COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, JUNE 25, 2012

SESSION OF 2012 196TH OF THE GENERAL ASSEMBLY No. 48

HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.d.t.

THE SPEAKER (SAMUEL H. SMITH) PRESIDING

PRAYER

HON. KAREN BOBACK, member of the House of Representatives, offered the following prayer:

Heavenly Father, Almighty God, bless this House as we begin our week in earnest deliberations.

Guide us, Your children, in thoughtful process while working for the common good. Inspire our minds to look for positive solutions while we debate and deliberate on issues that are profound. Strengthen our hearts so that we will be open to ideas that are honest and true. Give us not only the ability but the will to build consensus, knowing that the districts we represent are diverse in assets and in needs, yet maintain the same importance between and among us.

We pray to be ever respectful of one another and the ideas and values we bring to this House on behalf of those who sent us here to do the people's business. And, dear Lord, may we be ever mindful of our purpose as members of this great body of elected officials, to represent our homes, our communities, our districts, and the hopes and dreams of those who trust us to make this Commonwealth a better place to live, not only for today but for future generations.

In Your name we say "Amen."

PLEDGE OF ALLEGIANCE

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

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Saturday, June 23, 2012, will be postponed until printed.

JOURNALS APPROVED

The SPEAKER. However, the following Journals are in print and, without objection, will be approved:

Monday, March 26, 2012;
Tuesday, March 27, 2012;
Wednesday, March 28, 2012; and
Thursday, March 29, 2012.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2506 By Representatives KAVULICH, TOOHIL, BOBACK, CALTAGIRONE, COHEN, D. COSTA, DAVIDSON, DEASY, DeLUCA, FLECK, GILLESPIE, GINGRICH, GOODMAN, GROVE, HESS, HICKERNELL, HORNAMAN, KILLION, LONGIETTI, MAJOR, MILLARD, MOUL, MUNDY, MURT, READSHAW, ROSS, SANTONI, SAYLOR, SCHMOTZER, STEPHENS, TAYLOR, GEIST and BRENNAN

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for Office for Safe Schools.

Referred to Committee on EDUCATION, June 25, 2012.

No. 2507 By Representatives TOOHIL, KAVULICH, BAKER, BOBACK, CALTAGIRONE, COHEN, D. COSTA, DAVIDSON, DEASY, DeLUCA, FLECK, GILLESPIE, GINGRICH, GOODMAN, GROVE, HESS, HICKERNELL, HORNAMAN, KILLION, MAJOR, MILLARD, MOUL, MUNDY, MURT, READSHAW, ROSS, SANTONI, SAYLOR, SCHMOTZER, STEPHENS, TAYLOR, GEIST and BRENNAN

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for sentencing for offenses committed in association with a criminal street gang.

Referred to Committee on JUDICIARY, June 25, 2012.

No. 2508 By Representatives DePASQUALE, V. BROWN, CALTAGIRONE, FABRIZIO, FLECK, GEIST, GIBBONS, GROVE, HARKINS, HORNAMAN, W. KELLER, KOTIK, MILLER, MIRABITO, MURT, PASHINSKI, SABATINA, K. SMITH, STABACK, STURLA, SWANGER, WATERS and YOUNGBLOOD

An Act amending the act of February 24, 1984 (P.L.92, No.17), referred to as the Precious Metal Sale Regulation Law, further providing for definitions, for license required, for records of transactions, for dealer's retention of precious metal and availability for inspection, for local ordinances and for penalty.

Referred to Committee on CONSUMER AFFAIRS, June 25, 2012.

No. 2509 By Representatives HARHART, GEIST, PARKER, PICKETT, CLYMER, DAVIS, DUNBAR, GILLESPIE, HESS, KILLION, MAHONEY, MILLARD, MURT, QUINN, READSHAW, SCHMOTZER, SONNEY, SWANGER and WATERS

An Act requiring online dating service providers to disclose information relating to criminal background checks of its users; imposing penalties; and establishing the Internet Dating Disclosure and Safety Awareness Fund.

Referred to Committee on JUDICIARY, June 25, 2012.

