of debate by moving this particular bill into another title, Title 58, and would move as such that this amendment is not germane and ask the members to support that move.

The SPEAKER pro tempore. The gentleman from Indiana County, Mr. Reed, has raised the question of whether amendment A12054 is germane.

Under House rule 27, questions about whether an amendment is germane will be decided by a vote of the House.

On the question,  
Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the maker of the amendment, Representative Bradford.

Mr. BRADFORD. Thank you, Mr. Speaker.

While I understand germaneness presents a barrier to having this discussion, I believe the repeated use of this parliamentary procedure eliminates the ability to get to the substance of the issue.

I would ask for a "no" on germaneness so that we can discuss this issue and finally deal with an issue that is way overdue.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the question, recognizes the gentleman from Armstrong County, Representative Pyle, on the question of germaneness.

Mr. PYLE. Thank you, Mr. Speaker.

I appreciate the gentleman from Montgomery's concerns, and like him, I, too, am concerned about the chemicals that are being pumped into our ground, and I would love to have that discussion with him. Unfortunately, that is not germane to a permitting bill, but my door is open should he like to have that discussion sometime soon.

I would ask for a "no" vote on germaneness.

The SPEAKER pro tempore. The gentleman, Mr. Bradford, is reminded that on questions of germaneness, members are only entitled to be recognized a single time.

The Chair recognizes the gentleman from Allegheny County, the minority leader, Representative Dermody, on the question of germaneness.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, this is germane. If we are dealing with environmental protection, this amendment certainly deals with protecting our environment and protecting the health and safety of Pennsylvanians. What you are doing with making this a germaneness issue is putting the gag rule on the gag rule. It is time we stopped that. Take the gag rule off. Let us know what is in these chemicals. Let people understand what is happening in their environment. This amendment does that, and that is why it is germane, Mr. Speaker. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of germaneness, those who believe the amendment is germane shall vote "yes"; those who believe the amendment is not germane shall vote "no."

On the question recurring,  
Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

**YEAS—90**

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

**NAYS—103**

Adolph	Farry	Krieger	Reed
Aument	Fleck	Lawrence	Reese
Baker	Gabler	Mackenzie	Roae

Barrar	Geist	Maher	Rock
Bear	Gillen	Major	Ross
Benninghoff	Gillespie	Maloney	Saccone
Bloom	Gingrich	Marshall	Saylor
Boyd	Godshall	Marsico	Scavello
Brooks	Grell	Masser	Simmons
Brown, R.	Grove	Metcalfe	Sonney
Causar	Hackett	Metzgar	Stephens
Christiana	Hahn	Micozzie	Stern
Clymer	Harhart	Millard	Stevenson
Cox	Harper	Milne	Swanger
Creighton	Harris	Moul	Tallman
Culver	Heffley	Mustio	Taylor
Cutler	Helm	O'Neill	Tobash
Day	Hess	Oberlander	Toepel
Delozier	Hickernell	Payne	Toohil
Denlinger	Hutchinson	Peifer	Truitt
DiGirolamo	Kampf	Perry	Turzai
Dunbar	Kauffman	Petri	Vereb
Ellis	Keller, F.	Pickett	Vulakovich
Emrick	Keller, M.K.	Pyle	
Evankovich	Killion	Quigley	Smith, S.,
Evans, J.	Knowles	Rapp	Speaker
Everett			

NOT VOTING—0

EXCUSED—8

Evans, D.	Hennessey	Miller	Quinn
George	Miccarelli	Preston	Watson

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

**GUEST INTRODUCED**

The SPEAKER pro tempore. The Chair would like to welcome to the hall of the House the brother of Representative Pam DeLissio, who is in uniform today, Col. Ed DeLissio. Welcome to the hall of the House.

On behalf of the entire House, thank you for your service.

**CONSIDERATION OF HB 1659 CONTINUED**

On the question recurring,

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

Mr. **SANTARSIERO** offered the following amendment No. **A12051**:

Amend Bill, page 1, line 1, by striking out "Providing" and inserting

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in development, further providing for well permits, for comments by municipalities and storage operators, for well location restrictions, for protection of water supplies, for well reporting requirements, for bonding and for criminal and civil penalties; and providing

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. Sections 3211(b), 3212.1(a.1) and (b), 3215(a), (b) and (d), 3218(c) and (d), 3222(b.2), 3225(a)(1), 3255(a) and (b) and 3256 of Title 58 of the Pennsylvania Consolidated Statutes, added

February 14, 2012 (P.L.87, No.13), are amended to read:

§ 3211. Well permits.

\*\*\*

(b) Plat.—

(1) The permit application shall be accompanied by a plat prepared by a competent engineer or a competent surveyor, on forms furnished by the department, showing the political subdivision and county in which the tract of land upon which the well to be drilled, operated or altered is located; a list of municipalities adjacent to the well site; the name of the surface landowner of record and lessor; the name of all surface landowners and water purveyors whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within [3,000] 4,200 feet from the vertical well bore; the name of the owner of record or operator of all known underlying workable coal seams; the acreage in the tract to be drilled; the proposed location of the well determined by survey, courses and distances of the location from two or more permanent identifiable points or landmarks on the tract boundary corners; the proposed angle and direction of the well if the well is to be deviated substantially from a vertical course; the number or other identification to be given the well; the workable coal seams underlying the tract of land upon which the well is to be drilled or altered and which shall be cased off under section 3217 (relating to protection of fresh groundwater and casing requirements); and any other information needed by the department to administer this chapter.

(2) The applicant shall forward by certified mail a copy of the plat to the surface landowner; the municipality in which the tract of land upon which the well to be drilled is located; each municipality within [3,000] 4,200 feet of the proposed unconventional vertical well bore; the municipalities adjacent to the well; all surface landowners and water purveyors, whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within [3,000] 4,200 feet of the proposed unconventional vertical well bore; storage operators within [3,000] 4,200 feet of the proposed unconventional vertical well bore; the owner and lessee of any coal seams; and each coal operator required to be identified on the well permit application.

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§ 3212.1. Comments by municipalities and storage operators.

\*\*\*

(a.1) Storage operators.—A storage operator located within [3,000] 4,200 feet of a proposed unconventional vertical well bore may submit written comments to the department describing circumstances which the storage operator has determined should be considered by the department in rendering its determination on the unconventional well permit. A comment under this subsection must be submitted to the department within 15 days of the receipt of the plat under section 3211(b). The storage operator shall simultaneously forward a copy of its comments to the permit applicant and all other parties entitled to a copy of the plat under section 3211(b), who may submit a written response. A written response must be submitted to the department within ten days of receipt of the comments of the storage operator.

(b) Consideration by department.—Comments and responses under subsections (a) and (a.1) [may] shall be considered by the department in accordance with section 3215(d) (relating to well location restrictions).

\*\*\*

§ 3215. Well location restrictions.

(a) General rule.—Wells may not be drilled within 200 feet, or, in the case of an unconventional gas well, [500] 1,200 feet, measured horizontally from the vertical well bore to a building or water well, existing when the copy of the plat is mailed as required by section 3211(b) (relating to well permits) without written consent of the owner of the building or water well. Unconventional gas wells may not be drilled within [1,000] 3,000 feet measured horizontally from the

vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without the written consent of the water purveyor. [If consent is not obtained and the distance restriction would deprive the owner of the oil and gas rights of the right to produce or share in the oil or gas underlying the surface tract, the well operator shall be granted a variance from the distance restriction upon submission of a plan identifying the additional measures, facilities or practices as prescribed by the department to be employed during well site construction, drilling and operations. The variance shall include additional terms and conditions required by the department to ensure safety and protection of affected persons and property, including insurance, bonding, indemnification and technical requirements. Notwithstanding section 3211(e), if a variance request has been submitted, the department may extend its permit review period for up to 15 days upon notification to the applicant of the reasons for the extension.]

(b) Limitation.—

(1) No well site may be prepared or well drilled within 100 feet or, in the case of an unconventional well, [300] 420 feet from the vertical well bore or [100] 200 feet from the edge of the well site, whichever is greater, measured horizontally from any solid blue lined stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

(2) The edge of the disturbed area associated with any unconventional well site must maintain a [100-foot] 300-foot setback from the edge of any solid blue lined stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

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

[(4) The department shall waive the distance restrictions upon submission of a plan identifying additional measures, facilities or practices to be employed during well site construction, drilling and operations necessary to protect the waters of this Commonwealth. The waiver, if granted, shall include additional terms and conditions required by the department necessary to protect the waters of this Commonwealth. Notwithstanding section 3211(e), if a waiver request has been submitted, the department may extend its permit review period for up to 15 days upon notification to the applicant of the reasons for the extension.]

\*\*\*

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

\*\*\*

#### § 3218. Protection of water supplies.

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(c) Presumption.—Unless rebutted by a defense established in subsection (d), it shall be presumed that a well operator is responsible for pollution of a water supply if:

(1) except as set forth in paragraph (2):

(i) the water supply is within 1,000 feet of an oil or gas well; and

(ii) the pollution occurred within six months after completion of drilling or alteration of the oil or gas well; or

(2) in the case of an unconventional well:

(i) the water supply is within [2,500] 4,200 feet of the unconventional vertical well bore; and

(ii) the pollution occurred within 12 months of the later of completion, drilling, stimulation or alteration of the unconventional well.

\*\*\*

(d) Defenses.—To rebut the presumption established under subsection (c), a well operator must affirmatively prove any of the following:

(1) except as set forth in paragraph (2):

(i) the pollution existed prior to the drilling or alteration activity as determined by a predrilling or prealteration survey;

(ii) the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;

(iii) the water supply is not within 1,000 feet of the well;

(iv) the pollution occurred more than six months after completion of drilling or alteration activities; and

(v) the pollution occurred as the result of a cause other than the drilling or alteration activity; or

(2) in the case of an unconventional well:

(i) the pollution existed prior to the drilling, stimulation or alteration activity as determined by a predrilling or prealteration survey;

(ii) the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;

(iii) the water supply is not within [2,500] 4,200 feet of the unconventional vertical well bore;

(iv) the pollution occurred more than 12 months after completion of drilling or alteration activities; or

(v) the pollution occurred as the result of a cause other than the drilling or alteration activity.

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#### § 3222. Well reporting requirements.

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[(b.2) Trade secret or confidential proprietary information.—When an operator submits its stimulation record under subsection (b.1), the operator may designate specific portions of the stimulation record as containing a trade secret or confidential proprietary information. The department shall prevent disclosure of a designated trade secret or confidential proprietary information to the extent permitted by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law or other applicable State law.]

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#### § 3225. Bonding.

(a) General rule.—The following shall apply:

(1) Except as provided in subsection (d), upon filing an application for a well permit and before continuing to operate an oil or gas well, the owner or operator of the well shall file with the department a bond covering the well and well site on a form to be prescribed and furnished by the department. A bond filed with an application for a well permit shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all drilling, water supply replacement, restoration and plugging requirements of this chapter. A bond for a well in existence on April 18, 1985, shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all water supply replacement, restoration and plugging requirements of this chapter. The amount of the bond required shall be in the following amounts and may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of plugging the well:

(i) For wells with a total well bore length less than 6,000 feet:

(A) For operating up to 50 wells, \$4,000 per well, but no bond may be required under this clause in excess of \$35,000.

(B) For operating 51 to 150 wells, \$35,000 plus \$4,000 per well for each well in excess of 50 wells, but no bond may be required under this clause in excess of \$60,000.

(C) For operating 151 to 250 wells, \$60,000 plus \$4,000 per well for each well in excess of 150 wells, but no bond may be required under this clause in excess of \$100,000.

(D) For operating more than 250 wells, \$100,000 plus \$4,000 per well for each well in excess of 250 wells, but no bond may be required under this clause in excess of \$250,000.

(ii) For wells with a total well bore length of at least 6,000 feet:

(A) For operating up to 25 wells, [\$10,000] \$20,000 per well, but no bond may be required under this clause in excess of [\$140,000] \$280,000.

(B) For operating 26 to 50 wells, [\$140,000] \$280,000 plus [\$10,000] \$20,000 per well for each well in excess of 25 wells, but no bond may be required under this clause in excess of [\$290,000] \$580,000.

(C) For operating 51 to 150 wells, [\$290,000] \$580,000 plus [\$10,000] \$20,000 per well for each well in excess of 50 wells, but no bond may be required under this clause in excess of [\$430,000] \$860,000.

(D) For operating more than 150 wells, [\$430,000] \$860,000 plus [\$10,000] \$20,000 per well for each well in excess of 150 wells, but no bond may be required under this clause in excess of [\$600,000] \$1,200,000.

\*\*\*

#### § 3255. Penalties.

(a) General violation.—A person violating a provision of this chapter commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not more than [\$1,000] \$5,000 or to imprisonment of not more than 90 days, or both. Each day during which the violation continues is a separate and distinct offense.

(b) Willful violation.—A person willfully violating a provision of this chapter or an order of the department issued under this chapter commits a misdemeanor and, upon conviction, shall be sentenced to pay a fine of not more than [\$5,000] \$10,000 or to imprisonment of not more than one year, or both. Each day during which the violation continues is a separate and distinct offense.

\*\*\*

#### § 3256. Civil penalties.

In addition to other remedies available at law or in equity for a violation of this chapter, a regulation of the department, a departmental order or a permit condition, the department, after a hearing, may assess a civil penalty regardless of whether the violation was willful. The penalty shall not exceed [\$25,000] \$50,000 plus [\$1,000] \$2,000 for each day during which the violation continues or, in the case of a violation arising from the construction, alteration or operation of an unconventional well, [\$75,000] \$100,000 plus [\$5,000] \$10,000 for each day during which the violation continues. In determining the amount, the department shall consider willfulness of the violation, damage or injury to natural resources of this Commonwealth or their uses, endangerment of safety of others, the cost of remedying the harm, savings resulting to the violator as a result of the violation and any other relevant factor. When the department proposes to assess a civil penalty, it shall notify the person of the proposed amount of the penalty. The person charged with the penalty must, within 30 days of notification, pay the proposed penalty in full or file an appeal of the assessment with the Environmental Hearing Board. Failure to comply with the time period under this section shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. The

civil penalty shall be payable to the Commonwealth and collectible in any manner provided at law for collection of debts. If a violator neglects or refuses to pay the penalty after demand, the amount, together with interest and costs that may accrue, shall become a lien in favor of the Commonwealth on the real and personal property of the violator, but only after the lien has been entered and docketed of record by the prothonotary of the county where the property is situated. The department may transmit to the prothonotaries of the various counties certified copies of all liens. It shall be the duty of each prothonotary to enter and docket the liens of record in the prothonotary's office and index them as judgments are indexed, without requiring payment of costs as a condition precedent to entry.

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

#### PART IV

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT REVIEW AND ISSUANCE

#### Chapter

#### 51. Preliminary Provisions

#### 53. Permit Issuance

#### CHAPTER 51

#### PRELIMINARY PROVISIONS

#### Sec.

5101. Short title of part.

5102. Definitions.

§ 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

§ 5102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.
- (4) Permit modifications.
- (5) Permit transfers.
- (6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration, license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver, assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

#### CHAPTER 53

#### PERMIT ISSUANCE

#### Sec.

5301. Applicability.

5302. Permit submission process.

5303. Plan to improve permit efficiencies.

5304. Establishment of department-wide program.

5305. Appealable actions.

5306. Construction.

§ 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

(1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the issuance of such permit;

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

§ 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule

indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

§ 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

§ 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

§ 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than the department and the authority to issue decisions that are binding on such entities.

§ 5306. Construction.

Nothing in this part shall be construed to modify:

(1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or

(2) the authority to implement a Federal law or program.

Section 3. This act shall take effect as follows:

(1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Bucks County, Representative Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

After these many months, it is good to finally get a chance to talk on this issue.

My bill would seek to correct some of the problems that exist with respect to Act 13, and in particular in terms of lengthening the setbacks where wells can be sited with respect to water supplies; increasing the area of presumption of potential liability in the case of contamination of water; increasing the bonding requirement, essentially doubling it; increasing criminal and civil penalties in the event of a violation of the act.

Mr. Speaker, as we discussed back in February, Act 13 has indeed many shortcomings which do not serve the Commonwealth of Pennsylvania. But first and foremost, we must make sure we protect the water supply, the drinking water supply of the people of this Commonwealth. This amendment would do exactly that. It corrects the mistakes of Act 13, and it would ensure that the people of Pennsylvania have a safe drinking water supply. And for that reason, Mr. Speaker, I urge my colleagues on both sides of the aisle to vote "yes."

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the question, recognizes the gentleman from Armstrong County, Representative Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

Mr. Speaker, I would like to commend the gentleman from Bucks County for having a germane amendment, but I have got to ask for a "no" vote. Thank you.

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

The following roll call was recorded:

YEAS—104

Barbin	DeLuca	Kirkland	Payton
Bishop	DePasquale	Kortz	Petrarca
Boback	Dermoddy	Kotik	Petri
Boyle, B.	DiGirolamo	Kula	Ravenstahl
Boyle, K.	Donatucci	Longiotti	Readshaw
Bradford	Emrick	Maher	Roebuck
Brennan	Fabrizio	Mahoney	Sabatina
Briggs	Farry	Mann	Sainato
Brown, V.	Frankel	Markosek	Samuelson
Brownlee	Freeman	Matzie	Santarsiero
Burns	Galloway	McGeehan	Santoni
Buxton	Gerber	Micozzie	Scavello
Caltagirone	Gergely	Millard	Schmotzer
Carroll	Gibbons	Mirabito	Smith, K.
Cohen	Gillen	Mullery	Smith, M.
Conklin	Goodman	Mundy	Staback
Costa, D.	Haluska	Murphy	Stephens
Costa, P.	Hanna	Murt	Sturla
Cruz	Harhai	Mustio	Thomas
Curry	Harkins	Myers	Toohil
Daley	Harper	Neilson	Vitali
Davidson	Hornaman	Neuman	Waters
Davis	James	O'Brien, M.	Wheatley
Dean	Josephs	O'Neill	White
Deasy	Kavulich	Parker	Williams
DeLissio	Keller, W.	Pashinski	Youngblood

NAYS—89

Adolph	Evans, J.	Killion	Reese
Aument	Everett	Knowles	Roa
Baker	Fleck	Krieger	Rock
Barrar	Gabler	Lawrence	Ross
Bear	Geist	Mackenzie	Saccone
Benninghoff	Gillespie	Major	Saylor
Bloom	Gingrich	Maloney	Simmons
Boyd	Godshall	Marshall	Sonney
Brooks	Grell	Marsico	Stern
Brown, R.	Grove	Masser	Stevenson
Causar	Hackett	Metcalfe	Swanger
Christiana	Hahn	Metzgar	Tallman
Clymer	Harhart	Milne	Taylor
Cox	Harris	Moul	Tobash
Creighton	Heffley	Oberlander	Toepel
Culver	Helm	Payne	Truitt
Cutler	Hess	Peifer	Turzai
Day	Hickernell	Perry	Vereb

Delozier	Hutchinson	Pickett	Vulakovich
Denlinger	Kampf	Pyle	
Dunbar	Kauffman	Quigley	Smith, S.,
Ellis	Keller, F.	Rapp	Speaker
Evankovich	Keller, M.K.	Reed	

NOT VOTING—0

EXCUSED—8

Evans, D.	Hennessey	Miller	Quinn
George	Miccarelli	Preston	Watson

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?

STATEMENT BY MR. SANTARSIERO

The SPEAKER pro tempore. For what purpose does the gentleman from Bucks County, Representative Santarsiero, seek recognition?

Mr. SANTARSIERO. I would like to speak on unanimous consent, Mr. Speaker.

The SPEAKER pro tempore. I am sorry, sir?

Mr. SANTARSIERO. I would like to speak on unanimous consent.

The SPEAKER pro tempore. Under unanimous consent, you may proceed.

Mr. SANTARSIERO. Mr. Speaker, I just want to express my gratitude for those who supported that amendment and my sincere hope that the bill will not be replaced with a different print number at some point in the future. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from— The gentleman, Mr. Dermody, is advised that his amendment, A12048, is made out of order by the preceding amendment.

Will the minority leader please approach the rostrum. Thank you.

(Conference held at Speaker's podium.)

AMENDMENT A12051 RECONSIDERED

The SPEAKER pro tempore. The Chair is in possession of a motion to reconsider the vote by which amendment 12051 to HB 1659, PN 3595, was passed earlier today. That motion is by Representatives Reed and Saylor.

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

The SPEAKER pro tempore. On the question of reconsideration, the Chair recognizes the gentleman from Indiana County, Representative Reed.

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

We would ask the members to support the motion to reconsider. Thank you.

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Allegheny County, the minority leader, Representative Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, everyone in this House should oppose this motion to reconsider. We just passed an amendment that extends environmental protections and bonding requirements that helps protect our environment, that helps protect the health and welfare of Pennsylvanians. This amendment needs to stay in the bill, and this motion to reconsider would be a mistake for all of Pennsylvania. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On that question, the Chair recognizes— The Chair sees no one else seeking recognition.

Those in favor of the motion to reconsider— The Chair rescinds that announcement and recognizes the gentleman from York County, Representative DePasquale, on the question of reconsideration.

Mr. DePASQUALE. Thank you, Mr. Speaker.

I think we should not reconsider this motion. The will of the body was to have that previous amendment in, which was critical to protect the water supplies of the people of Pennsylvania, and I ask that the motion to reconsider be defeated.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—102

Adolph	Everett	Knowles	Reed
Aument	Farry	Krieger	Reese
Baker	Fleck	Lawrence	Roae
Barrar	Gabler	Mackenzie	Rock
Bear	Geist	Major	Ross
Benninghoff	Gillen	Maloney	Saccone
Bloom	Gillespie	Marshall	Saylor
Boyd	Gingrich	Marsico	Scavello
Brooks	Godshall	Masser	Simmons
Brown, R.	Grell	Metcalfe	Sonney
Causar	Grove	Metzgar	Stevens
Christiana	Hackett	Micozzie	Stern
Clymer	Hahn	Millard	Stevenson
Cox	Harhart	Milne	Swanger
Creighton	Harper	Moul	Tallman
Culver	Harris	Murt	Taylor
Cutler	Heffley	O'Neill	Tobash
Day	Helm	Oberlander	Toepel
Delozier	Hess	Payne	Toohil
Denlinger	Hickernell	Peifer	Truitt
DiGirolamo	Hutchinson	Perry	Turzai
Dunbar	Kampf	Petri	Vereb

Ellis	Kauffman	Pickett	Vulakovich
Emrick	Keller, F.	Pyle	
Evankovich	Keller, M.K.	Quigley	Smith, S., Speaker
Evans, J.	Killion	Rapp	

NAYS—91

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

NOT VOTING—0

EXCUSED—8

Evans, D.	Hennessey	Miller	Quinn
George	Miccarelli	Preston	Watson

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

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

The clerk read the following amendment No. **A12051**:

Amend Bill, page 1, line 1, by striking out "Providing" and inserting  
Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in development, further providing for well permits, for comments by municipalities and storage operators, for well location restrictions, for protection of water supplies, for well reporting requirements, for bonding and for criminal and civil penalties; and providing

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. Sections 3211(b), 3212.1(a.1) and (b), 3215(a), (b) and (d), 3218(c) and (d), 3222(b.2), 3225(a)(1), 3255(a) and (b) and 3256 of Title 58 of the Pennsylvania Consolidated Statutes, added February 14, 2012 (P.L.87, No.13), are amended to read:

§ 3211. Well permits.

\* \* \*

(b) Plat.—

(1) The permit application shall be accompanied by a plat prepared by a competent engineer or a competent surveyor, on forms furnished by the department, showing the political

subdivision and county in which the tract of land upon which the well to be drilled, operated or altered is located; a list of municipalities adjacent to the well site; the name of the surface landowner of record and lessor; the name of all surface landowners and water purveyors whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within [3,000] 4,200 feet from the vertical well bore; the name of the owner of record or operator of all known underlying workable coal seams; the acreage in the tract to be drilled; the proposed location of the well determined by survey, courses and distances of the location from two or more permanent identifiable points or landmarks on the tract boundary corners; the proposed angle and direction of the well if the well is to be deviated substantially from a vertical course; the number or other identification to be given the well; the workable coal seams underlying the tract of land upon which the well is to be drilled or altered and which shall be cased off under section 3217 (relating to protection of fresh groundwater and casing requirements); and any other information needed by the department to administer this chapter.

(2) The applicant shall forward by certified mail a copy of the plat to the surface landowner; the municipality in which the tract of land upon which the well to be drilled is located; each municipality within [3,000] 4,200 feet of the proposed unconventional vertical well bore; the municipalities adjacent to the well; all surface landowners and water purveyors, whose water supplies are within 1,000 feet of the proposed well location or, in the case of an unconventional well, within [3,000] 4,200 feet of the proposed unconventional vertical well bore; storage operators within [3,000] 4,200 feet of the proposed unconventional vertical well bore; the owner and lessee of any coal seams; and each coal operator required to be identified on the well permit application.

\* \* \*

#### § 3212.1. Comments by municipalities and storage operators.

\* \* \*

(a.1) Storage operators.—A storage operator located within [3,000] 4,200 feet of a proposed unconventional vertical well bore may submit written comments to the department describing circumstances which the storage operator has determined should be considered by the department in rendering its determination on the unconventional well permit. A comment under this subsection must be submitted to the department within 15 days of the receipt of the plat under section 3211(b). The storage operator shall simultaneously forward a copy of its comments to the permit applicant and all other parties entitled to a copy of the plat under section 3211(b), who may submit a written response. A written response must be submitted to the department within ten days of receipt of the comments of the storage operator.

(b) Consideration by department.—Comments and responses under subsections (a) and (a.1) [may] shall be considered by the department in accordance with section 3215(d) (relating to well location restrictions).

\* \* \*

#### § 3215. Well location restrictions.

(a) General rule.—Wells may not be drilled within 200 feet, or, in the case of an unconventional gas well, [500] 1,200 feet, measured horizontally from the vertical well bore to a building or water well, existing when the copy of the plat is mailed as required by section 3211(b) (relating to well permits) without written consent of the owner of the building or water well. Unconventional gas wells may not be drilled within [1,000] 3,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without the written consent of the water purveyor. [If consent is not obtained and the distance restriction would deprive the owner of the oil and gas rights of the right to produce or share in the oil or gas underlying the surface tract, the well operator shall be granted a variance from the distance restriction upon submission of a plan

identifying the additional measures, facilities or practices as prescribed by the department to be employed during well site construction, drilling and operations. The variance shall include additional terms and conditions required by the department to ensure safety and protection of affected persons and property, including insurance, bonding, indemnification and technical requirements. Notwithstanding section 3211(e), if a variance request has been submitted, the department may extend its permit review period for up to 15 days upon notification to the applicant of the reasons for the extension.]

(b) Limitation.—

(1) No well site may be prepared or well drilled within 100 feet or, in the case of an unconventional well, [300] 420 feet from the vertical well bore or [100] 200 feet from the edge of the well site, whichever is greater, measured horizontally from any solid blue lined stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

(2) The edge of the disturbed area associated with any unconventional well site must maintain a [100-foot] 300-foot setback from the edge of any solid blue lined stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

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

[(4) The department shall waive the distance restrictions upon submission of a plan identifying additional measures, facilities or practices to be employed during well site construction, drilling and operations necessary to protect the waters of this Commonwealth. The waiver, if granted, shall include additional terms and conditions required by the department necessary to protect the waters of this Commonwealth. Notwithstanding section 3211(e), if a waiver request has been submitted, the department may extend its permit review period for up to 15 days upon notification to the applicant of the reasons for the extension.]

\* \* \*

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

\* \* \*

#### § 3218. Protection of water supplies.

\* \* \*

(c) Presumption.—Unless rebutted by a defense established in subsection (d), it shall be presumed that a well operator is responsible for pollution of a water supply if:

(1) except as set forth in paragraph (2):

(i) the water supply is within 1,000 feet of an oil or gas well; and

(ii) the pollution occurred within six months after completion of drilling or alteration of the oil or gas well; or

(2) in the case of an unconventional well:

(i) the water supply is within [2,500] 4,200 feet of the unconventional vertical well bore; and

(ii) the pollution occurred within 12 months of the later of completion, drilling, stimulation or alteration of the unconventional well.

\* \* \*

(d) Defenses.—To rebut the presumption established under subsection (c), a well operator must affirmatively prove any of the following:

- (1) except as set forth in paragraph (2):
  - (i) the pollution existed prior to the drilling or alteration activity as determined by a predrilling or prealteration survey;
  - (ii) the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;
  - (iii) the water supply is not within 1,000 feet of the well;
  - (iv) the pollution occurred more than six months after completion of drilling or alteration activities; and
  - (v) the pollution occurred as the result of a cause other than the drilling or alteration activity;
- (2) in the case of an unconventional well:
  - (i) the pollution existed prior to the drilling, stimulation or alteration activity as determined by a predrilling or prealteration survey;
  - (ii) the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;
  - (iii) the water supply is not within [2,500] 4,200 feet of the unconventional vertical well bore;
  - (iv) the pollution occurred more than 12 months after completion of drilling or alteration activities; or
  - (v) the pollution occurred as the result of a cause other than the drilling or alteration activity.

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§ 3222. Well reporting requirements.

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(b.2) Trade secret or confidential proprietary information.—When an operator submits its stimulation record under subsection (b.1), the operator may designate specific portions of the stimulation record as containing a trade secret or confidential proprietary information. The department shall prevent disclosure of a designated trade secret or confidential proprietary information to the extent permitted by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law or other applicable State law.]

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§ 3225. Bonding.

- (a) General rule.—The following shall apply:
  - (1) Except as provided in subsection (d), upon filing an application for a well permit and before continuing to operate an oil or gas well, the owner or operator of the well shall file with the department a bond covering the well and well site on a form to be prescribed and furnished by the department. A bond filed with an application for a well permit shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all drilling, water supply replacement, restoration and plugging requirements of this chapter. A bond for a well in existence on April 18, 1985, shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all water supply replacement, restoration and plugging requirements of this chapter. The amount of the bond required shall be in the following amounts and may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of plugging the well:
    - (i) For wells with a total well bore length less than 6,000 feet:
      - (A) For operating up to 50 wells, \$4,000 per well, but no bond may be required under this clause in excess of \$35,000.
      - (B) For operating 51 to 150 wells, \$35,000 plus \$4,000 per well for each well in excess of 50 wells, but no bond may be required under this clause in excess of \$60,000.
      - (C) For operating 151 to 250 wells, \$60,000 plus \$4,000 per well for each well in excess of 150 wells, but no bond may be required

under this clause in excess of \$100,000.  
 (D) For operating more than 250 wells, \$100,000 plus \$4,000 per well for each well in excess of 250 wells, but no bond may be required under this clause in excess of \$250,000.

(ii) For wells with a total well bore length of at least 6,000 feet:

(A) For operating up to 25 wells, [\$10,000] \$20,000 per well, but no bond may be required under this clause in excess of [\$140,000] \$280,000.

(B) For operating 26 to 50 wells, [\$140,000] \$280,000 plus [\$10,000] \$20,000 per well for each well in excess of 25 wells, but no bond may be required under this clause in excess of [\$290,000] \$580,000.

(C) For operating 51 to 150 wells, [\$290,000] \$580,000 plus [\$10,000] \$20,000 per well for each well in excess of 50 wells, but no bond may be required under this clause in excess of [\$430,000] \$860,000.

(D) For operating more than 150 wells, [\$430,000] \$860,000 plus [\$10,000] \$20,000 per well for each well in excess of 150 wells, but no bond may be required under this clause in excess of [\$600,000] \$1,200,000.

\*\*\*

§ 3255. Penalties.

- (a) General violation.—A person violating a provision of this chapter commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not more than [\$1,000] \$5,000 or to imprisonment of not more than 90 days, or both. Each day during which the violation continues is a separate and distinct offense.
- (b) Willful violation.—A person willfully violating a provision of this chapter or an order of the department issued under this chapter commits a misdemeanor and, upon conviction, shall be sentenced to pay a fine of not more than [\$5,000] \$10,000 or to imprisonment of not more than one year, or both. Each day during which the violation continues is a separate and distinct offense.

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§ 3256. Civil penalties.

In addition to other remedies available at law or in equity for a violation of this chapter, a regulation of the department, a departmental order or a permit condition, the department, after a hearing, may assess a civil penalty regardless of whether the violation was willful. The penalty shall not exceed [\$25,000] \$50,000 plus [\$1,000] \$2,000 for each day during which the violation continues or, in the case of a violation arising from the construction, alteration or operation of an unconventional well, [\$75,000] \$100,000 plus [\$5,000] \$10,000 for each day during which the violation continues. In determining the amount, the department shall consider willfulness of the violation, damage or injury to natural resources of this Commonwealth or their uses, endangerment of safety of others, the cost of remedying the harm, savings resulting to the violator as a result of the violation and any other relevant factor. When the department proposes to assess a civil penalty, it shall notify the person of the proposed amount of the penalty. The person charged with the penalty must, within 30 days of notification, pay the proposed penalty in full or file an appeal of the assessment with the Environmental Hearing Board. Failure to comply with the time period under this section shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. The civil penalty shall be payable to the Commonwealth and collectible in any manner provided at law for collection of debts. If a violator neglects or refuses to pay the penalty after demand, the amount, together with interest and costs that may accrue, shall become a lien in favor of the Commonwealth on the real and personal property of the violator, but only after the lien has been entered and docketed of record by the prothonotary of the county where the property is situated. The

department may transmit to the prothonotaries of the various counties certified copies of all liens. It shall be the duty of each prothonotary to enter and docket the liens of record in the prothonotary's office and index them as judgments are indexed, without requiring payment of costs as a condition precedent to entry.

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

PART IV

DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT  
REVIEW AND ISSUANCE

Chapter

51. Preliminary Provisions

53. Permit Issuance

CHAPTER 51

PRELIMINARY PROVISIONS

Sec.

5101. Short title of part.

5102. Definitions.

§ 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

§ 5102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.
- (4) Permit modifications.
- (5) Permit transfers.
- (6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration, license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver, assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

CHAPTER 53  
PERMIT ISSUANCE

Sec.

5301. Applicability.

5302. Permit submission process.

5303. Plan to improve permit efficiencies.

5304. Establishment of department-wide program.

5305. Appealable actions.

5306. Construction.

§ 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

- (1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the

issuance of such permit:

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

§ 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

§ 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the

department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

§ 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

§ 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than the department and the authority to issue decisions that are binding on such entities.

§ 5306. Construction.

Nothing in this part shall be construed to modify:

- (1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or
- (2) the authority to implement a Federal law or program.

Section 3. This act shall take effect as follows:

- (1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.
- (2) The remainder of this act shall take effect immediately.

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

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Bucks County, Representative Santarsiero.

For the information of the members, I did just misspeak. It is amendment 12051 that we are back to.

The gentleman from Bucks, I apologize for the delay, but you may now proceed.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

I do not know whether it is appropriate or not to begin my remarks by thanking you for voting against the motion for reconsideration, but I would like to do that nonetheless.

The SPEAKER pro tempore. Your remarks shall be spread across the record.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Mr. Speaker, obviously, there was a moment of levity just now on that, but this is not an issue of levity. This is an issue that does in fact impact each and every Pennsylvanian, and one of the basic things that we as a State government, as part of the State government need to do, one of our charges, I believe, as

members of this General Assembly is to protect the drinking water supply of our constituents, and that is exactly what my amendment would do.

Now, a few moments ago, Mr. Speaker, this amendment passed fairly comfortably, and I am not completely sure I know why there is this attempt to reconsider that vote, although I have my suspicions. I would urge each and every member who voted for this amendment just a few moments ago to repeat that vote, to do the right thing and stand up for the people of Pennsylvania. This is not a Democratic or Republican issue. This is an issue of standing up for our constituents, for making sure that their drinking water is safe to drink, and we should do that without question.

So I ask all members to please support this amendment.

### GERMANENESS QUESTIONED

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Lancaster County, Representative Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

Perhaps in the rush to discuss some of the merits of the amendment previously, I think that many of the members may have actually overlooked a fundamental issue with the amendment as drafted.

What the gentleman is attempting to do is to amend this into Title 58, similar to all of the other amendments that were also ruled not germane by this chamber, and for that reason I would make the motion that this amendment is not germane and should not be included in the bill.

The SPEAKER pro tempore. The gentleman from Lancaster County, Representative Cutler, has moved that amendment A12051 is not germane to HB 1659.

On that question, under House rule 27, the question of germaneness will be decided by the members of the House.

On the question,  
Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the maker of the amendment, the gentleman from Bucks County, Representative Santarsiero.

The gentleman indicates he wishes to be recognized at a later point, which is within his rights.

The Chair recognizes the gentleman from Allegheny County, Representative Frankel, on the question of germaneness.

Mr. FRANKEL. Thank you, Mr. Speaker.

I think members who will vote that this is not germane are going to have to explain how they were for this legislation before they were against it. The fact of the matter is, the prime sponsor of the bill said on the House floor thank you for offering a germane amendment. This is certainly germane.

To pass muster under a single-subject or germaneness challenge, a statute can contain any number of provisions properly connected with and germane to the subject expressed in the title. The short title of this bill, HB 1659, is the Department of Environmental Protection Permit Review and Issuance Act. This is clearly what the gentleman from Bucks County is addressing in his amendment, and it is an amendment that seeks to protect the quality of our drinking water. I think we can all be for that. I think that is germane.

This amendment is certainly germane. You were correct the first time. The prime sponsor was correct by saying it was germane. Support germaneness and support this amendment to improve this bill. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, the majority leader, Representative Turzai, on the question of germaneness.

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

I think it is an important point to note that the way this statute is written, it exempts – it is not applicable to permits under Title 58, which are the oil and gas permits. This is speaking to other permits that the Department of Environmental Protection deals with. So please understand, this is not dealing with – this is not applicable to the Marcellus Shale development and the permits that fall underneath that. This is not applicable, the underlying bill is not applicable to permits under Title 58, oil and gas permits. The Marcellus Shale is in fact divorced from this particular underlying legislation. That is why I support the motion for germaneness made by the good gentleman from Lancaster County, and I would ask everybody to vote that this is a not-germane amendment.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from York County, Representative DePasquale.

Mr. DePASQUALE. Thank you, Mr. Speaker.

Under the first paragraph of the bill, it says, "Providing for the effective and thorough review of permit applications to the Department of Environmental Protection and other entities to," quote, "ensure environmental protection...." What could be more important for protecting our environment than additional permit requirements to ensure our drinking water is safe? This is clearly germane just by reading the first paragraph of this act. The amendment is about preserving our water supply. The first paragraph of this act says, quote, "...to ensure environmental protection...." Our water is part of our environment, including our Pennsylvania Constitution that says all Pennsylvanians have a right to pure drinking water.

Please vote that this amendment is germane so that we can ensure our drinking water is safe. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Cambria County, Representative Barbin.

Mr. BARBIN. Thank you, Mr. Speaker.

I rise in opposition to this motion for germaneness, and I would just bring up the point that just a few minutes ago we had a real vote on whether or not we should protect the environment or not, and now all of a sudden we are taking another vote that says that we really were kind of confused.

Now, the only thing here is, nobody is really confused. You can say that you are confused, but you are really just hiding the fact you do not want to protect the environment. Take a vote.

These are not my words—

The SPEAKER pro tempore. The gentleman is reminded, appropriate decorum.

Mr. BARBIN. These are not my words. They are the words of Abraham Lincoln, "You can fool some of the people all of the time, and all of the people some of the time, but you can not fool all of the people all of the time." You cannot fool people on this vote. A vote for—

The SPEAKER pro tempore. The Chair reminds the gentleman—

Mr. BARBIN. —striking it on germaneness is a vote against the environment.

The SPEAKER pro tempore. The Chair reminds members, appropriate decorum.

### POINT OF ORDER

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Gabler, seek recognition?

Mr. GABLER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. Will you please state your point of order.

Mr. GABLER. Yes. I believe it is in the House rules that a member is not supposed to speak to the motivations of other members, and I would like to ask that that gentleman's remark to that effect be stricken from the record. Thank you.

The SPEAKER pro tempore. The Chair will review the remarks with that rule in mind and will remind the members, let us just keep moving along and stay with appropriate decorum and stay on subject.

The Chair recognizes the gentleman from Armstrong County, Mr. Pyle, on the question of germaneness.

Mr. PYLE. Mr. Speaker, I am sure there are much greater things at stake than what I am about to say, and I feel like Lucy pulling the ball out from Charlie Brown, but the fact of the matter is, I am diabetic, my sugar is low, and I read the wrong amendment.

The SPEAKER pro tempore. Mr. Pyle; Mr. Pyle.

Mr. PYLE. Yes, Mr. Speaker.

The SPEAKER pro tempore. All due decorum, please.

Mr. PYLE. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Philadelphia, Representative Thomas. Mr. Thomas, you may proceed.

Mr. THOMAS. We have had a long conversation, Mr. Speaker. We have defined and redefined the concept of germaneness. We went through interpretation. I think now we are at a point where I think we can conclude that the basis for even raising the question of whether this amendment is germane is that it is not germane. Let us move forward, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE CANCELED

The SPEAKER pro tempore. The Chair recognizes the presence on the House floor of Representative Marguerite Quinn, whose leave will be canceled, and she will be returned to the master roll.