No. 2510 By Representatives BEAR, GROVE, AUMENT, CARROLL, CUTLER, FARRY, HARRIS, MURT, SCHMOTZER, STABACK, SWANGER and GINGRICH

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in tax for education, further providing for licenses; in payment of tax, further providing for discount; in assessment and collection of tax, further providing for assessment; in interest, additions, penalties and crimes, providing for failure to timely remit tax collected; in personal income tax, further providing for definitions and for taxability of partners, providing for tax treatment determined at partnership level and for tax imposed at partnership level, further providing for income of a Pennsylvania S corporation, for tax withheld and for requirement of withholding tax, providing for requirement of withholding tax for nonemployers, further providing for information statement, providing for information statement for nonemployer payors and for information statement for nonemployer payees, further providing for time for filing employers' returns, for payment of taxes withheld, for employers liability for withheld taxes, for employer's failure to withhold, for designation of third parties to perform acts required of employers, for general rule, for amount of withholding tax and for treatment of nonresident partners, members or shareholders, providing for withholding on income from oil and gas interests and for annual withholding statement, further providing for return of Pennsylvania S corporation, for requirements concerning returns, notices, records and statements, for assessment, for additions, penalties and fees and providing for failure to timely remit tax withheld; in corporate net income tax, further providing for assessments; in realty transfer tax, further providing for assessment and notice of tax and review; in malt beverage tax, further providing for assessment by department; in general provisions, providing for administrative bank attachment for accounts of obligors to the Commonwealth, for tax delinquent placard and for additional citation authority; providing for applicability; and making editorial changes.

Referred to Committee on FINANCE, June 25, 2012.

No. 2511 By Representatives WATERS, THOMAS, PARKER, DeLUCA, V. BROWN, JAMES, KORTZ, YOUNGBLOOD, FABRIZIO and DONATUCCI

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for notice of application for tax credit.

Referred to Committee on FINANCE, June 25, 2012.

BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND RECOMMITTED TO COMMITTEE ON RULES

HB 2368, PN 3824 (Amended) By Rep. HESS

An Act amending the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, further providing for definitions, for persons authorized to engage in business of receiving deposits and money for transmission, for corporations authorized to act as fiduciary, for retention of records and admissibility of copies in evidence, for emergency powers and for acquisitions, and offers to acquire, shares of banks, bank and trust companies, trust companies and national banks; repealing provisions relating to prohibition against certain acquisitions, to legal holidays and to limitation on deposit of Commonwealth funds; further providing for additional powers of incorporated institutions related to conduct of business, for persons bound by bylaws and execution of instruments, for general lending powers, for direct leasing of personal property and for limits on indebtedness of one customer including purchased paper; repealing provisions relating to installment loans including revolving credit plans, to real estate loans, to authorizing certain loans for commercial, business, professional, agricultural or nonprofit purposes including revolving credit plans, to authorizing monthly interest loans for individuals, partnerships and other unincorporated entities, to alternate basis for interest charges by institutions, to charging interest at rates permitted competing lenders, to notice of annual fees and refunds on credit cards of affiliate banks, to authorization of fees for revolving credit plans and to extensions of credit to individuals, partnerships and unincorporated associations; further providing for application of chapter, for actions required, permitted or prohibited in fiduciary capacity, for transfer of fiduciary accounts and for investments; repealing provisions relating to real estate loans; further providing for lending powers and direct leasing of personal property; repealing provisions relating to conditional powers of savings banks; providing for pledges for deposits, limits on indebtedness of one customer including purchased paper; further providing for tentative trusts, for authorized offices, for authorization of new branches, for approval of branch by department and for branches outside Pennsylvania; repealing provisions relating to branches acquired from the receiver of a closed institution or from an institution in danger of closing; further providing for articles of incorporation and for certificate of authorization to do business; providing for organization as a limited liability company; further providing for minimum capital, for classes of shares, for share certificates, for cash dividends, for redemption and acquisition of redeemable shares and statement of reduction of authorized shares, for number, qualifications and eligibility of directors or trustees, for audits and reports by directors or trustees, accountants and internal auditors and for prohibitions applicable to directors, trustees, officers, employees and attorneys; repealing provisions relating to indemnity and immunity of certain directors; providing for standard of care and justifiable reliance; further providing for articles of amendment, for authority to merge or consolidate, for requirements for a merger or consolidation, for mergers, consolidations and conversions of savings banks, for right of shareholders to receive payment for shares following a control transaction, for articles of conversion, for voluntary dissolution prior to commencement of business, for certificate of election for voluntary dissolution and for articles of dissolution; repealing provisions relating to examinations and reports, to examination of affiliates and persons performing bank services, to relationship of institutions and their personnel with officials and employees of department and to additional powers of the Department of Banking; and further providing for penalties and criminal provisions applicable to directors, trustees, officers, employees and attorneys of institutions and for penalties applicable to persons subject to this act.