### CONSIDERATION OF HB 1659 CONTINUED

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Lancaster County, Representative Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Just for a point of historic record, this is the 25th time that germaneness has been raised this session. Now, just to put this into historic perspective and particularly for some of the newer members who believe that this is the way business gets done, it apparently is now. It was not, though, for decades, in fact, centuries in this House. It took this body 9 years, from 2001 until 2010, to have 25 germaneness motions. You did it in 18 months. Keep in mind the previous record for a session was 13, which happened in the 1977-78 session. It also happened again in the 1995-96 session 13 times. This is the 25th time this session. One more time and you will have doubled the amount of times that germaneness has been raised as an issue in this House. The only other time we had more than 10 was in the 1999 session. That means only 4 sessions with 10 or more germaneness motions in the entire history—

The SPEAKER pro tempore. Will the gentleman suspend, please.

Mr. STURLA. —of the legislature in Pennsylvania.

The SPEAKER pro tempore. For what purpose does the gentleman from Montgomery County seek recognition?

Mr. VEREB. Thank you, Mr. Speaker.

With great respect to the gentleman from Lancaster, I thought we were supposed to argue on the merits of germane or not germane to the current amendment in front of us.

The SPEAKER pro tempore. The gentleman is correct and would ask the gentleman from Lancaster County to reel it back in.

Mr. STURLA. Thank you, Mr. Speaker.

I urge you to vote that this amendment is germane.

The SPEAKER pro tempore. On the question of germaneness, those who believe the amendment—

The gentleman from Bucks County, Representative Santarsiero, quite appropriately seeks recognition on the question of germaneness and may proceed.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Mr. Speaker, if we pause for a minute and think about what this process looks like for the people of Pennsylvania who are not in this chamber tonight, I think we might be appalled, because just a few minutes ago a majority of members of this chamber voted on the substance of this bill, of this amendment – excuse me – voted to insert this amendment into the underlying bill to protect the drinking water of the people of Pennsylvania, and in fact, right before that vote there was no challenge on germaneness. The maker of the bill said that he thought that the amendment was germane, and we went forward with the debate and the bill, and we amended the bill as I just described. Now, a few minutes later there is a reconsideration, and lo and behold, we are voting on germaneness. I will not dignify the argument of germaneness by addressing the points that have been made. My other colleagues on our side of the aisle have done that, I think, and have done it well.

What I will say to you is this: If you voted for this amendment on the substance when it came up a few moments ago, you implicitly – no, in fact, you explicitly voted that this amendment was germane, because if you did not think it was germane, you could not possibly vote for it. So now that this motion comes before us seeking to throw the amendment out on the grounds that it is not germane, you can do nothing other than to vote that this is in fact a germane amendment.

Mr. Speaker, the people of this Commonwealth are watching what we are doing, and regrettably, we live in an era in which the public has a very high level of cynicism about government. It is episodes like this that fuel that cynicism.

And I ask each and every one of you who supported the amendment to vote that this amendment is in fact germane, and when we get past this motion, to again show your support for the amendment and pass it once again. Thank you, Mr. Speaker.

The SPEAKER pro tempore. For the information of the members, the gentleman who just spoke was the maker of the amendment that is subject to the question of germaneness, and as is the courtesy of the House, since he elected not to be recognized initially, it was my goal that he would be the last to speak. Representative Cutler waived off in recognition of that protocol of courtesy. However, the leaders always have the final word. So I am just going to check.

Does the minority leader wish to make a remark? Representative Dermody, you are in order.

Mr. DERMODY. Thank you, Mr. Speaker.

Briefly, we have heard all the reasons here the last several minutes of debate as to why this amendment is germane and good public policy for the Commonwealth of Pennsylvania. This amendment should be held to be germane. We should vote it once again and pass it to make this bill a better bill. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the majority leader, Representative Turzai.

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

The issue that is in front of us is the germaneness of amendment 12051. The fact of the matter is, this is what is typically known as a "gut-and-replace," quote, unquote, amendment and moves the bill to Title 58, where it is not presently; it is a freestanding act. In addition, it is clear that the bill is not applicable to Title 58. This is clearly a nongermane amendment.

In addition, I would say that many of us, and all of us, are for clean water and a clean environment, but the issue in front of us is germaneness, and this is not a germane amendment. Thank you.

The SPEAKER pro tempore. On the question of germaneness, those who believe the amendment is germane will vote "yes"; those who believe the amendment is not germane will vote "no."

On the question recurring,

Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

YEAS—95

Barbin	DeLissio	Kirkland	Petrarca
Bishop	DeLuca	Kortz	Petri
Boyle, B.	DePasquale	Kotik	Quinn
Boyle, K.	Dermody	Kula	Ravenstahl
Bradford	Donatucci	Longietti	Readshaw
Brennan	Fabrizio	Maher	Roebuck
Briggs	Farry	Mahoney	Sabatina
Brown, V.	Frankel	Mann	Sainato
Brownlee	Freeman	Markosek	Samuelson
Burns	Galloway	Matzie	Santarsiero

Buxton	Gerber	McGeehan	Santoni
Caltagirone	Gergely	Mirabito	Schmotzer
Carroll	Gibbons	Mullery	Smith, K.
Cohen	Gillen	Mundy	Smith, M.
Conklin	Goodman	Murphy	Staback
Costa, D.	Haluska	Mustio	Sturla
Costa, P.	Hanna	Myers	Thomas
Cruz	Harhai	Neilson	Vitali
Curry	Harkins	Neuman	Waters
Daley	Hornaman	O'Brien, M.	Wheatley
Davidson	James	O'Neill	White
Davis	Josephs	Parker	Williams
Dean	Kavulich	Pashinski	Youngblood
Deasy	Keller, W.	Payton	

NAYS—97

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

NOT VOTING—2

Geist	Marshall
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EXCUSED—7

Evans, D.	Hennessey	Miller	Watson
George	Miccarelli	Preston	

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

On the question recurring,

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

Mr. **DERMODY** offered the following amendment No. **A12048**:

Amend Bill, page 1, line 1, by striking out "Providing" and inserting

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in local ordinances relating to oil and gas operations, further providing for uniformity of local ordinances; and providing

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. Section 3304 of Title 58 of the Pennsylvania Consolidated Statutes, added February 14, 2012 (P.L.83, No.13), is amended to read:

§ 3304. Uniformity of local ordinances.

(a) General rule.—In addition to the restrictions contained in sections 3302 (relating to oil and gas operations regulated pursuant to Chapter 32) and 3303 (relating to oil and gas operations regulated by environmental acts), all local ordinances regulating oil and gas operations shall allow for the reasonable development of oil and gas resources.

(b) Reasonable development of oil and gas resources.—In order to allow for the reasonable development of oil and gas resources, a local ordinance:

(1) Shall allow well and pipeline location assessment operations, including seismic operations and related activities conducted in accordance with all applicable Federal and State laws and regulations relating to the storage and use of explosives throughout every local government.

(2) May not impose conditions, requirements or limitations on the construction of oil and gas operations that are more stringent than conditions, requirements or limitations imposed on construction activities for other industrial uses within the geographic boundaries of the local government.

(3) May not impose conditions, requirements or limitations on the heights of structures, screening and fencing, lighting or noise relating to permanent oil and gas operations that are more stringent than the conditions, requirements or limitations imposed on other industrial uses or other land development within the particular zoning district where the oil and gas operations are situated within the local government.

(4) Shall have a review period for permitted uses that does not exceed 30 days for complete submissions or that does not exceed 120 days for conditional uses.

(5) Shall authorize oil and gas operations, other than activities at impoundment areas, compressor stations and processing plants, as a permitted use in all zoning districts.

(5.1) Notwithstanding section 3215 (relating to well location restrictions), may prohibit, or permit only as a conditional use, wells or well sites otherwise permitted under paragraph (5) within a residential district if the well site cannot be placed so that the wellhead is at least 500 feet from any existing building. In a residential district, all of the following apply:

(i) A well site may not be located so that the outer edge of the well pad is closer than 300 feet from an existing building.

(ii) Except as set forth in paragraph (5) and this paragraph, oil and gas operations, other than the placement, use and repair of oil and gas pipelines, water pipelines, access roads or security facilities, may not take place within 300 feet of an existing building.

(6) Shall authorize impoundment areas used for oil and gas operations as a permitted use in all zoning districts, provided that the edge of any impoundment area shall not be located closer than 300 feet from an existing building.

(7) Shall authorize natural gas compressor stations as a permitted use in agricultural and industrial zoning districts and as a conditional use in all other zoning districts, if the natural gas compressor building meets the following standards:

(i) is located 750 feet or more from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and

(ii) the noise level does not exceed a noise standard of 60dbA at the nearest property line or the applicable standard imposed by Federal law, whichever is less.

(8) Shall authorize a natural gas processing plant as a

permitted use in an industrial zoning district and as conditional uses in agricultural zoning districts if all of the following apply:

(i) The natural gas processing plant building is located at the greater of at least 750 feet from the nearest existing building or at least 200 feet from the nearest lot line unless waived by the owner of the building or adjoining lot.

(ii) The noise level of the natural gas processing plant building does not exceed a noise standard of 60dba at the nearest property line or the applicable standard imposed by Federal law, whichever is less.

(9) Shall impose restrictions on vehicular access routes for overweight vehicles only as authorized under 75 Pa.C.S. (relating to vehicles) or the MPC.

(10) May not impose limits or conditions on subterranean operations or hours of operation of compressor stations and processing plants or hours of operation for the drilling of oil and gas wells or the assembly and disassembly of drilling rigs.

(11) May not increase setback distances set forth in Chapter 32 (relating to development) or this chapter. A local ordinance may impose setback distances that are not regulated by or set forth in Chapter 32 or this chapter if the setbacks are no more stringent than those for other industrial uses within the geographic boundaries of the local government.]

Nothing in this chapter shall prohibit a municipality from enacting a local ordinance that does not directly conflict with the provisions in Chapter 32 (relating to development) or environmental acts. Further, a municipality may enact a local ordinance to increase the setback distance provisions found in Chapter 32 to protect the health and safety of its residents.

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

#### PART IV

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT REVIEW AND ISSUANCE

#### Chapter

#### 51. Preliminary Provisions

#### 53. Permit Issuance

#### CHAPTER 51

#### PRELIMINARY PROVISIONS

#### Sec.

5101. Short title of part.

5102. Definitions.

§ 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

§ 5102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.
- (4) Permit modifications.
- (5) Permit transfers.
- (6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration,

license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver, assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

#### CHAPTER 53 PERMIT ISSUANCE

#### Sec.

5301. Applicability.

5302. Permit submission process.

5303. Plan to improve permit efficiencies.

5304. Establishment of department-wide program.

5305. Appealable actions.

5306. Construction.

§ 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

(1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the issuance of such permit;

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

§ 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the

department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

#### § 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

#### § 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

#### § 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than the department and the authority to issue decisions that are binding on such entities.

#### § 5306. Construction.

Nothing in this part shall be construed to modify:

(1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or

(2) the authority to implement a Federal law or program.

Section 3. This act shall take effect as follows:

(1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the minority leader for a brief explanation of his amendment.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, this amendment does one simple thing. It gives the power back to our local elected officials to decide their own fate. The preemption in the Marcellus bill that passed this House prevents local governments from deciding how they want their communities to run, how their communities should be set up, how their communities should be allowed— They should be allowed to take care of their own issues. They should be able to decide whether they should have drilling where they want it and when they want it, and we should not have to come back to Harrisburg to make those decisions.

All this amendment does is restores the rights of local governments to decide their own fate and determine what their communities should look like and how the residents should live in them. So we are asking for people to support this amendment which restores the rights of local governments to decide their own fate. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the question, recognizes the gentleman from Allegheny County, the majority leader, Representative Turzai.

The gentleman defers.

## GERMANENESS QUESTIONED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster County, Representative Cutler, on the amendment.

Mr. CUTLER. Thank you, Mr. Speaker.

Unfortunately, this amendment also has the same fatal flaw that many of the others that we have already ruled to be not germane in it.

Mr. Speaker, I think it is important to understand that what the gentleman from Armstrong County is attempting to do is streamline the process for all permits found in Title 27. What this amendment attempts to do is take that process and dump it in a Title 58. Yes, there are permits contained in Title 58, but unfortunately, you cannot take a vast area outside that title and try to shoehorn it into one that you want it to be.

For that reason, Mr. Speaker, I would make the motion that it is not germane. Thank you.

The SPEAKER pro tempore. The gentleman from Lancaster County, Mr. Cutler, has moved that amendment A12048 is not germane to HB 1659.

Under House rule 27, questions of germaneness will be decided by the House.

On the question,

Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Washington County, Representative White.

Mr. WHITE. Thank you, Mr. Speaker.

I rise to oppose the gentleman's motion that this is not germane. This goes right to the very heart of what we are talking about. This is about permitting, this is about government control, and when we brought up a lot of these issues several months ago under Act 13, we worried that there were going to be some issues. This chamber passed that legislation anyhow, but in the time since then, when the reality had started to come out and many of us in this chamber have been asked about that bill and what it did, we heard all sorts of wonderful things: I did not know what was in the bill. I did not think it would apply to my county. I did not know what I would do. And we keep hearing, if we have a chance to go back and fix it, to give control back to our local governments, we will make sure to do that. Well, this is your chance. This is a big one because you are not going to be able to hide behind procedure on this one. You have a chance to show your local communities that you think the preemption of Act 13 was wrong.

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

### POINT OF ORDER

The SPEAKER pro tempore. For what purpose does the gentleman seek recognition?

Mr. TURZAI. Point of order.

Sir, this is not on the germaneness motion. This is on the underlying merits of the legislation. Please, it needs to be on the germaneness argument. Thank you, sir.

The SPEAKER pro tempore. The Chair will remind the gentleman from Washington County that the question before us is germaneness of this particular amendment.

You may proceed.

Mr. WHITE. Thank you, Mr. Speaker.

Permitting control, local level, State level, it is all together. This is a freestanding act, this is germane, this is important, and this is one that people will watch. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Lancaster County, Representative Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

Despite the impassioned pleas of my colleague from across the aisle, it does not change the facts. The facts are that the gentleman from Armstrong County's bill works with permits that are outside of Title 58. Perhaps it is a soil and erosion permit. Perhaps it is a dam safety encroachment permit that deals with work and stream beds.

Mr. Speaker, no matter how hard some people may wish this to be, you simply cannot move a variety of other permits related to unrelated activity into a title that deals only with oil and gas.

The prior speaker was exactly right. Act 13, whether you love it or hate it, is appropriately placed in Title 58. What the gentleman is attempting to do with this bill is address permitting problems across the broad spectrum. This is not a referendum on Act 13. This is not a referendum on Title 58. This is about enhancing the permitting process. Mr. Speaker, it is for that reason that this amendment is not germane. This bill does not directly deal with zoning, as the gentleman wishes it would. It simply does not.

Mr. Speaker, in the city of Philadelphia the court adopted a practical germaneness test when that issue went before the court, where the single-subject requirement is satisfied so long as the legislation at issue possesses a single unifying subject to which all of the provisions of the act are relevant. Mr. Speaker, in this particular case all of the provisions of the act are not relevant, and therefore it is not germane, and I would respectfully request support of my motion. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Thomas, on the question of germaneness.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is germane.

Now, we can be academic about this case or that interpretation, but at the end of the day the subject of the amendment is connected to the bill. And, Mr. Speaker, it is important for people who are paying attention to this process, because there are decisions that we are making about HB 1659 that are going to impact local communities; that are going to intersect with local ordinances, local regulations, local decisions.

I know sometimes we get here in Harrisburg and sometimes we think that there is a real disconnect between what we do here and what happens at home. All the architect of the amendment is asking for is uniformity, codification, continuity between what we do and what is going on in our local communities. That is germane, and to rule it any other way, rule it any other way, is making a decision about a select group of people versus masses of people, people across Pennsylvania, especially in communities where oil and gas is dominating the landscape of business.

Mr. Speaker, let us give people some hope. Let us move forward in providing some uniformity with what is going on at the local community as it relates to HB 1659. This amendment is on time, on subject, and yes, inextricably tied to the underlying bill, HB 1659. Vote to declare this amendment germane.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Representative Markosek, on the question of germaneness.

Mr. MARKOSEK. Thank you, Mr. Speaker.

Mr. Speaker, I rise to speak on germaneness. This amendment certainly is germane, as we have heard from our colleagues before me, particularly the gentleman from Washington County and the minority leader. They have spelled out reasons why this is germane. I know back home in my district several of my local elected councils have sent letters to me indicating their displeasure with the way things are and how this particular amendment would clear some of that up or a lot of that up and correct that. If they were watching here today, they would ask me to please see that this is germane and that this amendment passes. They represent folks from both political parties, and the letters that they have signed to me have been unanimous.

This is germane, and I would remind the members that the real definition of "germaneness" in this body is what we say it is. We determine whether it is germane. We have that power, we have that ability, and all of the technicalities and the legalese come in second to what we as elected members of this body are empowered to do. We have the power to say whether an

amendment or a bill is germane, and I rise to ask every member here to vote that this is germane. Use your power to say that this is germane. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the maker of the underlying amendment, the minority leader from Allegheny County, Representative Dermody, on the question of germaneness.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, as I have argued several times on this House floor, to pass muster under a single-subject or germaneness challenge, a statute can contain any number of provisions properly connected with and germane to the subject expressed in the title.

Mr. Speaker, according to the title of HB 1659 as drafted by the nonpartisan Legislative Reference Bureau, the bill is intended "...to ensure environmental protection and foster economic growth." Now, I am not so sure the bill does that, but that is the title. Mr. Speaker, that is exactly what this amendment does. It ensures environmental protection and fosters economic growth. This amendment would ensure environmental protection by authorizing municipalities, those institutions of local government that are closest to the people and best understand the environmental needs of their local communities, to enact local ordinances to provide greater environmental protections than the general State law.

While I understand that not everybody on the other side of the aisle supports giving local governments greater control over their local communities—

Mr. TURZAI. Objection, please.

Mr. DERMODY. —that position should be—

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

Mr. DERMODY. —expressed through an up-or-down vote on the amendment, not couched in terms—

The SPEAKER pro tempore. Would the gentleman suspend for just a moment, please.

Mr. DERMODY. Sure.

### POINT OF ORDER

The SPEAKER pro tempore. For what purpose does the majority leader seek recognition?

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

We are on the germaneness issue, not the underlying legislation or what we do or do not support in terms of concepts. We are on the germaneness motion.

The SPEAKER pro tempore. The gentleman is correct. It is the practice of the chamber to provide a bit of leeway to each leader, and I would ask that we all just be mindful of that.

You may proceed, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, your feeling about the control of local communities should be expressed in an up-or-down vote, not couched and hiding behind a procedural motion. The purpose of HB 1659 is to provide for environmental protection. This amendment provides for environmental protection. The people of Pennsylvania cannot be fooled by yet another improper procedural maneuver on the vote of germaneness of this amendment. It is a vote really on whether or not you are for the usurpation of local authority by Harrisburg.

Mr. Speaker, this amendment is germane.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Allegheny County, the majority leader, Representative Turzai.

Mr. TURZAI. I rise in support of the motion for germaneness. The fact of the matter is, there is no hiding behind any procedural motion.

Let us take back in 2003 the DeWeese and Veon v. Weaver case. The bill in question started out as an amendment to a DNA Act, which was in Title 42. The language that was amended to that particular legislation was the reform of joint and several liability. The leaders of the opposing caucus at that time challenged the amendment to the DNA Act in the courts, where ultimately the bill was ruled unconstitutional on process grounds, on process grounds because of the germaneness/single-subject issue. Since that time it is clear that the courts have made it known, including a 2010 Superior Court decision in Neiman, that where the provisions added during the legislative process— Excuse me; I apologize. However, some limits on germaneness for otherwise virtually all legislation, no matter how diverse in substance, would supposedly meet the single-subject requirement. They have gotten narrower and narrower since the DeWeese and Veon decision with respect to joint and several liability.

By way of example, when we did the Fair Share Act this year, we did not do it by amendment, but made sure that it came out of committee and came to the floor as is before it ultimately went to the Governor's desk. Here it is, without a doubt, a design to take a different title in this particular amendment to put on a freestanding act—

Mr. DERMODY. Mr. Speaker?

Mr. TURZAI. —that is not applicable—

Mr. DERMODY. Mr. Speaker?

Mr. TURZAI. —to that particular title.

The SPEAKER pro tempore. Would the gentleman suspend.

For what purpose does the minority leader seek recognition?

Mr. DERMODY. Mr. Speaker, I believe the gentleman's remarks have drifted from the issue of germaneness of this amendment, and I would ask that he be instructed to stick to the issue of germaneness.