COMMERCE.

HB 2369, PN 3774 By Rep. HESS

An Act amending the act of May 15, 1933 (P.L.565, No.111), known as the Department of Banking Code, further providing for general scope of supervision and exercise of discretion, for assessment of expenses of department upon institutions, for disclosure of information forbidden, penalty and exceptions, for examination of corporations or persons affiliated with institutions and for orders by department; and providing for implementation of the Consumer Financial Protection Act of 2010.

COMMERCE.

HB 2370, PN 3763 By Rep. HESS

An Act amending the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, further providing for residential mortgage interest rates and for effect on inconsistent acts.

COMMERCE.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. For the information of the members, the Education Committee was concluding its meeting from this morning and has been given permission to conclude their meeting, so there will not be any immediate votes on the floor of the House. We will proceed to do some of the other introductions and such in the meantime.

GUESTS INTRODUCED

The SPEAKER. I would like to have the members' attention and introduce some of the guests that are with us today.

Located to the left of the rostrum, we would like to welcome Keri Lindenmuth, the winner of Representative Harhart's "There Ought To Be a Law" contest. Keri proposed amending the Public School Code to provide that teachers be certified in suicide prevention instruction and requiring policy changes relating to bullying. Keri is a recent graduate of Whitehall High School. She is here today with her parents, Gary and Diane; her siblings, Daniel and Erin; and her teacher, Joseph Krempasky, and they are all here seated to my left. Will our guests please rise. All of the other guests, too, please rise. Welcome to the hall of the House.

Also to the left of the rostrum, we would like to welcome two summer interns from Representative Sturla's district office. Daniel Sosa will be a senior at Susquehanna University, where he is majoring in political science; and Hans Kessler will be a junior at the University of Pittsburgh and is also majoring in political science. Will our guests please rise. Welcome to the hall of the House.

And to the left of the rostrum, we would like to welcome Representative Culver's son, Joshua. Joshua, welcome to the hall of the House.

Also to the left of the Speaker, as the guest of Representative Marcia Hahn, we would like to welcome Peg Ferraro, who is the vice president of the Northampton County Council, and Mike Stockard. Will our guests please rise. Welcome to the hall of the House.

And as the guest of Representative Pickett, we would like to welcome Leanne Miller, who is also with us today. Welcome, Leanne.

And up in the gallery, as guests of Representative Scavello, we would like to welcome the Monroe County Chapter of AARP. Will our guests from Monroe County AARP please rise. Welcome to the hall of the House. They pretty much fill in most of the gallery.

LEAVES OF ABSENCE

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

The Speaker recognizes the minority chairperson, who requests a leave of absence for the gentleman, Mr. GERBER, from Montgomery County for the day; the gentleman, Mr. O'BRIEN, from Philadelphia County for the day; and the gentleman, Mr. HANNA, from Clinton County for the day. Without objection, the leaves will be granted.

APPROPRIATIONS COMMITTEE MEETING

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

Mr. ADOLPH. Thank you, Mr. Speaker.

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

The SPEAKER. Appropriations will meet immediately in the majority caucus room.

RULES COMMITTEE MEETING

REPUBLICAN CAUCUS

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

Ms. MAJOR. Thank you, Mr. Speaker.

First, I would like to announce that the Rules Committee will meet at 1:30 in 39 East Wing. Members of Rules should report to 39 East Wing at 1:30.

We will then have a caucus meeting. Our Republicans will caucus at 2 o'clock. We would be prepared to come back on the floor at 3:30. So caucus would be today at 2 p.m., Mr. Speaker. Thank you.

The SPEAKER. Rules will meet at 1:30 in room 39, East Wing.

DEMOCRATIC CAUCUS

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

Mr. FRANKEL. Thank you, Mr. Speaker.

Democrats will caucus at 2 p.m. Democrats will caucus at 2. Thank you very much.