The SPEAKER pro tempore. And as I counseled your counterpart, were either of these speakers rank and file, I would agree, but in the same interest of providing some leeway, I will just ask that we be mindful to narrow the shoulders of the road a bit.

You may proceed, Mr. Leader.

Mr. TURZAI. Yes, sir.

My remarks are specifically to the standard for germaneness as set by the Supreme Court and the lower appellate courts in citing specific cases that have addressed the actions here with respect to legislation as to how they have been addressed by those courts in deciding this motion for germaneness. Those cases have in fact set forth the parameters with respect to the standards, and the DeWeese, Veon v. Weaver case was the specific case that gave the first direction, and there have been succeeding cases following.

In addition, the fact of the matter is, as that standard set forth by the courts has been applied to the facts in front of us, the amendment is a "gut-and-replace amendment," quote, unquote, and it moves the bill, the underlying bill, to Title 58, which the bill exclusively says does not apply to Title 58. In fact, the amendment is designed to address issues outside the underlying piece of legislation.

To the extent that HB 1950 was debated, that was debated on a different date, and we had hours upon hours of debate with respect to that. This does not apply to Title 58. The amendment tries to move it to Title 58. It is clearly not germane, particularly given the standards set forth by the Supreme Court and the lower courts since the DeWeese, Veon v. Weaver case.

I would ask that everybody please vote that this is not germane, and I would make note that in the Senate, oftentimes, they have a motion to table amendments without any underlying purpose. We have a very specific purpose, and it has to be the issue of germaneness in particular as defined by the courts. This is not germane.

**LEAVES OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair notes the presence on the floor of the House of the gentleman from York County, Representative Miller, and the gentleman from Delaware County, Representative Miccarelli, who will be removed from the list of leaves and returned to the master roll call.

**CONSIDERATION OF HB 1659 CONTINUED**

The SPEAKER pro tempore. On the question of germaneness, those who believe the amendment is germane will vote "yes"; those who believe the amendment is not germane will vote "no."

On the question recurring,  
Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

**YEAS-97**

Barbin	DeLissio	Keller, W.	Payton
Bishop	DeLuca	Kirkland	Petrarca
Boback	DePasquale	Kortz	Petri
Boyle, B.	Dermody	Kotik	Quinn
Boyle, K.	DiGirolamo	Kula	Ravenstahl
Bradford	Donatucci	Longiotti	Readshaw
Brennan	Fabrizio	Maher	Roebuck
Briggs	Farry	Mahoney	Sabatina
Brown, V.	Frankel	Mann	Sainato
Brownlee	Freeman	Markosek	Samuelson
Burns	Galloway	Matzie	Santarsiero
Buxton	Gerber	McGeehan	Santoni
Caltagirone	Gergely	Mirabito	Schmotzer
Carroll	Gibbons	Mullery	Smith, K.
Cohen	Gillen	Mundy	Smith, M.
Conklin	Goodman	Murphy	Staback
Costa, D.	Haluska	Mustio	Sturla
Costa, P.	Hanna	Myers	Thomas
Cruz	Harhai	Neilson	Vitali
Curry	Harkins	Neuman	Waters
Daley	Hornaman	O'Brien, M.	Wheatley
Davidson	James	O'Neill	White
Davis	Josephs	Parker	Williams
Dean	Kavulich	Pashinski	Youngblood

**NAYS-99**

Adolph	Fleck	Lawrence	Reese
Aument	Gabler	Mackenzie	Roae
Baker	Geist	Major	Rock
Barrar	Gillespie	Maloney	Ross
Beach	Gingrich	Marshall	Saccone

Benninghoff	Godshall	Marsico	Saylor
Bloom	Grell	Masser	Scavello
Boyd	Grove	Metcalfe	Simmons
Brooks	Hackett	Metzgar	Sonney
Brown, R.	Hahn	Miccarelli	Stephens
Causer	Harhart	Micozzie	Stern
Christiana	Harper	Millard	Stevenson
Clymer	Harris	Miller	Swanger
Cox	Heffley	Milne	Tallman
Creighton	Helm	Moul	Taylor
Culver	Hess	Murt	Tobash
Cutler	Hickernell	Oberlander	Toepel
Day	Hutchinson	Payne	Toohil
Delozier	Kampf	Peifer	Truitt
Denlinger	Kauffman	Perry	Turzai
Dunbar	Keller, F.	Pickett	Vereb
Ellis	Keller, M.K.	Pyle	Vulakovich
Emrick	Killion	Quigley	
Evankovich	Knowles	Rapp	Smith, S.,
Evans, J.	Krieger	Reed	Speaker
Everett			

**NOT VOTING-0**

**EXCUSED-5**

Evans, D. George	Hennessey	Preston	Watson
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was declared not germane.

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

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Representative Frankel, who calls up amendment A12049, which you will see listed as having been authored by Representative Hanna but will be offered by Representative Frankel.

The clerk will please read that amendment.

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

Mr. **FRANKEL** offered the following amendment  
**No. A12049:**

Amend Bill, page 1, line 1, by striking out "Providing" and inserting  
Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in unconventional gas well fee, further providing for definitions, for fee, for administration, for well information, for duties of the Department of Environmental Protection and the Pennsylvania Public Utility Commission, for enforcement, for enforcement orders, for administrative penalties, for recordkeeping, for examinations, for distribution of fee and for Statewide initiatives; providing for duties of the Department of Revenue and

Amend Bill, page 1, line 4, by inserting after "growth"  
; and making editorial changes

Amend Bill, page 1, lines 7 through 12; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 14, by striking out all of said lines on said pages and inserting

Section 1. The definitions of "commission" and "number of spud

unconventional gas wells" in section 2301 of Title 58 of the Pennsylvania Consolidated Statutes, added February 14, 2012 (P.L.87, No.13), are amended and the section is amended by adding a definition to read:

§ 2301. Definitions.

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

\* \* \*

["Commission." The Pennsylvania Public Utility Commission.]

\* \* \*

"Number of spud unconventional gas wells." The most recent numerical count of spud unconventional gas wells on the inventory maintained and provided to the [commission] Department of Revenue by the department as of the last day of each month.

\* \* \*

"Price adjustment factor." One of a range of numerical values used to compute the adjusted fee under section 2302(c) (relating to unconventional gas well fee).

\* \* \*

Section 2. Sections 2302, 2303, 2304, 2305(b) and (c), 2307(a), (b) and (d), 2308(a) and (c), 2309, 2310(a), 2312, 2313, 2314(a), (c.1), (d), (e), (h) and (i), 2315(a.1) introductory paragraph and 3211(e.1)(6) of Title 58, added February 14, 2012 (P.L.87, No.13), are amended to read:

§ 2302. Unconventional gas well fee.

(a) General rule.—The governing body of a county that has a spud unconventional gas well located within its borders may elect whether to impose a fee on unconventional gas wells that have been spud in the county.

(a.1) Passage of ordinance.—Within 60 days after the effective date of this section, the governing body of a county under subsection (a) may adopt an ordinance to impose an unconventional gas well fee. The governing body of a county must notify the commission and give public notice of its intent to adopt the ordinance.

(a.2) County ordinance.—The ordinance imposing a fee under subsection (a.1) shall be clear and in language that is readily understandable by a layperson and shall be in the following form:

The county of (insert name) hereby imposes an unconventional gas well fee on each unconventional gas well spud in this county.

(a.3) Prohibition.—

(1) A county subject to this section, in which the governing body does not adopt an ordinance imposing an unconventional gas well fee within 60 days of the effective date of this section, shall be prohibited from receiving funds under sections 2314(d)(1) (relating to distribution of fee) and 2315(a.1)(3) and (5) (relating to Statewide initiatives).

(2) The prohibition on receiving funds shall remain in effect until the county adopts an ordinance imposing an unconventional gas well fee. The prohibition shall expire and funds may be received for the calendar year following the adoption of an ordinance imposing the fee under this section.

(a.4) Alternate imposition.—

(1) If the governing body of a county does not impose an unconventional gas well fee under subsection (a), the municipalities in the county may compel the imposition of an unconventional gas well fee on each unconventional gas well spud in the county by adopting resolutions under paragraphs (2), (3) and (4).

(2) Following 60 days but not more than 120 days after the effective date of this section, if the governing bodies of at least half of the municipalities located in a county or municipalities representing at least 50% of the population of the county adopt resolutions to impose unconventional gas well fees on all unconventional gas wells spud in the county, the fee shall take effect. If a resolution is adopted, a copy of the resolution shall be transmitted to the governing body of the county and the

commission. The governing body of a municipality that is located in more than one county shall transmit a copy of a resolution adopted under this paragraph to the governing body of each county in which the municipality is located.

(3) The transmittal of resolutions by governing bodies under paragraph (2) shall constitute an imposition of the fee in that county. The population of a municipality that is located in more than one county shall be determined separately for each county on the basis of the municipality's population within each county.

(4) Resolutions adopted under this subsection must be framed in the following form:

The (insert name) in the county of (insert name) hereby resolves to have the county impose an unconventional gas well fee on each unconventional gas well spud in the county.

(5) A municipality which is located in a county that does not adopt an ordinance imposing an unconventional gas well fee and which does not adopt a resolution under paragraphs (2), (3) and (4) shall be prohibited from receiving funds under section 2314(d).

(b) Components.—The fee adopted under subsection (a), (a.1) or (a.4) is imposed on every producer and shall apply to unconventional gas wells spud in this Commonwealth regardless of when spudding occurred. Unconventional gas wells spud before the fee is imposed shall be considered to be spud in the calendar year prior to the imposition of the fee for purposes of determining the fee under this subsection. Prior to adjustment under subsection (c), the fee for each unconventional gas well shall be determined as follows:

(1) Year one:

(i) If the average annual price of natural gas is not more than \$2.25, the fee shall be \$40,000 for the calendar year in which the unconventional gas well is spud.

(ii) If the average annual price of natural gas is greater than \$2.25 and less than \$3.00, the fee shall be \$45,000 for the calendar year in which the unconventional gas well is spud.

(iii) If the average annual price of natural gas is greater than \$2.99 and less than \$5.00, the fee shall be \$50,000 for the calendar year in which the unconventional gas well is spud.

(iv) If the average annual price of natural gas is greater than \$4.99 and less than \$6.00, the fee shall be \$55,000 for the calendar year in which the unconventional gas well is spud.

(v) If the average annual price of natural gas is more than \$5.99, the fee shall be \$60,000 for the calendar year in which the unconventional gas well is spud.

(2) Year two:

(i) If the average annual price of natural gas is not more than \$2.25, the fee shall be \$30,000 for the calendar year following the year in which the unconventional gas well is spud.

(ii) If the average annual price of natural gas is greater than \$2.25 and less than \$3.00, the fee shall be \$35,000 for the calendar year following the year in which the unconventional gas well is spud.

(iii) If the average annual price of natural gas is greater than \$2.99 and less than \$5.00, the fee shall be \$40,000 for the calendar year following the year in which the unconventional gas well is spud.

(iv) If the average annual price of natural gas is greater than \$4.99 and less than \$6.00, the fee shall be \$45,000 for the calendar year following the year in which the unconventional gas well is spud.

(v) If the average annual price of natural gas is more than \$5.99, the fee shall be \$55,000 for the calendar

year following the year in which the unconventional gas well is spud.

(3) Year three:

(i) If the average annual price of natural gas is not more than \$2.25, the fee shall be \$25,000 for the second calendar year following the year in which the unconventional gas well is spud.

(ii) If the average annual price of natural gas is greater than \$2.25 and less than \$3.00, the fee shall be \$30,000 for the second calendar year following the year in which the unconventional gas well is spud.

(iii) If the average annual price of natural gas is greater than \$2.99 and less than \$5.00, the fee shall be \$30,000 for the second calendar year following the year in which the unconventional gas well is spud.

(iv) If the average annual price of natural gas is greater than \$4.99 and less than \$6.00, the fee shall be \$40,000 for the second calendar year following the year in which the unconventional gas well is spud.

(v) If the average annual price of natural gas is more than \$5.99, the fee shall be \$50,000 for the second calendar year following the year in which the unconventional gas well is spud.

(4) Years 4, 5, 6, 7, 8, 9 and 10:

(i) If the average annual price of natural gas is not more than \$2.25, the fee shall be \$10,000 for the third through ninth calendar years following the year in which the unconventional gas well is spud.

(ii) If the average annual price of natural gas is greater than \$2.25 and less than \$3.00, the fee shall be \$15,000 for the third through ninth calendar years following the year in which the unconventional gas well is spud.

(iii) If the average annual price of natural gas is greater than \$2.99, the fee shall be \$20,000 for the third through ninth calendar years following the year in which the unconventional gas well is spud.

(5) Years 11, 12, 13, 14 and 15:

(i) If the average annual price of natural gas is less than \$3.00, the fee shall be \$5,000 for the 10th through 14th calendar years following the year in which the unconventional well is spud.

(ii) If the average annual price of natural gas is greater than \$2.99, the fee shall be \$10,000 for the 10th through 14th calendar years following the year in which the unconventional well is spud.

(6) For purposes of this subsection, the fee shall be determined using the average annual price of natural gas for the calendar year in which the fee is imposed.]

(a) Imposition.—Beginning January 1, 2011, there shall be imposed a shale impact fee on each unconventional well that has been spud in this Commonwealth. The fee under this section shall not apply to a stripper well.

(b) Annual base fees.—Prior to the adjustment under subsection (c), the fee shall consist of an annual base fee for each unconventional well as follows:

(1) For the first year of production, the fee shall be \$75,000.

(2) For the second year of production, the fee shall be \$70,000.

(3) For the third year of production, the fee shall be \$65,000.

(4) For the fourth year of production, the fee shall be \$60,000.

(5) For the fifth year of production, the fee shall be \$55,000.

(6) For the sixth year of production, the fee shall be \$50,000.

(7) For the seventh year of production, the fee shall be \$45,000.

(8) For the eighth year of production, the fee shall be \$40,000.

(9) For the ninth year of production, the fee shall be \$35,000.

(10) For the tenth year of production, the fee shall be \$30,000.

(11) For the eleventh year of production, the fee shall be \$25,000.

(12) For the twelfth year of production, the fee shall be \$20,000.

(13) For the thirteenth year of production, the fee shall be \$15,000.

(14) For the fourteenth year of production and each year thereafter, the fee shall be \$10,000.

(b.1) Nonproducing unconventional gas wells.—If a spud unconventional gas well begins paying the fee imposed under this section and is subsequently capped or does not produce natural gas in quantities greater than that of a stripper well within two years after paying the initial fee, then the fee shall be suspended:

(1) The fee shall be reinstated for a calendar year during which the unconventional gas well produces natural gas in quantities greater than that of a stripper well.

(2) Each calendar year during which a fee is suspended shall not be considered a calendar year following spud for purposes of determining the amount of the fee under subsection (b).

[(c) Annual adjustment.—Beginning January 1, 2013, the commission shall annually adjust the fee amounts under subsection (b) to reflect any upward changes in the Consumer Price Index for all Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the adjusted fee amount to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin. The fee shall be adjusted by multiplying the annual fee amount by any percentage increase to the Consumer Price Index for all Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, rounded to the nearest \$100. The resultant product shall be added to the fee amount, and the sum shall become the new annual fee amount under subsection (b). The annual adjustment under this subsection shall take effect if the total number of unconventional gas wells spud in the adjustment year exceeds the total number of unconventional gas wells spud in the prior year.]

(c) Annual adjustment.—

(1) The fee shall be adjusted by multiplying the base fee amount times the price adjustment factor rounded to the nearest \$100. The price adjustment factor shall be determined as follows:

(i) If the average annual price of natural gas is less than \$5.01, the price adjustment factor shall be 1.0.

(ii) If the average annual price of natural gas is \$5.01 to \$6, the price adjustment factor shall be 1.25.

(iii) If the average annual price of natural gas is \$6.01 to \$7, the price adjustment factor shall be 1.75.

(iv) If the average annual price of natural gas is \$7.01 to \$8, the price adjustment factor shall be 2.25.

(v) If the average annual price of natural gas is greater than \$8, the price adjustment factor shall be 2.75.

(2) The fee for a vertical gas well shall not be subject to adjustment under paragraph (1) and shall be computed as follows:

(i) The fee for a vertical gas well capable of producing more than 180,000 cubic feet of gas per day during a calendar month shall be one-half of the amounts under subsection (b).

(ii) The fee for a vertical gas well capable of producing more than 90,000 but less than 180,000 cubic feet of gas per day during a calendar month shall be one-

fourth of the amounts under subsection (b).

(c.1) Components.—The fee adopted under subsection (b) is imposed on every producer and shall apply to unconventional gas wells spud in this Commonwealth regardless of when spudding occurred. Unconventional gas wells spud before the fee is imposed shall be considered to be spud in 2011 for purposes of determining the fee under this subsection.

(d) Restimulated unconventional gas wells.—

(1) An unconventional gas well which after restimulation qualifies as a stripper well shall not be subject to this subsection.

(2) The year in which the restimulation occurs shall be considered the first year of spudding for purposes of imposing the fee under this section if:

(i) a producer restimulates a previously stimulated unconventional gas well following the tenth year after being spud by:

(A) hydraulic fracture treatments;

(B) using additional multilateral well bores;

(C) drilling deeper into an unconventional formation; or

(D) other techniques to expose more of the formation to the well bore; and

(ii) the restimulation results in a substantial increase in production.

(3) As used in this subsection, the term "substantial increase in production" means an increase in production amounting to more than 90,000 cubic feet of gas per day during a calendar month.

(e) Cessation.—Payments of the fee shall cease upon certification to the department by the producer that the unconventional gas well has ceased production and has been plugged according to the regulations established by the department.

(f) Vertical unconventional gas well fee.—The fee for a vertical unconventional gas well shall be 20% of the fee established in subsections (b) and (c)[, except that the fee under subsection (b)(5) shall not apply].

§ 2303. Administration.

[(a) Fee due date.—

(1) Except as provided under paragraph (2), the fee imposed under this chapter shall be due by April 1, 2013, and each April 1 thereafter. The fee shall become delinquent if not remitted to the commission on the reporting date.

(2) For wells spud before January 1, 2012, a fee imposed under this chapter shall be due by September 1, 2012.

(b) Report.—By September 1, 2012, and April 1 of each year thereafter, each producer shall submit payment of the fee to the commission and a report on a form prescribed by the commission for the previous calendar year. The report shall include the following:

(1) The number of spud unconventional gas wells of a producer in each municipality within each county that has imposed a fee under this chapter.

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

(c) Costs of commission.—

(1) The commission may impose an annual administrative charge not to exceed \$50 per spud unconventional gas well on each producer, to be paid with the submission under subsection (a), to pay for the actual costs of the commission to administer and enforce this chapter.

(2) Within 30 days of the effective date of this subsection, the commission shall estimate its expenditures through June 30, 2012, that will be directly attributable to the administration and enforcement of this chapter. The commission shall subtract the amount of the administrative charges imposed under paragraph (1) and assess any remaining balance on all

producers subject to the administrative charge in proportion to the number of wells owned by each producer. Producers shall pay the assessments within 30 days of receipt of notice from the commission. The amount of the assessment may be challenged by a producer consistent with 66 Pa.C.S. § 510(c), (d) and (e) (relating to assessment for regulatory expenses upon public utilities). Any collections that exceed any of the following shall be used to offset the administrative charges or other funds received for fiscal year 2012-2013:

(i) The budget amount approved by the General Assembly and the Governor for administration and enforcement of this chapter and Chapter 33 (relating to local ordinances relating to oil and gas operations).

(ii) The actual expenditures directly attributable to the administration and enforcement of this chapter and Chapter 33.

(3) By June 30, 2012, and each June 30 thereafter, the commission shall estimate its expenditures for the next fiscal year that will be directly attributable to the administration and enforcement of this chapter. After subtracting any annual administrative charges imposed under paragraph (1), amounts received by the commission under section 2314(c.1)(2) (relating to distribution of fee) and any amounts collected during the prior fiscal year that exceeded actual expenditures directly attributable to the administration and enforcement of this chapter, the commission shall assess the remaining balance on all producers subject to the unconventional gas well fee in proportion to the number of wells owned by each producer. Producers shall pay the assessments within 30 days of the receipt of notice from the commission. The amount of the assessment may be challenged by a producer consistent with 66 Pa.C.S. § 510(c), (d) and (e). Any collections that exceed any of the following shall be used to offset administrative charges or assessments for the next fiscal year:

(i) The budget amount approved by the General Assembly and the Governor for administration and enforcement of this chapter and Chapter 33.

(ii) Actual expenditures directly attributable to the administration and enforcement of this chapter and Chapter 33.]

(a) Calculation.—On or before January 31 of each year, the Department of Revenue shall calculate and determine the average annual price of natural gas for the previous calendar year.

(b) Notice.—Notice of the average annual price and the annual fee schedule per well shall be provided to producers operating unconventional wells and shall be published on the Department of Revenue's Internet website.