RECESS

The SPEAKER. The House stands in recess until 3:30, unless sooner recalled by the Speaker.

RECESS EXTENDED

The time of recess was extended until 3:45 p.m.

AFTER RECESS

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

BILLS REREPORTED FROM COMMITTEES

HB 1078, PN 1182 By Rep. TURZAI

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for the Office for Safe Schools.

RULES.

HB 1659, PN 3816 By Rep. ADOLPH

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.

APPROPRIATIONS.

HB 1718, PN 3804 By Rep. ADOLPH

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.

APPROPRIATIONS.

HB 1719, PN 3805 By Rep. ADOLPH

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

APPROPRIATIONS.

HB 2159, PN 3777 By Rep. ADOLPH

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.

APPROPRIATIONS.

HB 2460, PN 3709 By Rep. TURZAI

An Act designating State Route 233 from the western corporate limits of Newville Borough to State Route 11 in Cumberland County as the Marine Lance Corporal Nicholas B. Morrison Memorial Highway.

RULES.

HB 2467, PN 3723 By Rep. ADOLPH

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.

APPROPRIATIONS.

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence on the floor of the gentleman from Clinton County, Mr. Hanna. The request of leave for Mr. Hanna will be rescinded.

MASTER ROLL CALL

The SPEAKER. We are about to take the master roll call. We are about to take the master roll call. Members will proceed to vote.

The following roll call was recorded:

PRESENT–198

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

Conklin	Hanna	Moul	Sturla
Costa, D.	Harhai	Mullery	Swanger
Costa, P.	Harhart	Mundy	Tallman
Cox	Harkins	Murphy	Taylor
Creighton	Harper	Murt	Thomas
Cruz	Harris	Mustio	Tobash
Culver	Heffley	Myers	Toepel
Curry	Helm	Neilson	Toohil
Cutler	Hennessey	Neuman	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	Watson
DeLissio	Kampf	Peifer	Wheatley
Delozier	Kauffman	Perry	White
DeLuca	Kavulich	Petrarca	Williams
Denlinger	Keller, F.	Petri	Youngblood
DePasquale	Keller, M.K.	Pickett	
Dermody	Keller, W.	Preston	Smith, S.,
DiGirolamo	Killion	Pyle	Speaker

ADDITIONS–0

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

LEAVES ADDED–4

Mann	Murphy	Preston	Wheatley

The SPEAKER. One hundred and ninety-eight members having voted, a quorum is present.

UNCONTESTED CALENDAR

RESOLUTION PURSUANT TO RULE 35

Mr. DEASY called up **HR 786, PN 3793,** entitled:

A Resolution declaring the week of September 16 through 22, 2012, as "Mitochondrial Disease Awareness Week" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS–198

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

NAYS–0

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1122, PN 2312,** entitled:

A Supplement to the act of April 1, 1863 (P.L.213, No.227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; 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.

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

* * *

The House proceeded to second consideration of **SB 1123, PN 2313,** entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1124, PN 2314,** entitled:

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.

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

* * *

The House proceeded to second consideration of **SB 1125, PN 2315,** entitled:

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.

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

* * *

The House proceeded to second consideration of **SB 1126, PN 2316,** entitled:

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

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

* * *

The House proceeded to second consideration of **SB 237, PN 722,** entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in budget and finance, further providing for Commonwealth portion of fines.

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

The SPEAKER. On that question, it is the Speaker's understanding that the amendment A12223 has been withdrawn.

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

* * *

The House proceeded to second consideration of **SB 707, PN 694,** entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for educational leave of absence.

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

STATEMENT BY MR. STURLA

The SPEAKER. The gentleman from Lancaster County, Mr. Sturla, is recognized under unanimous consent relative to the amendment that he withdrew to a previous bill.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, with regard to the amendment that I withdrew to SB 237 related to fine distributions from the State Police, I agreed to withdraw that because I wanted the legislation to pass and at least get the dollars that would be available to all residents of the State for the services provided to municipalities that do not have a local police department.

The point that I would like to make is that in the budget every year, the State takes a half a billion dollars from the Motor License Fund to fund simply the highway patrols in those municipalities that do not have a local police department. There is another half a billion dollars that gets spent statewide for background checks and other services to all municipalities, as well as policing related to nonhighway issues in municipalities with no police departments also. But the half a billion dollars

that comes out of the Motor License Fund can only be used, by constitutional language, can only be used to patrol highways in those municipalities with no police departments.