(c) Method.—If publication of the New York Mercantile Exchange (NYMEX) Henry Hub settled price is discontinued, the average annual price of natural gas then in effect shall not be adjusted until a comparable method to determine the average annual price of natural gas is adopted by Department of Revenue rule. If the base data of the NYMEX Henry Hub settled price is substantially revised, the Department of Revenue shall make appropriate changes to ensure that the average annual price of natural gas is reasonably consistent with the result that would have been attained had the substantial revision not been made.

(d) Report.—By March 1, 2013, and each March 1 thereafter, each producer shall submit a production report to the Department of Revenue on a form prescribed by the Department of Revenue for the previous calendar year. The report shall include the following:

(1) Annual units of production severed by the producer for each unconventional well for the reporting period.

(2) The number of producing unconventional wells of a producer in each county and municipality.

(e) Fee for 2011.—For calendar year 2011, the fee due shall be paid as follows:

(1) Fifty percent of the fee shall be paid by September 1,

2012.

(2) Fifty percent of the fee shall be paid by November 1,

2012.

(f) Fee due date.—Except as provided under subsection (e), the fee shall be due on March 1 and each year thereafter. The fee shall become delinquent if not remitted to the Department of Revenue by the due date.

(g) Costs of revenue.—

(1) Within 30 days of the effective date of this subsection, and each year thereafter, the Department of Revenue may impose an annual fee not to exceed \$100 per well on each reporting producer to pay for the actual costs of the Department of Revenue to administer and enforce this chapter and Chapter 27 (relating to natural gas energy development program).

(2) By March 31, 2013, and each year thereafter, the Department of Revenue shall determine for the preceding calendar year the amount of its actual expenditures directly attributable to the administration and enforcement of this chapter and Chapter 27. The Department of Revenue shall subtract the amount of fees collected under paragraph (1) in that calendar year and assess any remaining balance on all producers subject to the impact fee in proportion to the number of wells owned by each producer.

(3) Each producer shall be assessed for and shall pay to the Department of Revenue that proportion of the amount determined under paragraph (2) and allocated to the producer for that year.

§ 2304. Well information.

(a) List.—Within 14 days of the effective date of this section, the department shall provide the [commission and, upon request, a county,] Department of Revenue with a list of all spud unconventional gas wells from the department. The department shall update the list and provide it to the [commission] Department of Revenue on a monthly basis.

(b) Updates.—A producer subject to the fee shall notify the [commission] Department of Revenue of the following within 30 days after a calendar month in which the change occurs:

(1) The spudding of an unconventional gas well.

(1.1) The initiation of production at an unconventional gas well.

(2) The removal of an unconventional gas well from production.

§ 2305. Duties of department.

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(b) Prohibition.—The department shall not issue a permit to drill an unconventional gas well until all unconventional gas well fees owed under section 2302 that are not in dispute have been paid to the [commission] Department of Revenue.

(c) Payment of fees.—The [commission] Department of Revenue shall provide the department with information necessary to determine that the producer has paid all unconventional gas well fees owed for an unconventional gas well under section 2302.

§ 2307. [Commission] Department of Revenue.

(a) Powers.—The [commission] Department of Revenue shall have the authority to make all inquiries and determinations necessary to calculate and collect the fee, administrative charges or assessments imposed under this chapter, including, if applicable, interest and penalties.

(b) Notice.—If the [commission] Department of Revenue determines that the unconventional gas well fee has not been paid in full, it may issue a notice of the amount due and demand for payment and shall set forth the basis for the determination.

\*\*\*

(d) Time period.—Except as set forth in subsection (e), the [commission] Department of Revenue may challenge the amount of a fee paid within three years after the date the report under section [2303(b)] 2303(d) (relating to administration) is filed.

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§ 2308. Enforcement.

(a) Assessment.—The [commission] Department of Revenue shall assess interest on any delinquent fee at the rate determined under section 2307(a) (relating to [commission] Department of Revenue).

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(c) Timely payment.—If the [commission] Department of Revenue determines that a producer has not made a timely payment of the fee, the [commission] Department of Revenue shall send written notice of the amount of the deficiency to the producer within 30 days from the date of determining the deficiency. The [commission] Department of Revenue shall notify the department of a producer that has failed to pay the fee for any unconventional gas well under section 2302 (relating to unconventional gas well fee). If the producer does not have a pending appeal related to payment of the fee in process, the department shall suspend the permit for that well until the fee has been paid.

\*\*\*

§ 2309. Enforcement orders.

(a) Issuance.—The [commission] Department of Revenue may issue an order as necessary to enforce this chapter. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. A person aggrieved by an order under this section may appeal to Commonwealth Court under 42 Pa.C.S. § 763 (relating to direct appeals from government agencies).

(b) Compliance.—A producer has the duty to comply with an order issued under subsection (a). If a producer fails to proceed diligently to comply with an order within the time required, the producer shall be guilty of contempt and shall be punished by the court in an appropriate manner. The [commission] Department of Revenue shall apply to Commonwealth Court, which shall have jurisdiction over matters relating to contempt.

§ 2310. Administrative penalties.

(a) Civil penalties.—In addition to any other proceeding authorized by law, the [commission] Department of Revenue may assess a civil penalty not to exceed \$2,500 per violation upon a producer for the violation of this chapter. In determining the amount of the penalty, the [commission] Department of Revenue shall consider the willfulness of the violation and other relevant factors.

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§ 2312. Recordkeeping.

A producer liable for the fee under this chapter shall keep records, make reports and comply with regulations of the [commission] Department of Revenue. The [commission] Department of Revenue may require a producer to make reports, render statements or keep records as the [commission] Department of Revenue deems sufficient to determine liability for the fee.

§ 2313. Examinations.

(a) Access.—The [commission] Department of Revenue or its authorized agents or representatives shall:

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

(2) Require the preservation of all relevant books, papers and records for an appropriate period not to exceed three years from the end of the calendar year to which the records relate.

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

(4) Compel the production of relevant books, papers and records and the attendance of all individuals who the [commission] Department of Revenue believes to have knowledge of relevant matters in accordance with 66 Pa.C.S. (relating to public utilities).

(b) Unauthorized disclosure.—Any information obtained by the [commission] Department of Revenue as a result of any report, examination, investigation or hearing under this chapter shall be confidential and shall not be disclosed, except for official purposes, in accordance with judicial order or as otherwise provided by law. [A commissioner or an] An employee of the [commission] Department of

Revenue who without authorization divulges confidential information shall be subject to disciplinary action by the [commission] Department of Revenue.

§ 2314. Distribution of fee.

(a) Establishment.—There is established a fund in the State Treasury to be known as the Unconventional Gas Well Fund to be administered by the [commission] Department of Revenue.

\* \* \*

(c.1) Additional distributions.—From fees collected under this chapter and deposited in the fund for 2011 and each year thereafter:

(1) One million dollars shall be distributed to the Pennsylvania Fish and Boat Commission for costs relating to the review of applications for permits to drill unconventional gas wells.

(2) One million dollars shall be distributed to the [commission] Department of Revenue for costs to administer this chapter and Chapter 33 (relating to local ordinances relating to oil and gas operations).

(3) Six million dollars to the department for the administration of this act and the enforcement of acts relating to clean air and clean water.

(4) Seven hundred fifty thousand dollars to the Pennsylvania Emergency Management Agency for emergency response planning, training and coordination related to natural gas production from unconventional gas wells.

(5) Seven hundred fifty thousand dollars to the Office of State Fire Commissioner for the development, delivery and sustainment of training and grant programs for first responders and the acquisition of specialized equipment for response to emergencies relating to natural gas production from unconventional gas wells.

(6) One million dollars to the Department of Transportation for rail freight assistance.

\* \* \*

(d) Distribution.—[Except as provided in section 2302(a.3) and (a.4) (relating to unconventional gas well fee), following] Following fee distribution under subsections (c), (c.1) and (c.2), from fees collected for 2011 and each year thereafter, 60% of the revenue remaining in the fund from fees collected for the prior year are hereby appropriated to counties and municipalities for purposes authorized under subsection (g). Counties and municipalities are encouraged, where appropriate, to jointly fund projects that cross jurisdictional lines. The [commission] Department of Revenue, after making a disbursement under subsection (f), shall distribute the remaining funds appropriated as follows within three months after the date the fee is due:

(1) [Except as provided in section 2302(a.3), 36%] Thirty-six percent shall be distributed to counties in which spud unconventional gas wells are located. The amount for each county to which funds will be distributed shall be determined using a formula that divides the number of spud unconventional gas wells in the county by the number of spud unconventional gas wells subject to the impact fee in this Commonwealth and multiplies the resulting percentage by the amount available for distribution under this paragraph.

(2) [Except as provided in section 2302(a.4), 37%] Thirty-seven percent shall be distributed to municipalities in which spud unconventional gas wells are located. The amount for each municipality to which funds will be distributed shall be determined using a formula that divides the number of spud unconventional gas wells in the municipality by the number of spud unconventional gas wells subject to the impact fee in this Commonwealth and multiplies the resulting percentage by the amount available for distribution under this paragraph.

(3) [Except as provided in section 2302(a.4), 27%] Twenty-seven percent shall be distributed to municipalities located in a county in which spud unconventional gas wells are located. The amount available for distribution in each county

shall be determined by dividing the number of spud unconventional gas wells in the county by the number of spud unconventional gas wells subject to the impact fee in this Commonwealth and multiplying the resulting percentage by the amount available for distribution under this paragraph. The resulting amount available for distribution in each county in which spud unconventional gas wells are located shall be distributed to each municipality in the county to which funds will be distributed as follows:

(i) [Except as provided in section 2302(a.4), 50%] Fifty percent of the amount available under this paragraph shall be distributed to municipalities in which spud unconventional gas wells are located and to municipalities that are either contiguous with a municipality in which spud unconventional gas wells are located or are located within five linear miles of a spud unconventional gas well. The distribution shall be made as follows:

(A) One-half shall be distributed to each municipality using a formula that divides the population of the eligible municipality within the county by the total population of all eligible municipalities within the county and multiplies the resulting percentage by the amount allocated to the county under this subparagraph.

(B) One-half shall be distributed to each municipality using a formula that divides the highway mileage of the eligible municipality within the county by the total highway mileage of all eligible municipalities within the county and multiplies the resulting percentage by the amount allocated to the county under this subparagraph.

(ii) [Except as provided in section 2302(a.4), 50%] Fifty percent of the amount available under this paragraph shall be distributed to each municipality in the county regardless of whether an unconventional gas well is located in the municipality as follows:

(A) One-half shall be distributed to each municipality using a formula that divides the population of the municipality within the county by the total population of the county and multiplies the resulting percentage by the amount allocated to the county under this subparagraph.

(B) One-half shall be distributed to each municipality using a formula that divides the highway mileage of the municipality within the county by the total highway mileage of the county and multiplies the resulting percentage by the amount allocated to the county under this subparagraph.

(e) Restriction.—The amount allocated to each municipality under subsection (d) shall not exceed the greater of \$500,000 or 50% of the total budget for the prior fiscal year beginning with the 2010 budget year and continuing every year thereafter, adjusted to reflect any upward changes in the Consumer Price Index for all Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months. Any remaining money shall be retained by the [commission] Department of Revenue and deposited in the Housing Affordability and Rehabilitation Enhancement Fund for the uses specified under subsection (f).

\* \* \*

(h) Reporting.—

(1) The [commission] Department of Revenue shall submit an annual report on all funds in the fund. The report shall include a detailed listing of all deposits and expenditures of the fund and be submitted to the chairman and the minority chairman of the Appropriations Committee of the Senate, the chairman and

the minority chairman of the Environmental Resources and Energy Committee of the Senate, the chairman and the minority chairman of the Appropriations Committee of the House of Representatives and the chairman and the minority chairman of the Environmental Resources and Energy Committee of the House of Representatives. The report shall be submitted by December 30, 2012, and by September 30 of each year thereafter.

(2) All counties and municipalities receiving funds from the fund under this section shall submit information to the [commission] Department of Revenue on a form prepared by the [commission] Department of Revenue that sets forth the amount and use of the funds received in the prior calendar year. The form shall set forth that the funds received were committed to a specific project or use as authorized in this section. The reports shall be published annually on the county or municipality's publicly accessible Internet website.

(i) Availability of funds.—Distribution of funds under this section and section 2315 (relating to Statewide initiatives) are contingent on availability of funds in the fund. If sufficient funds are not available, the [commission] Department of Revenue shall disburse funds on a pro rata basis.

§ 2315. Statewide initiatives.

\*\*\*

(a.1) Deposit and distribution.—Following distribution under section 2314(c), (c.1) and (c.2) (relating to distribution of fee) from fees collected for 2011 and each year thereafter, 40% of the remaining revenue in the fund shall be deposited into the Marcellus Legacy Fund and appropriated to the [commission] Department of Revenue and distributed within three months after the date the fee is due as follows:

\*\*\*

§ 3211. Well permits.

\*\*\*

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

\*\*\*

(6) The applicant failed to pay the fee or file a report under section [2303(c)] 2303(d) (relating to administration), unless an appeal is pending. The commission shall notify the department of any applicant who has failed to pay the fee or file a report and who does not have an appeal pending.

\*\*\*

Section 3. Title 58 is amended by adding a part to read:

PART IV

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
PERMIT REVIEW AND ISSUANCE

Chapter

51. Preliminary Provisions

53. Permit Issuance

CHAPTER 51

PRELIMINARY PROVISIONS

Sec.

5101. Short title of part.

5102. Definitions.

§ 5101. Short title of part.

This part shall be known and may be cited as the Department of Environmental Protection Permit Review and Issuance Act.

§ 5102. Definitions.

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

"Applicant." The person submitting an application for a permit to the Department of Environmental Protection.

"Application." Any submittal to the Department of Environmental Protection by a person that seeks or otherwise requests a permit. The term includes, but is not limited to:

- (1) New permits.
- (2) Permit renewals.
- (3) Permit amendments.

(4) Permit modifications.

(5) Permit transfers.

(6) Change of ownership.

"Department." The Department of Environmental Protection, as well as Commonwealth subdivisions with the authority to issue permits on behalf of or in lieu of the Department of Environmental Protection, by delegation from or under a cooperative agreement with the Commonwealth or with the authority to issue permits delegated from or authorized directly by the United States.

"Permit." An approval, permit, plan approval, registration, license or other authorization or decision.

"Person." An individual, firm, joint venture, partnership, corporation, association, municipality, municipal authority, cooperative association or joint stock association, including any trustee, receiver, assignee or personal representative thereof.

"Regional office." An office of the Department of Environmental Protection, including the Bureau of District Mining Offices, from which permits are issued, but which is separate from the primary department office.

CHAPTER 53

PERMIT ISSUANCE

Sec.

5301. Applicability.

5302. Permit submission process.

5303. Plan to improve permit efficiencies.

5304. Establishment of department-wide program.

5305. Appealable actions.

5306. Construction.

§ 5301. Applicability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part shall apply to the department and any person who submits an application to the department after the effective date of this section.

(b) Exceptions.—This part shall not apply to any of the following:

(1) a permit issued solely to comply with Federal law and where there is no specific State statutory basis for the issuance of such permit;

(2) an administrative consent order or other enforcement action relating to a permit or lack thereof; or

(3) the revocation of a permit.

§ 5302. Permit submission process.

(a) Preapplication meeting.—All applicants shall participate in a meeting with the department prior to submitting an application.

(1) During the preapplication meeting, the applicant shall submit at least the following:

(i) Project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls and water intake points.

(ii) Location of the project, including county, municipality and location on the site.

(iii) Business schedule for project completion.

(2) During the preapplication meeting, the department shall provide for the applicant at least the following:

(i) An overview of the permit review program.

(ii) A determination of which specific application or applications will be necessary to complete the project.

(iii) A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period.

(iv) A review of the timetable established in the permit review program for the specific permit being sought.

(v) A determination of what information must be included in the application, including a description of any required modeling or testing.

(3) The department shall ensure that participants representing the department in the preapplication meeting do so

on behalf of the specific permit review program area from which the permit is being sought.

(b) Application submission.—Upon the formal submission of the permit application by the applicant to the department, the application shall be marked in such a manner as to indicate that it has officially been received by the department. At that time, the applicant shall receive an official permit review schedule that shows when a final decision will be determined.

(c) Permit review and determination.—

(1) Upon officially receiving an application, the department and applicant shall proceed with the following time frames unless otherwise prohibited by law:

(i) Application completeness and technical review shall take no more than 30 days.

(ii) Applicant response to deficiencies identified by the department during the completeness and technical review shall take no more than 90 days.

(iii) Final review and determination by the department of the application or resubmitted application, if returned after the completeness and technical review, shall take no more than 60 days.

(2) An applicant may request a review schedule different from the review schedule in paragraph (1). Prior to an alternate review schedule commencing, the following must occur:

(i) The applicant and the department must develop a mutually agreed upon alternate permit application review schedule.

(ii) The applicant and the department must each agree in writing to the alternate review schedule indicating acceptance of the alternate review schedule.

(3) If the department fails to issue a decision on an application in accordance with the review schedule in paragraph (1) or the alternate review schedule as provided for in paragraph (2), the application shall be deemed approved.

#### § 5303. Plan to improve permit efficiencies.

Within 90 days from the effective date of this section, the department shall implement a plan to use qualified nondepartmental employees on the merits of using qualified nondepartmental employees to undertake permit application reviews as a way to enhance the timeliness and effectiveness of the permit review process while ensuring that permit applications comply with current health, safety and environmental requirements. The plan shall identify how the department can more fully utilize general permits in lieu of individual permits for specified categories of permit-required activities. The plan shall also provide guidance on the proper level of scrutiny for stamped engineering submittals that accompany permit applications, including a determination on whether certain standardized engineering principles, when submitted and sealed by a licensed professional, can be reviewed more efficiently, thereby allowing more staff time to be dedicated to reviewing other facets of the application. A copy of the plan shall be submitted to all members of the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

#### § 5304. Establishment of department-wide program.

If funds are appropriated by the General Assembly, the department may use up to \$1,000,000 to establish a department-wide program for the electronic submission, review and approval of any permit application submitted to the department.

#### § 5305. Appealable actions.

Any person aggrieved by a final decision of the department under this part shall have the right, within 30 days from notice of the action, to appeal the final action to the Environmental Hearing Board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies). The Environmental Hearing Board is expressly granted jurisdiction over such appeals, including review of final decisions of entities other than

the department and the authority to issue decisions that are binding on such entities.

#### § 5306. Construction.

Nothing in this part shall be construed to modify:

(1) any requirement of law that is necessary to retain Federal delegation to or assumption by the Commonwealth; or

(2) the authority to implement a Federal law or program.

Section 4. This act shall take effect as follows:

(1) The addition of 58 Pa.C.S. Pt. IV shall take effect in 120 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Allegheny County, Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

When we passed HB 1950, now Act 13, we did so with a piece of complicated legislation that was presented without any hearings and rushed through without an opportunity to vet it. I think members on this floor did not know everything that was in that bill and certainly the citizens of Pennsylvania did not know what was in that bill. Subsequently, since it has become law, I think many of us have been hearing about the flaws in Act 13 as they have come to light. We were wrong to pass it so quickly, to leave it in darkness, and then foist it upon Pennsylvanians. We have now an opportunity with this amendment, Mr. Speaker, to correct one of those extraordinary deficiencies. We have an opportunity to place an extraction tax that would make us on an even playing field with every other oil and gas producing State in our nation.

For the people of Pennsylvania, this is just simply a matter of tax fairness. We have now in front of us that we will be considering in the next few days an enormous tax break being proposed for one of the largest international oil companies—

Mr. TURZAI. Point of order; point of order.

The SPEAKER pro tempore. The gentleman does not even need to make his point of order, and the Chair would ask that the gentleman, Mr. Frankel, reel it in a bit.

Mr. FRANKEL. Thank you, Mr. Speaker.

Under the Corbett Republican Marcellus Shale law, huge oil and gas companies such as ExxonMobil, Chevron, Shell, BP pay less than half—

Mr. TURZAI. Point of order.

The SPEAKER pro tempore. Mr. Frankel—

Mr. FRANKEL. This is about the—

The SPEAKER pro tempore. Mr. Frankel, it is not appropriate to be naming names of those not present in the chamber. That is long-standing practice.

Mr. FRANKEL. I gather corporations are people too, Mr. Speaker?

The SPEAKER pro tempore. If you say so, Mr. Frankel, but, please, let us proceed.

Mr. FRANKEL. Well, we have an opportunity to correct what is the most embarrassingly low effective tax rate for the extraction of our resources in this State. We have an opportunity with this amendment to correct that. This amendment imposes a reasonable extraction tax on the oil and gas producers in this State that will correct one of the most egregious flaws in Act 13.