That being said, it makes sense that the fine moneys generated by the State Police should go back into the Motor License Fund or a fund designated to provide for cadet corps. It does not make a whole lot of sense to limit that to municipalities over 3,000 people.

There is an old saying that a former colleague used to make on the floor of the House here that pigs got fed and hogs got slaughtered. In this particular case, we are still going to continue to feed those municipalities that do not have a local police department, do not pay for State Police protection, but at the end of the month get sent a fine check, and my concern would be that at some point in time that needs to change. And I would hope that in the future we could make that so that all fine moneys from those tickets written by the State Police, funded entirely from the Motor License Fund, would get returned to the Motor License Fund.

Thank you, Mr. Speaker.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 351, PN 745,** entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, further providing for Good Samaritan civil immunity for use of automated external defibrillator and for nonmedical good Samaritan civil immunity.

On the question,

Will the House agree to the bill on second consideration?

Mr. **NEUMAN** offered the following amendment No. **A12191:**

Amend Bill, page 4, line 7, by striking out "or during the course of"

Amend Bill, page 4, line 8, by striking out "to a victim of a"

Amend Bill, page 5, lines 12 and 13, by striking out ", including hospital emergency facilities, and " in line 12 and "related personnel" in line 13 and inserting

services personnel

Amend Bill, page 5, line 13, by inserting after "authorities"

, excluding hospital emergency facilities and related personnel

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Washington County, Mr. Neuman.

Mr. NEUMAN. Thank you, Mr. Speaker.

This amendment is an agreed-to amendment, from my understanding. I would like to thank the two chairmen for working with me on this amendment, and our executive director, Dave Tyler, for helping us find an issue with this law. The American Heart Association worked very diligently to correct this portion of the law and allow for this amendment, and I would encourage a "yes" vote.

Thank you, Mr. Speaker.

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

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

Mr. MARSICO. Thank you, Mr. Speaker.

This is an agreed-to amendment. I would appreciate the members' support. Thank you.

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

On that question, the Speaker recognizes the gentleman from Berks County, Mr. Caltagirone.

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

I want to echo the sentiments of Chairman Marsico. This is agreed to, and I would appreciate a positive vote. Thank you, sir.

The SPEAKER. The Speaker thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–198

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

DePasquale	Keller, M.K.	Pickett	
Dermody	Keller, W.	Preston	Smith, S.,
DiGirolamo	Killion	Pyle	Speaker

NAYS–0

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. It is the Speaker's understanding that the other amendment filed to that bill has 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.)

* * *

The House proceeded to second consideration of **SB 8, PN 2269,** entitled:

An Act establishing the Pennsylvania eHealth Partnership Authority and the Pennsylvania eHealth Partnership Fund; providing for consent and confidentiality of health information; and establishing civil immunity under certain circumstances.

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

Mr. **PASHINSKI** offered the following amendment No. **A12198:**

Amend Bill, page 13, line 8, by striking out "alone" and inserting or, as appropriate, the patient's representative,

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

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

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

This amendment requires the PA eHealth Partnership Authority to inform the patients of their opt-out provision within 5 days. The way the system works at the present time, everyone is opted in, and the only way that you can opt out is for the patient to make sure that they make that request.

In the process, the provider, the doctor, has to make sure that that information is disseminated to all other doctors, other health organizations, within a 5-day period. What this amendment does is also gives the same consideration to the patient, simply affirms the fact that they will be informed within 5 days.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

Mr. Speaker, we are uncertain as to whether he was talking about this particular amendment or a different amendment. Our records reflect he was referring to a different amendment.

The SPEAKER. The gentleman, Mr. Baker, were you seeking interrogation of the maker of the amendment or were you inquiring of the Chair?

Mr. BAKER. I would like to momentarily yield to Mr. Pashinski, if that is possible, for clarification on his amendment.

The SPEAKER. Well, let us put it this way: He is seeking to interrogate you, Mr. Pashinski. Will you stand for interrogation?

Mr. PASHINSKI. Yes, Mr. Speaker.