You have an opportunity, you have heard from your constituents, you have an opportunity by voting for this amendment to correct the serious error we made by giving this incredible handout to the oil and gas industry and make us competitive and make us a State that is on an even playing field with all the other oil and gas producing States and support programs that we have been cutting for the last 2 years.

So, Mr. Speaker, this amendment—

Mr. TURZAI. Point of order.

Mr. FRANKEL. I am concluding.

I just ask for an affirmative vote for this very reasonable amendment, an opportunity to correct our error in Act 13. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### GERMANENESS QUESTIONED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster County, Representative Cutler, on the amendment.

Mr. CUTLER. Thank you, Mr. Speaker.

I am beginning to sound a little bit like a broken record regarding the content of some of these amendments, but I think it is important to point out several issues that the gentleman from Allegheny County actually brought up. He himself said that this amendment is about an extraction tax. Mr. Speaker, the underlying bill is very clearly about the permitting process. In fact, Mr. Speaker, by a quick review of the amendment, and I may have missed some, the word "revenue" is listed in this amendment 53 times; the word "permit," only 49. It certainly has more to do with revenue or the extraction tax, as the gentleman alluded to, more so than the permits.

Notwithstanding that, Mr. Speaker, I think it is important to note that as the majority leader previously pointed out, the bill as drafted clearly exempts Title 58. To now shoehorn this piece of good legislation that my colleague from Armstrong County has worked on into a title that is self-exempting makes no sense, Mr. Speaker.

And for that reason I think it is important again to point out what one of my colleagues said previously, we do determine germaneness, Mr. Speaker. We do it by a vote, but, Mr. Speaker, that vote must be consistent with existing case law or we risk having bills and laws overturned.

For that reason, Mr. Speaker, I would ask that we vote consistent with existing case law, which is being construed very narrowly, and respectfully make the motion that this amendment is not germane and that the members of the House support me. Thank you.

The SPEAKER pro tempore. The gentleman from Lancaster County, Mr. Cutler, has moved that amendment A12049 to HB 1659 is not germane.

Under House rule 27, the question of germaneness will be decided by the House.

On the question,

Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Allegheny County, Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

Mr. Speaker, to pass muster under a single-subject or germaneness challenge, a statute can contain any number of provisions properly connected and germane to the subject expressed in the title.

Mr. Speaker, according to the title of HB 1659 as drafted by the nonpartisan Legislative Reference Bureau, the bill is intended to, quote, "...ensure environmental protection and foster economic growth," unquote.

Mr. Speaker, this amendment also ensures environmental protection by raising the impact fee assessed on unconventional wells in this Commonwealth. By raising the impact fee, this amendment provides additional moneys to such important environmental protection funds such as money to county conservation districts, money to DEP for the enforcement of acts related—

### POINT OF ORDER

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

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

Mr. TURZAI. The argument that is being levied at this time is not with respect to the germaneness issue.

Mr. FRANKEL. Mr. Speaker, it absolutely is.

The SPEAKER pro tempore. Will the gentleman suspend.

Let us please just be certain that we are speaking about germaneness and not the broader question.

Mr. FRANKEL. The issues I am talking about relate to the title of this bill and its language in it, which I— Okay.

The SPEAKER pro tempore. I am not engaging in a debate. I am just asking collegially that you try to focus on the question of germaneness.

Mr. FRANKEL. Well, Mr. Speaker, if 1659 is to help ensure environmental protection and promote economic growth, in the language of the bill, this amendment does exactly that by directing money to conservation districts, which protect the environment; to DEP for the enforcement of acts related to clean air, protect the environment; money to the CFA, the Commonwealth Financing Authority, for acid mine cleanup and watershed programs, economic development and environmental protection. Germane, germane, germane.

So I ask you to vote that this is germane, to take an opportunity to correct a grievous error that we made in HB 1950. You have the opportunity to do that with this germaneness vote and then in support of the amendment. I ask you to vote that amendment 12049 is germane. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lycoming County, Representative Everett, on the question of germaneness.

Mr. EVERETT. Thank you, Mr. Speaker.

I rise to support the motion on germaneness. As the last speaker just said, this is a bill that deals with fees, taxes, seeks to amend what we did with the impact fee bill in 1950. The underlying bill here is a bill that deals with a permitting process. It has nothing in it about raising revenues.

And I would just point out that the purpose of amendments is to assist in carrying out a bill's main objective, and this amendment has nothing to do with carrying out the main objective of this bill, which is to modify the permitting process.

So I would urge the members on that. This amendment has absolutely nothing to do with the underlying purpose of this bill, and I would urge the members to support the motion on germaneness.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Philadelphia, Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, the purpose of the bill is expressed in the title, and this amendment is certainly germane to the title. Germaneness ought not to be a political football. Germaneness ought to be an objective test.

Mr. Sturla's statistics seem to be taken by some as a challenge to set an all-time record for germaneness objections. We ought not to be going there. We ought to be using the historical definition of "germaneness," which allowed amendments to be relevant to the bill's title.

I would strongly urge a vote for the germaneness of this amendment. Thank you.

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the minority leader, the gentleman from Allegheny County, Representative Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, on this issue of germaneness, I ask the members to go back just a few months. Act 13 of 2012, or HB 1950 – that is the Marcellus Shale bill – started out as Title 27 and somehow it became Title 58. Now, the majority leader says we cannot do that, but the majority party did it just a few months ago with HB 1950. All we are asking is that this amendment be treated similarly as HB 1950. It was good then, it was germane then; it is germane now.

Now, I understand some members may not want to put more money in to protect the environment, but that is our role, that is our job. All this amendment would do is make sure that the DEP has enough revenue, has the resources to make sure that our environmental rules, laws, and regulations are enforced properly to protect our air, land, and water, and that is what we should be about.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the question of germaneness, recognizes the majority leader, the gentleman from Allegheny County, Representative Turzai.

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

I would just ask that members vote that it is not germane. I think that the previous individuals have already set forth why this particular amendment is not germane. Thank you.

The SPEAKER pro tempore. On the question of germaneness, those who believe the amendment is germane will vote "yes"; those who believe the amendment is not germane will vote "no."

On the question recurring,

Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

#### YEAS—92

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

#### NAYS—104

Adolph	Everett	Lawrence	Reed
Aument	Fleck	Mackenzie	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	Simmons
Brooks	Grove	Metzgar	Sonney
Brown, R.	Hackett	Miccarelli	Stephens
Causar	Hahn	Micozzie	Stern
Christiana	Harhart	Millard	Stevenson
Clymer	Harper	Miller	Swanger
Cox	Harris	Milne	Tallman
Creighton	Heffley	Moul	Taylor
Culver	Helm	Murt	Tobash
Cutler	Hess	Mustio	Toepel
Day	Hickernell	Oberlander	Toohil
Delozier	Hutchinson	Payne	Truitt
Denlinger	Kampf	Peifer	Turzai
DiGirolamo	Kauffman	Perry	Vereb
Dunbar	Keller, F.	Pickett	Vulakovich
Ellis	Keller, M.K.	Pyle	
Emrick	Killion	Quigley	Smith, S.,
Evankovich	Knowles	Rapp	Speaker
Evans, J.	Krieger		

#### NOT VOTING—0

#### EXCUSED—5

Evans, D.	Hennessey	Preston	Watson
George			

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

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

The SPEAKER pro tempore. It is the understanding of the Chair that all other amendments 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.)

**LEAVE OF ABSENCE**

The SPEAKER pro tempore. The Chair recognizes the minority whip, who asks that the gentleman from Allegheny County, Representative DeLUCA, be placed on leave for the balance of the day. Without objection, that leave is granted.

**SUPPLEMENTAL CALENDAR A**

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **SB 1308, PN 1732**, entitled:

An Act authorizing the State System of Higher Education and its employees to enter into certain economic development agreements; providing for approval and notice, for reports and for limitations; and making an inconsistent repeal.

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

(Bill analysis was read.)

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes— No one is seeking recognition.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

**YEAS—195**

Adolph	Dunbar	Knowles	Quigley
Aument	Ellis	Kortz	Quinn
Baker	Emrick	Kotik	Rapp
Barbin	Evankovich	Krieger	Ravenstahl
Barrar	Evans, J.	Kula	Readshaw
Bear	Everett	Lawrence	Reed
Benninghoff	Fabrizio	Longietti	Reese
Bishop	Farry	Mackenzie	Roae

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

**NAYS—0**

**NOT VOTING—0**

**EXCUSED—6**

DeLuca	George	Preston	Watson
Evans, D.	Hennessey		

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 **SB 1322, PN 1743**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in State System of Higher Education, further providing for purposes and general powers.

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

(Bill analysis was read.)

The SPEAKER pro tempore. 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—195

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

NAYS—0

NOT VOTING—0

EXCUSED—6

DeLuca	George	Preston	Watson
Evans, D.	Hennessey		

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 1868, PN 3510**, entitled:

An Act amending the act of May 3, 1933 (P.L.242, No.86), referred to as the Cosmetology Law, further providing for eligibility for examination and for limited licenses; and providing for massage therapist practice in licensed cosmetology salons.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

(Bill analysis was read.)

The SPEAKER pro tempore. 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—195

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

Culver	Helm	Neilson	Toepel
Curry	Hess	Neuman	Toohil
Cutler	Hickernell	O'Brien, M.	Truitt
Daley	Hornaman	O'Neill	Turzai
Davidson	Hutchinson	Oberlander	Vereb
Davis	James	Parker	Vitali
Day	Josephs	Pashinski	Vulakovich
Dean	Kampf	Payne	Waters
Deasy	Kauffman	Payton	Wheatley
DeLissio	Kavulich	Peifer	White
Delozier	Keller, F.	Perry	Williams
Denlinger	Keller, M.K.	Petrarca	Youngblood
DePasquale	Keller, W.	Petri	
Dermody	Killion	Pickett	Smith, S.,
DiGiroloamo	Kirkland	Pyle	Speaker
Donatucci			

NAYS-0

NOT VOTING-0

EXCUSED-6

DeLuca	George	Preston	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

\* \* \*

The House proceeded to third consideration of **SB 1528, PN 2213**, entitled:

An Act amending the act of June 15, 1982 (P.L.502, No.140), known as the Occupational Therapy Practice Act, further providing for definitions, for creation of board, for requirements for licensure, for practice and referral, for renewal of license and for refusal, suspension or revocation of license; and providing for impaired professionals program.

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

(Bill analysis was read.)

The SPEAKER pro tempore. 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-195

Adolph	Dunbar	Knowles	Quigley
Aument	Ellis	Kortz	Quinn
Baker	Emrick	Kotik	Rapp
Barbin	Evankovich	Krieger	Ravenstahl
Barrar	Evans, J.	Kula	Readshaw
Bear	Everett	Lawrence	Reed

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

NAYS-0

NOT VOTING-0

EXCUSED-6

DeLuca	George	Preston	Watson
Evans, D.	Hennessey		

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 **SB 9, PN 1838**, entitled:

An Act requiring identification of lawful presence in the United States as a prerequisite to the receipt of public benefits; prohibiting issuance of access devices to certain persons; and providing for the offense of possession of access device by certain persons.

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

(Bill analysis was read.)

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes the gentleman from Delaware County, Representative Vitali.

Mr. VITALI. I just wonder if we could get a brief explanation of this from someone.

The SPEAKER pro tempore. The gentleman from Butler County, the chairman of the State Government Committee, Representative Metcalfe, indicates that he will offer a brief explanation of the legislation before us. Mr. Metcalfe, you are in order to proceed.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, SB 9 is legislation that will help ensure that illegal aliens are not able to have public benefits, tap into public benefits here in Pennsylvania. It is legislation similar to what has been passed in some other States to protect taxpayers from illegal aliens tapping into public benefits, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### CONSTITUTIONAL POINT OF ORDER

The SPEAKER pro tempore. On the question, the Chair recognizes the gentelady from Philadelphia, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I stand to offer a motion that SB 9 in its form at the moment is unconstitutional.

The SPEAKER pro tempore. The gentelady from Philadelphia, Representative Josephs, raises the point of order that SB 9 is unconstitutional.

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

On the question,  
Will the House sustain the constitutionality of the bill?

The SPEAKER pro tempore. The Chair recognizes the gentelady, Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I am going to read a letter that went from an attorney at Community Legal Services to the Office of Attorney General. I am going to read part of it. I will submit the rest of it for the record. This attorney believes, and I agree with her, that this bill is not constitutional because it contravenes Federal law.

"Senate Bill 9...requires verification" – and this is in quotes – "of 'lawful presence' in the United States as a condition of receiving certain public benefits."

The SPEAKER pro tempore. Will the gentelady suspend.

Ms. JOSEPHS. Certainly.

The SPEAKER pro tempore. The Chair apologizes, but I should have asked, in connection with your motion of constitutionality, for you to specifically cite what concern you have by reference to the Constitution.

Ms. JOSEPHS. I am concerned about sections 5 and 6—

The SPEAKER pro tempore. Sections 5 and 6 of which Constitution?

Ms. JOSEPHS. Of this bill – sorry – of this bill are the sections that I think are not constitutional. Under the United States Constitution—

The SPEAKER pro tempore. What part of the United States Constitution?

Ms. JOSEPHS. The supremacy clause in which we believe that Article VI, clause 2, of the United States Constitution, which says that Federal law is supreme, is the part of the Constitution that I am referring to.

The SPEAKER pro tempore. The Chair thanks the gentelady and repeats, for the benefit of the members, the motion by Representative Josephs is that the bill is unconstitutional in that, in her view, it violates the United States Constitution, Article VI, section 2. Is that your motion, Ms. Josephs?

Ms. JOSEPHS. Yes.

The SPEAKER pro tempore. I thank you. You may proceed, and I apologize for not having been more adept at the get-go.

Ms. JOSEPHS. Thank you, Mr. Speaker.

What I am going to talk about talks about the underlying bill and also talks about the amendment that was added in State Government, which is now part of the underlying bill and is part of the problem with constitutionality.

The amendment has to do with ACCESS cards and now part of the underlying bill, so I will start off talking about ACCESS cards.

You remember that the ACCESS card is something that people who receive benefits from the State can use when they are accessing their benefits that are provided by the State. They come in two varieties, and now I am reading from the letter: "...neither of which could legally be possessed or used by immigrants lacking lawful presence were S.B. 9 to become law. Green Access cards are electronic benefits transfer (EBT) cards through which cash assistance and Supplemental Nutrition Assistance Program (SNAP...)" – we know those as food stamps – "...are issued, one card per household. They are used like debit cards at ATMs and grocery stores. Yellow Access cards (which are not EBT cards) are issued to each household member receiving Medical Assistance (also called MA or Medicaid). Yellow cards are presented to doctors, hospitals, and pharmacies as evidence of receipt..." that this person is the recipient of medical assistance.

"There are many circumstances in which it is perfectly appropriate under federal law for a person who is not lawfully present to possess or use an Access card." There are many circumstances in which – I want to say it twice – a person who is not lawfully present could possess or use an ACCESS card according to Federal law.

The SPEAKER pro tempore. Would the gentelady suspend for a moment.

The question before us is the question of constitutionality, not the merits of any particular other legislation or existing law. Could you please focus your remarks as to the question, the relevance of this, to Article VI, section 2, of the United States Constitution.

Ms. JOSEPHS. I will do that.

Article VI, section 2, is the supremacy clause which says that Federal law is supreme over State law. Under Federal law, which is supreme over what we are talking about here, there are many reasons why a person who is not lawfully in this country could use or possess an ACCESS card. "Most commonly, many low-income United States citizen children of undocumented parents are eligible for cash assistance, MA, or" food stamps, "SNAP benefits." Under the supremacy clause, that is what Federal law is and that is what we should be bending to. "As a rule, these children can only receive the benefits to which they are entitled by federal law" under the supremacy clause "if their parents apply for them, and can only use those benefits if their parents manage the benefit cards on their behalf." This is Federal law, which is supreme under the U.S. Constitution. "If a citizen child's parents cannot possess or use the child's Access card, the child will be denied needed food, income support, or health..." benefits by way of—

The SPEAKER pro tempore. Ms. Josephs, please. As the question of constitutionality, please, I have granted you a considerable amount of leeway, but please.

Ms. JOSEPHS. Mr. Speaker, I am doing my best to illustrate to the people on the floor of the House and anybody who is interested in this debate the different ways in which SB 9 violates the United States Constitution supremacy law, and in this event and this example, Mr. Speaker, it would be a violation of the United States Constitution to deny the child, the parent of a child who may not be here lawfully, to use – suppose the child is 2 years old – to go to the grocery store and use the ACCESS card for the benefit of the child. That is what Federal law says, and the United States Constitution says that Federal law is supreme over our law. I do not know, Mr. Speaker, how I can be more clear. I am trying. I really am trying to be clear.

"Most directly, federal law..." which is supreme under the United States Constitution, allows households that are getting food stamps to ask any other household member or a nonmember "to shop for the household's groceries using the household's Access card." That is Federal law. That is supreme under the United States Constitution. Our laws do not trump the United States Constitution. An example would be, there is a neighbor who is helping out this family where there is a child who qualifies under Federal law for an ACCESS card, and under Federal law, the neighbor is allowed to take that child's ACCESS card to the grocery store and buy food for the child. Under Federal law, this is allowed, and the United States Constitution says Federal law is supreme to State law.

Now, if the person who is helping out the neighbor is here unlawfully, under State law, that person could be detained and punished. That is contrary to Federal law, which under the United States Constitution supremacy clause says that Federal law trumps, is more important, takes precedence, whatever word you want to use, over State law.

A rule that distinguishes between United States children based on whether the children's parents are lawfully present in the United States is, according to this letter, and I agree, "...blatant discrimination on the basis of national origin. Such discrimination is prohibited by Title VI of the Civil Rights Act of 1964...and is specifically prohibited in benefits programs by 7 C.F.R. § 272..." all of which are Federal regulations which are based on Federal law, which under the United States Constitution is supreme over State law.

"In addition to these violations of federal statutes and regulations, discrimination against U.S. citizen children on the basis of their national origin (that is, their parents' immigration status)...," the State law violates the Equal Protection Clause of the United States Constitution, the 14th Amendment, and there are some cases cited in the letter which I will submit to the record. In one of these cases, "...noting 'Plaintiff's claim is stronger in that here it is asserted on behalf of citizen children, whereas the claimants...' in that case 'were alien children....'"

"Finally, of some relevance in the attached opinion letter," which I will also submit, "issued by your office..." – and that is the Office of Attorney General of the Commonwealth of Pennsylvania – "directing the Department of Public Welfare" – this is a director from the Attorney General's Office – "not to enforce a Pennsylvania statute discriminating against legal immigrants seeking some of the benefits at stake in S.B. 9."

I will submit this for the record. I hope that people will read it, but they will not have the opportunity before we take this vote.

Mr. Speaker, on a little bit of a lighter note, if I might, we are being set up here for a lawsuit in which I would not be surprised if the citizen children and the other citizens, the people who are here legally, will easily win, and we will not only not be able to enforce this statute but we will end up paying attorney's fees and costs to the people who win this case. Why would we set that up for ourselves, is my question.

Please vote with me, and the Speaker will tell you if it is a "yes" or "no," that this bill, SB 9, is unconstitutional under the supremacy clause of the United States Constitution.

Thank you, Mr. Speaker.

### LETTER SUBMITTED FOR THE RECORD

Ms. JOSEPHS submitted a letter for the Legislative Journal.

(For letter, see Appendix.)

### GUESTS INTRODUCED

The SPEAKER pro tempore. The Chair would like to welcome to the hall of the House the family of the chief counsel to the Speaker of the House: Judy Thomas, Evan Thomas, and Ethan Thomas. Welcome to the hall of the House.

### CONSIDERATION OF SB 9 CONTINUED

The SPEAKER pro tempore. On the question of constitutionality, the Chair recognizes the gentleman from Philadelphia, Representative Cohen.

Mr. COHEN. Mr. Speaker, after many years of trying different approaches regulating immigration, the U.S. Congress has decided that it is important that the many immigrants to the United States, some of whom are here illegally, ought not to be treated and ought not to become any kind of subversive or disruptive force as some of them have been in the past. The U.S. Congress, therefore, has declared that under certain circumstances, some immigrants or their families who are here illegally are eligible for benefits.

One of our members is interested in running for Congress, and he may wish to change this law, but all of us today—

The SPEAKER pro tempore. Mr. Cohen, you know better than to characterize the motives of members, and I would ask that you proceed without doing so.

Mr. COHEN. Mr. Speaker, I did not mention the gentleman's name, and I really do not see that that is a negative reference.

The SPEAKER pro tempore. Speaking as to the motives of members, whether they are beatified or not, is inappropriate.

Mr. COHEN. I am not challenging anybody's motives, Mr. Speaker. I am challenging no one's motives. I say one of our 201 current members is a candidate for Congress. That is not an insult; that is a fact.

But all of us here today are bound by Federal law. That is what the U.S. Constitution says. When we swore our oaths of office, we swore to uphold the State Constitution and we swore to uphold the Federal Constitution. We have to recognize Federal laws, whether we disagree with those laws or whether we do not. We certainly have the same right other citizens have of talking to members of Congress to ask them to change the laws, but until such time as Congress changes laws we disagree with, we are duty-bound to obey those laws.

My colleague from Philadelphia has gone into great detail as to why the provisions of SB 9 conflict with Federal law. Because they conflict with Federal law, they violate the Federal supremacy clause, and it would be unconstitutional for us, it would be a violation of the Federal supremacy clause and the Federal Constitution for us to pass this bill.

I therefore urge that we all vote "no" on whether this question is constitutional.

The SPEAKER pro tempore. On the question of constitutionality, the Chair recognizes the gentlelady from Philadelphia, Representative Youngblood, who waives off.

On the question of constitutionality, the Chair recognizes the majority leader, the gentleman from Allegheny County, Representative Turzai.

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

I rise to support the constitutionality of SB 9 that was sent over from the Senate by a 40-to-9 vote, and I would indicate that the constitutionality dealing with the issue of the supremacy clause should work like this. It is an analysis that is actually quite simple when put forth in front of Federal courts.

The United States Constitution, Article VI, section 2, does make clear that the Constitution and the laws of the United States are the supreme law of the land. So what you have to do is you have to cite a specific Federal bill that in fact is in conflict, direct conflict, with this or any other specific State bill.

The fact of the matter is, there is no specific Federal legislation which is in direct conflict with this specific State legislation. This bill speaks to, this bill speaks to the issuance of particular cards, ACCESS cards or electronic benefits transfer cards. In the first instance, the ACCESS card or the electronic benefits transfer card is a State-issued card. That is not a federally issued card, nor is it a specifically federally mandated card. So there is no direct conflict on that front.

In addition, to the extent that a child is born to an illegal alien in the United States, that child is a citizen of the United States and that child is certainly able to and has the ability to access their benefits. This does not prevent that. This specific legislation is not in direct conflict with Federal legislation on any front, and therefore, the supremacy clause never comes into, never comes into debate.

I recognize the good gentlelady from Philadelphia wants to try to make that connection, but typically the analysis is a very straightforward analysis and is not that tenuous or that convoluted. I would argue that this is in fact a constitutional legislative proposal and we should support its constitutionality.

Thank you very, very much, Mr. Speaker.

The SPEAKER pro tempore. On the question of constitutionality, members are reminded that they may only be recognized a single time under House rules.

Is anyone else seeking recognition?

Those voting that the bill is constitutional, those voting that the bill is constitutional will vote "yes"; those voting that the bill is not constitutional will vote "no."

On the question recurring,

Will the House sustain the constitutionality of the bill?

The following roll call was recorded:

#### YEAS—160

Adolph	Emrick	Kotik	Quigley
Aument	Evankovich	Krieger	Quinn
Baker	Evans, J.	Lawrence	Rapp
Barbin	Everett	Longietti	Ravenstahl
Barrar	Fabrizio	Mackenzie	Readshaw
Bear	Farry	Maher	Reed
Benninghoff	Fleck	Major	Reese
Bloom	Gabler	Maloney	Roae
Boback	Geist	Mann	Rock
Boyd	Gerber	Markosek	Ross
Boyle, B.	Gergely	Marshall	Sabatina
Boyle, K.	Gibbons	Marsico	Sacccone
Brennan	Gillen	Masser	Sainato
Brooks	Gillespie	Matzie	Santoni
Brown, R.	Gingrich	McGeehan	Saylor
Burns	Godshall	Metcalfe	Scavello
Caltagirone	Goodman	Metzgar	Schmotzer
Carroll	Grell	Miccarelli	Simmons
Causer	Grove	Micozzie	Smith, K.
Christiana	Hackett	Millard	Smith, M.
Clymer	Hahn	Miller	Sonney
Conklin	Haluska	Milne	Staback
Costa, D.	Harhai	Mirabito	Stephens
Costa, P.	Harhart	Moul	Stern
Cox	Harkins	Mullery	Stevenson
Creighton	Harper	Mundy	Swanger
Cruz	Harris	Murphy	Tallman
Culver	Heffley	Murt	Taylor
Curry	Helm	Mustio	Thomas
Cutler	Hess	Neuman	Tobash
Daley	Hickernell	O'Neill	Toepel
Davis	Hutchinson	Oberlander	Toohil
Day	Kampf	Pashinski	Truitt
Deasy	Kauffman	Payne	Turzai
Delozier	Kavulich	Peifer	Vereb
Denlinger	Keller, F.	Perry	Vulakovich
DePasquale	Keller, M.K.	Petrarca	White
DiGirolamo	Keller, W.	Petri	
Donatucci	Killion	Pickett	Smith, S.,
Dunbar	Knowles	Pyle	Speaker
Ellis	Kortz		

#### NAYS—35

Bishop	DeLissio	Kirkland	Samuelson
Bradford	Dermody	Kula	Santarsiero
Briggs	Frankel	Mahoney	Sturla
Brown, V.	Freeman	Myers	Vitali
Brownlee	Galloway	Neilson	Waters

Buxton	Hanna	O'Brien, M.	Wheatley
Cohen	Hornaman	Parker	Williams
Davidson	James	Payton	Youngblood
Dean	Josephs	Roebuck	

NOT VOTING—0

EXCUSED—6

DeLuca	George	Preston	Watson
Evans, D.	Hennessey		

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

On the question recurring,  
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

(Members proceeded to vote.)

VOTE STRICKEN

The SPEAKER pro tempore. The clerk will strike the board.

On the question of final passage, the Chair recognizes the gentelady from Philadelphia, Representative Youngblood.

Ms. YOUNGBLOOD. Thank you, Mr. Speaker.

Will the maker of the bill stand for brief interrogation?

The SPEAKER pro tempore. It is a Senate bill, but the chairman of the State Government Committee, Representative Metcalfe from Butler County, indicates that he will receive your questions. You may proceed.

Ms. YOUNGBLOOD. Mr. Speaker, does this mean that an individual cannot apply for a PHEAA grant?

Mr. METCALFE. Thank you, Mr. Speaker.

The definition of "Public benefits" in the legislation is as follows: "Any of the following:...A grant, contract or loan provided by an agency of the Commonwealth or local government.

"...Any welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit or any other similar benefit for which payments or assistance are provided to an individual, household or family eligibility unit by an agency of the Commonwealth or local government." And then it goes through and lists what the term does not include, but it seems as though that would be covered so that illegal aliens would not be tapping into those PHEAA grants and taking away from American children or from legal immigrants who are here trying to get an education, Mr. Speaker.

Ms. YOUNGBLOOD. Mr. Speaker, I have another question: What provision do we have for children that are citizens of the United States but do not have a birth certificate? How can they receive PHEAA grants or any other benefits? They are U.S. citizens.

Mr. METCALFE. Mr. Speaker, if an individual is a citizen of the United States, they would either have a birth certificate or be able to gain access to one through the appropriate measures that are provided within the State, Mr. Speaker.

Ms. YOUNGBLOOD. How, Mr. Speaker?

Mr. METCALFE. Mr. Speaker, there is a process. I know my office deals with it regularly with folks that come in looking for a birth certificate. I do not personally handle those requests, but I know there is a process here in the State, and my office does help folks with the direction for that process to obtain a birth certificate, Mr. Speaker.

Ms. YOUNGBLOOD. I cannot hear you. I am sorry, Mr. Speaker; I cannot hear you.

The SPEAKER pro tempore. Would the House come to order, please. The gentelady is having difficulty hearing the answers, the amplified answers to her questions. Would the conversations along the walls please subside.

Mr. METCALFE. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Just bear with me.

Would the conversations along the aisles, please take the conversations beyond the chamber.

You may proceed.

Mr. METCALFE. Thank you, Mr. Speaker.

The Education majority chairman has informed me that it is a birth certificate form that many of us have in our offices. As I said, I know my staff deals with those types of requests. I have not looked at the form personally, but I know that there is a process that you can go through as a citizen to obtain a birth certificate. So if an individual does not have one, then they can certainly go through the process to obtain that birth certificate — if they are a citizen, Mr. Speaker; a citizen.

Ms. YOUNGBLOOD. Mr. Speaker, we have thousands and thousands of citizens that are currently in this country that do not have birth certificates and are citizens of the United States who cannot apply for any, any form of funding for college or anything else because they are unable to secure a birth certificate, even though they have documented proof that they are a citizen of the United States. So how do we rectify that situation, Mr. Speaker?

Mr. METCALFE. Mr. Speaker, from the lady's remarks it seems as though she is talking about a current situation, that there are currently individuals that are not able to apply for college assistance because they do not have a birth certificate currently? Or are you talking prospectively, if this legislation becomes law, Mr. Speaker?

Ms. YOUNGBLOOD. Mr. Speaker, even if this legislation does become law, we still need to rectify this situation for people that are United States citizens but because of stating on any grant that they apply or any other documentation you do have to produce a birth certificate and they are unable to produce a birth certificate.

Mr. METCALFE. Mr. Speaker, I would suggest if anybody does not have a birth certificate that they do contact their State legislator's office to ask for their help in trying to expedite the process and obtain a birth certificate. Because I know they can contact my office in the Butler County area or one of the other Representatives from the area.

Ms. YOUNGBLOOD. Okay.

Mr. METCALFE. But I believe that they would contact, if they are in the Philadelphia area, then they would have to contact yourself or one of the other members.

Ms. YOUNGBLOOD. Mr. Speaker, I am not going to belabor the point. We bring children into this country, a lot of times from war-torn areas, and we are unable to retrieve a birth certificate for that child. Therefore, when the child becomes an

American citizen, they are still without a birth certificate, and everything we ask for states. And if you want to know how I know, I have had firsthand experience with this situation.

I received my daughter when they had Save the Children from war-torn Ethiopia, when Ethiopia and Eritrea were warring with each other. Neither country, and I have been through Senators as well as up to even the President's office in trying to ascertain a birth certificate. My sister did the same thing. I even spoke as high as the Federal immigration level and here in Philadelphia and was told there is nothing anybody can do, and they are not willing to do anything.

So we have a whole populace that does not have birth certificates, and birth certificates are required for just about anything you do.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia County, Representative Cohen, on the question of final passage.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, it is as a practical matter often difficult to prove to everyone's satisfaction that one is an American citizen. The President of the United States has not been able to get universal agreement that he is an American citizen. And José Jiménez, who lives in my district and, you know, whose parents are unemployed and who was born approximately at a time they came into the country, may have a very, very difficult time in surmounting all the bureaucratic obstacles to prove that he is really an American citizen.

The fact is that it is not easy to establish in many, many cases who an American citizen is and who an American citizen is not. That is one of the reasons why Congress has decided that it is the greater course of wisdom to allow people to access benefits. We want to win their loyalty. They are going to be here for a long time. Their children are going to be here for a long time. Their grandchildren are going to be here for a long time. The American experience has long been that people can come from foreign countries and become good, loyal American citizens and have children, grandchildren, great-grandchildren, and so forth also become good, loyal American citizens.

The Federal policy allowing people not to get caught up in technicalities, the Federal policy treating all people as worthy of our respect, is a policy with more good points than bad points, in my judgment. I would urge that we vote "no" against SB 9, that we support our immigrants, that we not make the question of who is entitled to benefits a long, demeaning, and frustrating exercise for our immigrant population, and that we proceed in the long-term interests of Pennsylvania.

I urge a "no" vote on SB 9.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the majority whip, who asks that the gentleman from Centre County, Representative BENNINGHOFF, be placed on leave for the balance of the day. Without objection, that leave is granted.

### CONSIDERATION OF SB 9 CONTINUED

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Tioga County, Representative Baker.

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

I rise to support SB 9. Given some of the comments I heard earlier, I think it is important to clarify a couple of important points.

SB 9 has some very important compassionate exceptions to its tough restrictions. No child should be denied necessities like food, shelter, or clothing due to the actions of their parents. In addition, every child in our society should have the right to receive a quality basic education, and therefore, SB 9 applies only to adults age 18 or older. In addition, SB 9 would exempt seniors who are Medicare eligible as well as disabled Pennsylvanians who are receiving SSI (supplemental security income) and SSDI (Social Security disability insurance). Additionally, SB 9 would also allow every person in Pennsylvania access to emergency medical care and necessary immunizations and disaster relief.

Another point I wanted to make, Mr. Speaker, is the issue of ID that was brought up. In addition to government ID, applicants would be permitted to provide a host of other evidence in order to prove they are legally residing in the Commonwealth. Those include hospitals, schools, or religious records or any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship. So while this toughens the standards in Pennsylvania, and some may argue that Federal law already prohibits illegal aliens from receiving State or local public benefits, however, current Pennsylvania law is simply too lenient in enforcing many of those Federal provisions.

For those reasons and many others, I rise to support SB 9. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVES OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the minority whip, who asks that the gentleman from Allegheny County, Mr. KOTIK, and the gentleman from Montgomery County, Mr. GERBER, be placed on leave for the balance of the day. Without objection, those leaves are granted.

### CONSIDERATION OF SB 9 CONTINUED

The SPEAKER pro tempore. On the question of final passage, the Chair recognizes the gentlelady from Philadelphia County, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I want to refer first to statements made by the gentleman, the majority leader, and the gentleman from Tioga County who were indeed talking about SB 9 as it passed out of the Senate, and it was indeed – you can verify this; I do not have to be the one who says it – a 49-to-1 vote, and many of the provisions that the gentleman from Tioga talked about are in the underlying bill.

My remarks, my objection, the reason why I am asking people to vote "no" is because of the amendment that was added in State Government. This amendment does not acknowledge what the gentleman before me said, that undocumented immigrants are already ineligible for public benefits, which is something I agree with and ought to be the case. SB 9, as it

came out of the State Government Committee, will harm disabled or homebound United States citizens who may lawfully allow someone else, lawfully under Federal law, which is supreme, to use the ACCESS card on their behalf. And the effect of SB 9 – not the motivation; I want to be clear – but the effect of SB 9, should it become public policy, will be a back-door attempt to bar United States citizen children from receiving benefits for which they are lawfully eligible under Federal law.

One case study sent to me and that backs up really the question from the other lady from Philadelphia has to do with a man, identified as J.T. He is homeless. He has been in this country, according to his testimony, since 1980. He was referred to Community Legal Services. He believed he had a green card, but he lost all his documents. Most homeless people do not have documents. You may have noticed. He has asked Community Legal Services to help him get a green card for which they think he is eligible. The card costs \$290. I do not know about the homeless in your district, but the homeless in my city and my district do not have \$300, \$290, to spend on anything, no less on a document which they are, and some might believe, entitled to. The lawyers who are trying to help him are going to try and get his immigration file through the Freedom of Information Act, a request that could take 1 year or more to be fulfilled, and they want to use these records to obtain his green card and hopefully to waive the fee of \$290.

This is bad public policy. It will hurt our citizens. This bill with the amendment that was added in the State Government Committee will hurt people who are here legitimately under Federal law, and it will hurt our citizens, children of people who may not have documents. They are our citizens. They are Americans. They were born in this country. People may not like that, but that is the case.

This is a "no" vote for anybody who is compassionate, logical, and cares about children. Thank you. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentledady.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the majority whip, who asks that the gentleman from Bucks County, Representative PETRI, be placed on leave for the balance of the day. Without objection, that leave is granted.

### CONSIDERATION OF SB 9 CONTINUED

The SPEAKER pro tempore. On the question of final passage, the Chair recognizes the gentledady from Delaware County, Representative Davidson.

Mrs. DAVIDSON. Mr. Speaker, I had a number of questions; I was going to request to interrogate my very good friend, the chairman, but my questions were basically answered by the gentleman from Tioga County. My district does boast 70 different nationalities in Upper Darby Township, and so I did not want to see any children go hungry because of this bill.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentledady.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

#### YEAS—157

Adolph	Emrick	Killion	Pyle
Aument	Evankovich	Knowles	Quigley
Baker	Evans, J.	Kortz	Quinn
Barbin	Everett	Krieger	Rapp
Barrar	Fabrizio	Lawrence	Ravenstahl
Bear	Farry	Longietti	Readshaw
Bloom	Fleck	Mackenzie	Reed
Boback	Gabler	Maher	Reese
Boyd	Galloway	Major	Roae
Boyle, B.	Geist	Maloney	Rock
Boyle, K.	Gergely	Mann	Ross
Bradford	Gibbons	Markosek	Sabatina
Brennan	Gillen	Marshall	Saccone
Brooks	Gillespie	Marsico	Sainato
Brown, R.	Gingrich	Masser	Saylor
Burns	Godshall	Matzie	Scavello
Buxton	Goodman	McGeehan	Schmotzer
Carroll	Grell	Metcalfe	Simmons
Causar	Grove	Metzgar	Smith, K.
Christiana	Hackett	Miccarelli	Smith, M.
Clymer	Hahn	Micozzie	Sonney
Conklin	Haluska	Millard	Staback
Costa, D.	Hanna	Miller	Stephens
Costa, P.	Harhai	Milne	Stern
Cox	Harhart	Mirabito	Stevenson
Creighton	Harkins	Moul	Swanger
Culver	Harper	Mullery	Tallman
Cutler	Harris	Mundy	Taylor
Daley	Heffley	Murt	Tobash
Davidson	Helm	Mustio	Toepel
Davis	Hess	Neilson	Toohil
Day	Hickernell	Neuman	Truitt
Deasy	Hornaman	O'Neill	Turzai
Delozier	Hutchinson	Oberlander	Vereb
Denlinger	Kampf	Pashinski	Vulakovich
DePasquale	Kauffman	Payne	White
DiGirolamo	Kavulich	Peifer	
Donatucci	Keller, F.	Perry	Smith, S.,
Dunbar	Keller, M.K.	Petrarca	Speaker
Ellis	Keller, W.	Pickett	

#### NAYS—34

Bishop	DeLissio	Murphy	Santoni
Briggs	Dermody	Myers	Sturla
Brown, V.	Frankel	O'Brien, M.	Thomas
Brownlee	Freeman	Parker	Vitali
Caltagirone	James	Payton	Waters
Cohen	Josephs	Roebuck	Wheatley
Cruz	Kirkland	Samuelson	Williams
Curry	Kula	Santarsiero	Youngblood
Dean	Mahoney		

#### NOT VOTING—0

#### EXCUSED—10

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

\* \* \*

The House proceeded to third consideration of **SB 1174, PN 2180**, entitled:

An Act amending the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, further providing for appointment of members of authority, for qualifications, tenure and compensation of members of authority and for organization of authority; and providing for whistleblower hotline, for requirements regarding tenants and landlords in cities of the first class and for reporting by authorities in cities of the first class.

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

Mr. **ROSS** offered the following amendment No. **A12287**:

Amend Bill, page 2, line 12, by striking out all of said line and inserting

appoint [five citizens,] residents of the city[,] to be members of

Amend Bill, page 2, line 13, by inserting after "city"  
as follows

Amend Bill, page 2, line 19, by inserting a bracket before "two"

Amend Bill, page 2, line 20, by inserting a bracket after "of" where it occurs the first time

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

The **SPEAKER** pro tempore. On that question, the Chair recognizes the gentleman from Chester County, Representative **Ross**.

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

And we are on third, so I do want to make sure everybody understands that this is a technical clarification amendment which the Legislative Reference Bureau suggested to make the language of the legislation internally consistent.

Members will remember, yesterday there was a colloquy with my minority chair, who indicated he was concerned that in our drafting, there might be confusion about whether residents of Philadelphia were intended to be members of the board of the Philadelphia Housing Authority. I assured him that that was my understanding. Because of the language, which was partly inherited from the thirties and amended several times since, Reference Bureau believed that it was necessary to make it quite plain that in fact that was the case, and we have made a minor technical correction to ensure that those reading this legislation, if and when it is adopted and signed into law, will be clear that in fact residents are expected to be only those that are chosen for the housing authorities, and I would appreciate an affirmative vote.

The **SPEAKER** pro tempore. On the question, the Chair recognizes the minority leader, the gentleman from Allegheny County, Representative **Dermody**.

Mr. **DERMODY**. Thank you, Mr. Speaker.

Mr. Speaker, we agree this is a technical amendment and urge the members to support the amendment. Thank you.

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

The following roll call was recorded:

YEAS—189

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

NAYS—2

Cruz	Davidson
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NOT VOTING—0

EXCUSED—10

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

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

On the question,

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

The SPEAKER pro tempore. For what purpose does the gentleman from Philadelphia, Representative McGeehan, seek recognition?