The SPEAKER. The gentleman indicates he would, and I believe the question was to clarify the amendment and was it possibly mixed up with one of the other two amendments you had filed. That would be the question I think he was posing to you.

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

At this time I am now going to place on my head my glasses, and as I look at the board, I see it is amendment A12198. That amendment deals with patient representative. I thank you for that clarification, but they are all good amendments.

The SPEAKER. For the understanding, the confusion, the Chair would probably suggest that under further interrogation, perhaps you could just give us a brief summary of what that amendment does, and then I will proceed to recognize the gentleman, Mr. Baker, for comments or debate on the amendment.

Mr. PASHINSKI. I would be happy to do that, Mr. Speaker.

In the bill, it uses the phrase "the patient alone." That means that the patient alone can opt out of this proposal. We are considering in this amendment that the representative of the patient may also have that right to do so when we are dealing with elderly patients or those that may be incapacitated.

It is a simple amendment that clarifies and makes for certain that the representative of the patient will also have that right. Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

On the amendment, the Speaker recognizes the gentleman from Tioga, Mr. Baker.

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

I reluctantly rise to oppose the amendment. After discussions with the State health information technology coordinator, I am satisfied that the concerns raised with this amendment are already being addressed operationally. The issue of a patient's representative is being addressed through a policy team of stakeholders. The opt-out form and interface that is being built includes the ability for a guardian, holder of a medical power of attorney, or other legal patient representative to sign the form to opt out of electronically sharing patient health information for the patient at issue or to opt back in that patient.

While I do understand the concern, I believe this matter is being adequately addressed, and I am asking the members to oppose this amendment. I might add that the underlying bill itself passed unanimously out of the Health Committee, and it was a by-product, really a great product of about 150 stakeholders. And, Mr. Speaker, I rise to reluctantly speak in opposition to this amendment.

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

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

Mr. PASHINSKI. Thank you, Mr. Speaker.

And I certainly do appreciate the commentary that we all just heard, but I think that commentary verifies the fact that there is something missing in this bill, and what is missing in this bill is what this amendment addresses: the fact that an individual may be incapacitated in order to make that decision. This amendment would ensure that that consideration be addressed.

The fact that the health organizations have recognized that they need to take this measure by pursuing it in other fashions indicates why this amendment is indeed important for the support and the strengthening of SB 8, and I would encourage a "yes" vote.

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

The following roll call was recorded:

YEAS–89

Barbin	Deasy	Kavulich	Petrarca
Bishop	DeLissio	Keller, W.	Preston
Boyle, B.	DeLuca	Kirkland	Ravenstahl
Boyle, K.	DePasquale	Kortz	Readshaw
Bradford	Dermody	Kotik	Roebuck
Brennan	Donatucci	Kula	Sabatina
Briggs	Evans, D.	Longietti	Sainato
Brown, V.	Fabrizio	Mahoney	Samuelson
Brownlee	Frankel	Mann	Santarsiero
Burns	Freeman	Markosek	Santoni
Buxton	Galloway	Matzie	Schmotzer
Caltagirone	George	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	Parker	White
Davidson	James	Pashinski	Williams
Davis	Josephs	Payton	Youngblood
Dean			

NAYS–109

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

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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?

Mr. **PASHINSKI** offered the following amendment No. **A12199:**

Amend Bill, page 13, line 4, by inserting after "patient"
within five business days

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

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

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

This amendment requires the PA eHealth Partnership Authority to inform the patient in 5 days, just as the provider is required by law, by SB 8, to provide that information to other providers and other health organizations. This is a consideration to make sure that the patient who has requested opting out will receive the notice in a timely fashion so that that person is aware and can make other arrangements. The 5 days is simply to make sure that the patient has the same consideration that any other provider or health organization has.

I would encourage a "yes" vote.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

I rise to oppose the amendment. As was the case with the previous amendment, the lack of a specified timeframe for an opt-out acknowledgement to a patient is also being addressed through a policy team of stakeholders. While this timeframe is not specified in SB 8, it is under discussion in both the policy group and the technical group of stakeholders.

The intent is that it happens quickly to mirror the 5-day period specified in section 701(c). The ultimate acknowledgement period will be dependent on the notification method employed. There is an intent to allow for at least two methods, one by mail and one by e-mail. If the technical architecture is built to allow for immediate notification after an electronically submitted opt-out request, then some opt-out requests will be acknowledged immediately and the rest within a business week.