Mr. McGEEHAN. Thank you very much, Mr. Speaker. To speak on final passage.

The SPEAKER pro tempore. We are not quite to final passage, but I will recognize you when we get there.

On the question recurring,

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

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes the gentleman from Philadelphia, Mr. McGeehan.

Mr. McGEEHAN. Thank you very much, Mr. Speaker, and thank you for the opportunity to speak on final passage.

I offered a number of amendments to this bill yesterday that I believed would enhance and improve the oversight and transparency of the Philadelphia Housing Authority. To say that I got a beat-down would be an understatement yesterday. But I want to underscore some of the points that I made yesterday and hopefully it reaches some warriors today.

This bill attempts to revert the control of the Philadelphia Housing Authority back to the city of Philadelphia. I want to remind members of the three active Federal investigations currently under way with the Philadelphia Housing Authority, and those very investigations arose from local control. Those investigations arose from the corruption of the Philadelphia Housing Authority while under local control. This bill attempts to put it back again to local control.

I do not believe, Mr. Speaker, that there are sufficient safeguards in the bill as it now stands to vote for this in good conscience. I do not believe there are sufficient controls to stop the backslide into malfeasance and the shenanigans that were almost weekly events with the Philadelphia Housing Authority.

Mr. Speaker, as we saw just last Friday, the reforms that were talked about and have been ballyhooed for the last year while it has been under Federal control, the safeguards that we were assured that were in there, the policy changes that we were assured would prevent any future corruption and malfeasance, well, they resulted, Mr. Speaker, just last Friday in the latest casualty in the Philadelphia Housing Authority. The acting director, Michael Kelly, resigned and once again plunged the Philadelphia Housing Authority into chaos and scandal.

Mr. Speaker, the amendments that I had offered I believed would add greater transparency, would add the gravitas of law and the commensurate punishment for violating Pennsylvania

law as it applies to the Philadelphia Housing Authority. I believe without those statutory benchmarks in this bill, this bill is fatally flawed and that we will be once again dealing with another scandal at the Philadelphia Housing Authority. Mr. Speaker, it is evident, laws are tougher than policies, and my amendment sought to put some teeth into greater oversight, transparency, and accountability.

Mr. Speaker, I am a lifelong Philadelphian, and it pains me to say that local oversight to many Philadelphians is synonymous with cronyism, incompetence, and dysfunction, and certainly past administrations have not shown the capacity to tackle the systemic problems inherent at the Philadelphia Housing Authority. But for what most of us is an academic exercise of passing this bill, for me, for my constituents, and for the citizens of Philadelphia, it is very real. It is not an academic exercise. It is how we live our lives every single day in the neighborhoods. It is how we deal with the diminished quality of life in our neighborhoods, and that diminished quality of life is directly related to the flawed policies of the Philadelphia Housing Authority. Reverting back to local control will do nothing to strengthen our neighborhoods, will do nothing to improve the quality of life in our neighborhoods, will do nothing to address the systemic corruption and dysfunction of this organization.

Mr. Speaker, in order to achieve the kinds of results I would like to see, the kinds of results I think the members would like to see, and the kinds of reforms that were compelled by our oath of office to institute when we make public policy, this bill falls far short of that. I made a prediction a few minutes ago and I will do it again: We will be back here, whether it is next week, whether it is next month, or whether it is next year, and we will be talking about the latest scandal at the Philadelphia Housing Authority. Mr. Speaker, the Philadelphia Housing Authority needs the type of expertise and oversight that is sadly missing in this flawed piece of legislation.

Mr. Speaker, we can do better. Mr. Speaker, we need to do better. And, Mr. Speaker, this bill is a flawed vehicle, and I would strongly urge its rejection. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, on the question, the gentleman from Philadelphia, Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Speaker.

Mr. Speaker, you know, I like theater, Broadway, the Great White Way, and I have to tell you, I especially like how theater and life so often mirror each other, and if I were to look at the Philadelphia Housing Authority, I am immediately put into mind of "The Best Little Whorehouse in Texas."

Now, you have an organization that has billions of dollars in assets, millions of dollars in contracts, thousands of patronage employees, but you know, Mr. Speaker, the executive director could find time after time after time to get into sexual harassment situation after situation, paying hundreds of thousands of dollars in hush money. Yep, the best little whorehouse in Texas.

But you know something, Mr. Speaker? We decided we are going to bring somebody in. We are going to bring in an expert. We are going to clean this up. We are going to do the right thing. And what do you know? What do you know? Last week he had to pack his bags and run out of town because he is having an affair with his secretary – the best little whorehouse in Texas.

And now we want to turn that back over, we want to turn that back over without proper oversight, without proper guidance. Sad, very sad. Even the Philadelphia Inquirer, which is no big fan of Harrisburg, said today, not now; do not do it; vote "no."

Do not let this continue to be the best little whorehouse. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Chester County, on the question of final passage, Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

And because of the debate yesterday, many of the positive aspects of this legislation were lost, and I just want to make sure the members are aware of them.

The reforms legislatively that we would be including today include stipulating the executive director and staff with executive duties shall be at-will employees of the authority who shall serve at the pleasure of the members of the authority. This was an issue under the previous version of the housing authority where the executive director got out of control.

It prohibits the authority from providing anything of value to employees upon separation from employment, specifically addressing one of the issues that came up during the time of former director Greene.

It requires the authority to maintain and monitor a whistleblower hotline for wrongdoing in connection with the affairs of the authority. That is important, because actually, the problem that existed with the former director, Carl Greene, went on for years. Because of the changes that are already in place that we are actually going to enact in law today but were already operating, the problem with Director Kelly came to light immediately through this whistleblower hotline and were dealt with by the Office of Audit and Compliance promptly. So we did not have it dragging on for years as we did under the previous version of the housing authority.

And there are a variety of other things that have been added in legislatively in this legislation. So in fact, really, we are now at a point where we have new systems in place, some of which we have actually further enacted, will be enacting into law today, to give the protections for the people of Philadelphia so that the housing authority is run properly and ethically.

But at the end of the day, housing is a local matter, and for us to continue for years leaving the Philadelphia Housing Authority in the hands of Federal employees and people from Washington, no matter how good they are, and I respect them, is wrong. Housing is local and should be turned back to the people of Philadelphia.

Will they always handle it wisely? I cannot tell you. I hope so. But we do have in this law as we would enact it means to correct things promptly and to bring any misdeeds to light quickly and to punish the people that might do those things.

So I think it is very important for us to move forward, get Philadelphia back in charge of their housing authority, and I urge a positive vote.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—163

Adolph	Fleck	Kula	Rapp
Aument	Frankel	Lawrence	Ravenstahl
Baker	Freeman	Longietti	Reed
Barrar	Gabler	Mackenzie	Reese
Bear	Galloway	Maher	Roae
Bloom	Geist	Mahoney	Rock
Boback	Gibbons	Major	Roebuck
Boyd	Gillen	Maloney	Ross
Bradford	Gillespie	Mann	Saccone
Brennan	Gingrich	Markosek	Sainato
Briggs	Godshall	Marshall	Samuelson
Brooks	Goodman	Marsico	Santarsiero
Brown, R.	Grell	Masser	Santoni
Brown, V.	Grove	Matzie	Saylor
Brownlee	Hackett	Metcalfe	Scavello
Buxton	Hahn	Metzgar	Schmotzer
Caltagirone	Haluska	Miccarelli	Simmons
Carroll	Hanna	Micozzie	Smith, K.
Causer	Harhai	Millard	Smith, M.
Christiana	Harhart	Miller	Sonney
Conklin	Harkins	Milne	Staback
Costa, D.	Harper	Mirabito	Stephens
Cox	Harris	Moul	Stern
Creighton	Heffley	Mullery	Stevenson
Culver	Helm	Mundy	Sturla
Curry	Hess	Murt	Swanger
Cutler	Hickernell	Mustio	Tallman
Day	Hutchinson	Myers	Taylor
Dean	James	O'Neill	Thomas
DeLissio	Josephs	Oberlander	Tobash
Delozier	Kampf	Parker	Toepel
Denlinger	Kauffman	Pashinski	Toohil
Dermody	Kavulich	Payne	Truitt
DiGirolamo	Keller, F.	Payton	Turzai
Dunbar	Keller, M.K.	Peifer	Vereb
Ellis	Keller, W.	Perry	Vitali
Emrick	Killion	Petrarca	Vulakovich
Evankovich	Kirkland	Pickett	Williams
Evans, J.	Knowles	Pyle	
Everett	Kortz	Quigley	Smith, S., Speaker
Fabrizio	Krieger	Quinn	
Farry			

NAYS—28

Barbin	Costa, P.	Donatucci	O'Brien, M.
Bishop	Cruz	Gergely	Readshaw
Boyle, B.	Daley	Hornaman	Sabatina
Boyle, K.	Davidson	McGeehan	Waters
Burns	Davis	Murphy	Wheatley
Clymer	Deasy	Neilson	White
Cohen	DePasquale	Neuman	Youngblood

NOT VOTING—0

EXCUSED—10

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

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The House proceeded to third consideration of **SB 1321, PN 2237**, entitled:

An Act amending the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, further providing for definitions, for contents, for plan not affected by certain collective bargaining agreements or settlements, for filing municipal debt adjustment under Federal law and for collective bargaining agreements, furlough of employees and disputes.

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

(Bill analysis was read.)

**VOTE CORRECTIONS**

The SPEAKER pro tempore. For what purpose does the gentleman from Bucks County seek recognition?

Mr. O'NEILL. Thank you, Mr. Speaker. To correct the record.

The SPEAKER pro tempore. The gentleman may proceed, and if there is anyone else that needs to make a correction, we can take a few of those just now.

Mr. O'NEILL. Thank you, Mr. Speaker.

On HB 1659, amendment 12145, I was mistakenly recorded in the negative. I should have been recorded in the positive. Thank you.

The SPEAKER pro tempore. The gentleman's remarks will be spread upon the record.

For what purpose does the gentleman, Mr. Marshall, from Beaver County rise? To correct the record?

Mr. MARSHALL. Yes sir, Mr. Speaker.

The SPEAKER pro tempore. Please proceed.

Mr. MARSHALL. On HB 1659, amendment 12051, the motion for germaneness, my vote was not recorded and I would like to be recorded as a "no."

The SPEAKER pro tempore. The remarks of the gentleman will be spread across the record. I thank you.

The gentleman from Huntingdon County, Mr. Fleck, who has a correction of the record?

Mr. FLECK. Yes.

The SPEAKER pro tempore. You may proceed.

Mr. FLECK. Thank you, Mr. Speaker.

On HB 1659, amendment 10930, I am recorded as – it was a switch malfunction and a "no" vote unrecorded. I would like to be recorded as a "no." Thank you.

The SPEAKER pro tempore. The gentleman's remarks will be spread upon the record.

Are there any other corrections of the record at this time?

I congratulate you. That is probably 10,000 individual votes that were recorded today. That is not bad.

**CONSIDERATION OF SB 1321 CONTINUED**

The SPEAKER pro tempore. Returning to today's calendar, SB 1321.

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

**NAYS—0**

**NOT VOTING—0**

**EXCUSED—10**

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

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.

**SUPPLEMENTAL CALENDAR C**

**BILLS ON CONCURRENCE  
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 807, PN 3586**, entitled:

An Act amending the act of July 10, 2008 (P.L.1009, No.78), known as the Biofuel Development and In-State Production Incentive Act, further providing for definitions, for biodiesel content in diesel fuel sold for on-road use and for cellulosic ethanol content in gasoline; providing for blending, registration and other requirements; further providing for department authority and responsibility; providing for fees; establishing the Biofuel Development Account; and imposing penalties.

On the question,

Will the House concur in Senate amendments?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

**YEAS—188**

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

Day	Josephs	Pashinski	Vulakovich
Dean	Kampf	Payne	Waters
Deasy	Kauffman	Payton	Wheatley
DeLissio	Kavulich	Peifer	White
Delozier	Keller, F.	Perry	Williams
Denlinger	Keller, M.K.	Petrarca	Youngblood
DePasquale	Keller, W.	Pickett	
Dermody	Killion	Pyle	Smith, S., Speaker
DiGirolamo	Kirkland	Quigley	
Donatucci	Knowles		

**NAYS—3**

Bloom	Gillen	Tallman
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**NOT VOTING—0**

**EXCUSED—10**

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1264, PN 3643**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in depositions and witnesses, providing for expert testimony in certain criminal proceedings.

On the question,

Will the House concur in Senate amendments?

The SPEAKER pro tempore. 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	Knowles	Quinn
Aument	Ellis	Kortz	Rapp
Baker	Emrick	Krieger	Ravenstahl
Barbin	Evankovich	Kula	Readshaw
Barrar	Evans, J.	Lawrence	Reed
Bear	Everett	Longietti	Reese
Bishop	Fabrizio	Mackenzie	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	Gergely	Marsico	Santarsiero
Brooks	Gibbons	Masser	Santoni
Brown, R.	Gillen	Matzie	Saylor
Brown, V.	Gillespie	McGeehan	Scavello
Brownlee	Gingrich	Metcalfe	Schmotzer
Burns	Godshall	Metzgar	Simmons
Buxton	Goodman	Miccarelli	Smith, K.
Caltagirone	Grell	Micozzie	Smith, M.
Carroll	Grove	Millard	Sonney
Causar	Hackett	Miller	Staback

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

NAYS—0

NOT VOTING—0

EXCUSED—10

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

**STATEMENT BY MRS. PARKER**

The SPEAKER pro tempore. The Chair recognizes the prime sponsor of this legislation, under unanimous consent, for brief remarks. You may proceed.

Mrs. PARKER. Thank you, Mr. Speaker, for your patience.

Mr. Speaker, it has been 6 long years since 2006, but our vote to concur with HB 1264 allows our great Commonwealth to stand next to the 49 other States in our great Union, along with the military and in accordance with Federal law, allowing for the use of experts to testify in cases of sexual assault.

I know that my colleagues on both sides of the aisle, they know Chelle Parker does not have a problem standing on this floor strongly and passionately advocating for that which I believe in, but today, Mr. Speaker, I felt that it was wholeheartedly necessary for me to communicate with the same fervor and the same passion my heartfelt thanks to members on both sides. This is a bipartisan victory, Mr. Speaker, Democratic and Republican, and we have reached and traveled this bipartisan journey together. And our vote to concur with HB 1264 allows us to bring some much-needed balance to the scales of justice for victims of sexual assault in the Commonwealth of Pennsylvania.

I also want to note for the record, because folks have had all eyes focused on our great Commonwealth because of the high-profile trial taking place in Centre County, the high-profile trial taking place in Philadelphia. I want us to know for the record that when the gentlelady on the other side of the aisle from Montgomery County and I started working on this in 2006, we did so before any of these issues came to light. So it was not to get a moment in the spotlight but to do exactly what we wanted to do, and that was to allow experts to testify in cases of sexual assault.

I know, Mr. Speaker, we do not usually call each other by our names, but this is such a momentous moment for me, I hope that you will grant me the latitude to thank my leader Dermody and thank the leader on the other side of the aisle, Turzai, because you all run this floor, and without your leadership, this would not have happened.

To Chairman Marsico and to Chairman Caltagirone, please do not tell anyone what a pain in the behind that I can be. I know I drove you crazy on this issue, but I appreciate your patience in helping us to get through this issue.

To Senator Greenleaf and Senator Leach; those are the chairmen of the Judiciary Committee on the Senate side. Rep. Marguerite Quinn from Bucks, I appreciate your support. All of the staff, from the Speaker's Office, the Senate, the Governor's Office, they all supported this effort.

Jill Porter, Deb Harley, Greg Rowe, Chris Mallios, thank you. Those who work at the 51 rape crisis treatment centers, thanks.

Finally to you, Diane Moyer from PCAR (Pennsylvania Coalition Against Rape), I want you to know that I would take you to war with me any time on any issue. You must be the hardest working and most effective advocate that I have engaged with here in the Commonwealth, and I thank you, Diane Moyer, for all of your help.

Thank you to my colleagues on both sides of the aisle.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

And in case you were wondering, speaking under unanimous consent is effectively a suspension of the rules, so there is a bit more leeway permitted.

**STATEMENT BY MS. HARPER**

The SPEAKER pro tempore. And I understand the gentlelady from Montgomery County, Representative Harper, seeks to similarly speak under unanimous consent. You may proceed.

Ms. HARPER. I will be very brief, Mr. Speaker.

The gentlelady from Philadelphia and I had the same bill in different sessions that would have allowed victims of sexual assault and rape an easier time of it when they have to testify by allowing for expert testimony to explain the effects of such a traumatic experience on them.

I had it once; she had it once. When we worked together and with the rest of our colleagues, we were able to get this bill done, and now it goes to the Governor's desk for signature.

Thank you all for your cooperation.

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 1349, PN 3773**, entitled:

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

On the question,  
Will the House concur in Senate amendments?  
The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

**YEAS—190**

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

**NAYS—0**

**NOT VOTING—1**

Josephs

**EXCUSED—10**

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

**REMARKS SUBMITTED FOR THE RECORD**

The SPEAKER pro tempore. The gentlelady from Bradford County, Representative Pickett, seeks recognition under unanimous consent. Without objection, you are recognized.

Ms. PICKETT. Thank you, Mr. Speaker.

I want to thank all my colleagues for the positive vote on HB 1349, a very important bill for small business in Pennsylvania, and I would like to submit some remarks for the record. Thank you.

The SPEAKER pro tempore. The gentlelady is welcome to submit her remarks to the record.

Ms. PICKETT submitted the following remarks for the Legislative Journal:

Thank you, Mr. Speaker.

The fact is that jobs – the retention and creation of sustaining jobs is on top of the list of concerns.

Small business entrepreneurs, collectively, are the creators of the largest number of jobs.

Small businesses tell us that overburdening regulations are job crushers and often contribute to business failures or lack of startup.

HB 1349 will assure that small business has a voice in the regulatory process. Agencies are asked to document that they have considered small businesses as well as large ones and that they have considered the financial impact and the best method to meet the requirements of the given regulation.

HB 1349 is a change that is awaited by small business owners and employers.

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 2151, PN 3333**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in snowmobiles and all-terrain vehicles, further providing for registration of snowmobile or ATV, for certificate of title for snowmobile or ATV, for fees and for records; providing for vintage snowmobile permits; and further providing for operation by persons under age sixteen.

On the question,  
Will the House concur in Senate amendments?

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—10

Benninghoff	George	Kotik	Preston
DeLuca	Gerber	Petri	Watson
Evans, D.	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

## STATEMENT BY MR. GABLER

The SPEAKER pro tempore. The gentleman from Clearfield County, Representative Gabler, is seeking recognition under unanimous consent. Without objection, you may proceed.

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

I just want to thank the members for their unanimous concurrence in HB 2151. This is a bill that has been worked on for numerous sessions.

I would like to thank the gentleman from Clinton County, the minority whip, who has worked on this issue tirelessly. I would also like to thank the majority and minority chairmen of the Tourism Committee for their work on this. What this will do is set up a vintage snowmobile permit. It is something that the Snowmobile Association of Pennsylvania has been working on and asking for for quite some time. I am glad we could get this bill on the Governor's desk, and I appreciate everybody's hard work on this issue.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

ANNOUNCEMENT BY  
SPEAKER PRO TEMPORE

The SPEAKER pro tempore. For the information of the members, the Legislative Reference Bureau will be open for ordinary business hours tomorrow and will also be available Saturday from 11 a.m. to 2 p.m. or until they are done to handle requests for amendments. Everyone, of course, is hoping that their services will not be needed.

Friday and Saturday will be nonvoting session days, and there will be no further votes this evening.

Thank you for your attention, cooperation, and civility. We are really about 3 1/2 hours ahead of where we might have otherwise been. Travel safely.

## BILLS RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 1659;  
HB 1718;  
HB 1719;  
HB 2159; and  
HB 2467.

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

## BILLS REMOVED FROM TABLE

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

SB 8;  
SB 237;  
SB 866;  
SB 1263; and  
SB 1301.

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

The SPEAKER pro tempore. For what purpose does the gentleman from Luzerne County, Representative Mullery, seek recognition?

Mr. MULLERY. Mr. Speaker, you indicated that Friday and Saturday would be nonvoting days. Sunday is currently on the schedule. Is that off or is that a nonvoting day?

The SPEAKER pro tempore. That will not be a session day at all. Thank you very much for the clarification.

Mr. MULLERY. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Although, always, you know, keep an eye on your e-mail.

Are there any other announcements? Any other members seeking recognition?

#### **BILLS AND RESOLUTIONS PASSED OVER**

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

#### **ADJOURNMENT**

The SPEAKER pro tempore. The Chair recognizes Representative Davis from Bucks County, who moves that this House do now adjourn until tomorrow, Friday, June 22, 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 7:29 p.m., e.d.t., the House adjourned.