I would again ask respectfully for a negative vote on this amendment.

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

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

Mr. PASHINSKI. Thank you, Mr. Speaker.

And once again, the testimony that we just heard by our Representative indicates that there is a flaw in the bill. So although there are good intentions on the policy, the fact of the matter is, if we address this in SB 8, it would guarantee that the patient would receive the same consideration that the providers or the other health organizations would, and that is, within a period of 5 days, 5 business days, they would receive the same notification that the other health providers and health organizations receive. It is simply common sense. By putting it into SB 8, it guarantees that the patient receives the same information that the other health organizations will receive in that same 5-day period.

I would encourage a "yes" vote.

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

The following roll call was recorded:

YEAS–90

Barbin	Deasy	Keller, W.	Preston
Bishop	DeLissio	Kirkland	Quinn
Boyle, B.	DeLuca	Kortz	Ravenstahl
Boyle, K.	DePasquale	Kotik	Readshaw
Bradford	Dermody	Kula	Roebuck
Brennan	Donatucci	Longietti	Sabatina
Briggs	Evans, D.	Mahoney	Sainato
Brown, V.	Fabrizio	Mann	Samuelson
Brownlee	Frankel	Markosek	Santarsiero
Burns	Freeman	Matzie	Santoni
Buxton	Galloway	McGeehan	Schmotzer
Caltagirone	George	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	Parker	Wheatley
Daley	Hornaman	Pashinski	White
Davidson	James	Payton	Williams
Davis	Josephs	Petrarca	Youngblood
Dean	Kavulich		

NAYS–108

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

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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?

Mr. **PASHINSKI** offered the following amendment No. **A12235:**

Amend Bill, page 5, line 30; page 6, lines 1 through 4, by striking out all of said lines on said pages and inserting

(8) Two consumer representatives appointed by the Governor, one of whom shall have expertise in health care or health care information technology or the laboratory industry.

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

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

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

Amendment 12235 addresses the consumer members of the board. Right now we want to make sure that we clean up the language for this board, and we want to make sure that the people that are representing the consumer seats are not involved in a lobbyist form. So the point is, we want to make sure that we have a consumer advocate on this board to make sure that they view it in the eyes of our constituents, of the citizens of Pennsylvania, and not view it in a personal nature, having the ability to possibly create some influence within the organization.

We want to make sure that we eliminate a conflict of interest. So the two positions on the board that deal with the consumer advocate, one should have some health-care knowledge or some health-IT (information technology) knowledge, and the other

should represent the citizens of Pennsylvania by being a strict consumer advocate.

This is a necessary amendment, and I would encourage that everyone support it.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

I rise to oppose the amendment. I do believe the gentleman's concerns have merit; however, we are trying to move this process along as quickly as possible. We would like to have this bill, Senate bill, passed without amendment.

I believe the prime sponsor of the Senate bill has indicated a willingness to send a letter to the Governor with similar sentiments. We prefer to have the bill unamended, so we are asking for a "no" vote on the final amendment.

Thank you very much, Mr. Speaker.

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

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

Mr. PASHINSKI. Thank you, Mr. Speaker.

And with all due respect with the offer of the Senator to send a letter to the Governor, I would certainly understand that and I certainly respect that. But once again, we are here to try to preserve an objective board, a board that is going to make decisions that will be relative to literally every Pennsylvanian's health-care record, something that is most precious, something that needs to be secure, and something that we need to have the eyes of our consumers at the table. This amendment ensures that there will not be a conflict of interest and that the consumer advocate will indeed sit there with the purpose of making sure they represent the people of Pennsylvania.

By having this in this bill, it will ensure that we can eliminate conflict of interest. I urge the group today to make sure that this provision remains in SB 8 to ensure that it is an honest, objective, and well-written bill.

Thank you very much, Mr. Speaker. I encourage a "yes" vote.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to strongly support my colleague in seeking consumer representation. Pennsylvania many years ago sought consumer representation on all the occupational boards, and there was a lot of controversy at the time, but it worked out extremely well. It has been many, many years, perhaps decades, since anybody has tried to repeal consumer representation on occupational boards. It is an experiment that worked. I believe Mr. Pashinski's amendment is similarly meritorious. This, too, will be an experiment that works.

I am pleased to know that the Senate cosponsor of this legislation is strongly in support of consumer representation. He is going to write a letter. I think if he can write a letter, he could support this amendment being added to this legislation.

I urge support of the Pashinski amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–92

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

NAYS–106

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

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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?
Bill was agreed to.

* * *

The House proceeded to second consideration of **SB 1263, PN 1627,** entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, in general budget implementation, further providing for the Department of Labor and Industry.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Lycoming County, Mr. Mirabito.

Mr. MIRABITO. Thank you, Mr. Speaker.

Mr. Speaker, the State Police Aviation Patrol Unit 4 has been based at the Williamsport Regional Airport for 40 years. It serves almost half a million people in a 7,600-square-mile area covering nine counties. Mr. Speaker, it directly assists the citizens of Bradford, Clinton, Lycoming, Montour, Northumberland, Potter, Sullivan, Tioga, and Union Counties. But, Mr. Speaker, what makes the aviation unit unique at Williamsport is its elevation. The elevation in Hazleton is 1600 feet. The elevation in State College is 1,240. But in Williamsport, it is only 521 feet, Mr. Speaker. Mr. Speaker, with the development of the Marcellus Shale, the aviation unit is needed more than ever.

Mr. Speaker, I am happy to report that based on commitments from my colleagues on the other side, that I am going to withdraw this amendment and continue to work to get this issue resolved in these budget negotiations. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

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

TRANSPORTATION COMMITTEE MEETING

The SPEAKER. For what purpose does the gentleman from Blair County, Mr. Geist, rise?

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

While we are at ease for a moment, would it be in order to announce a committee meeting?

The SPEAKER. The gentleman may make a committee announcement.

Mr. GEIST. Thank you, Mr. Speaker.

Tomorrow morning at 10, the Transportation Committee will meet in the Irvis Office Building, G-50 – 10 tomorrow morning. Thank you.

The SPEAKER. Transportation will meet tomorrow at 10 a.m. in room G-50 of the Irvis Building.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 866, PN 2270,** entitled:

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in Commonwealth services, further providing for the Volunteer Companies Loan Fund; in grants to volunteer fire companies and volunteer services, further providing for scope of chapter, definitions, establishment and award of grants, providing for additional funding and further providing for allocation of appropriated funds and for expiration of authority; and making editorial changes.

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

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

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, I had filed five amendments to this bill, which were very similar to the ones that had been voted and put into the House version of this legislation. I realize, however, that we are in the eleventh hour of a session as we wind down for the spring break, and I do not in any way, shape, or form want to see this important funding stream for our volunteer and paid fire services or EMS (emergency medical services), I do not want to see this funding jeopardized in any way.

I appreciate the support that many members in this House, the majority members, gave my amendment when it was offered to the House version. It did attempt to address a serious need in my district where the PA Water Rescue was unable to apply for these grants because they are not affiliated with a volunteer fire company. They were, to the best of my knowledge, the only water rescue operation in the State that could not apply for these grants.

I am happy to report that I have had conversations with the Pennsylvania Fire Commissioner, Mr. Mann, regarding this situation, and he has promised to work with me and my office to see if there is some alternative way of obtaining the equipment that PA Water Rescue needs to be able to address their equipment needs and to see if there are other resources that can be drawn on from other agencies. So hopefully, we will be able to address their needs.

I do believe that in future legislation, we need to include water rescue operations within the funding applications or being able to apply for the funding through the application process. They are first responders, as much as our firefighters and our EMS people are, and they are deserving of the same opportunity to apply for these needed grants in order to continue to function and to continue to do the good work that they do, saving lives and rescuing people in very hazardous situations.

So I look forward to continuing to work on this, and I want to offer my thanks to Commissioner Mann for his willingness to, in writing, commit to helping us obtain the equipment that PA Water Rescue will need and to helping us in any way, shape, or form to get there.

So thank you, and my thanks to the members who supported my amendment when it was offered to the House version. Thank you, Mr. Speaker.

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

The gentleman from Delaware County, Mr. Barrar, indicates that he is not going to forward his amendments.

Furthermore, the Speaker has been informed that the gentleman from Bucks County, Mr. Farry, is withdrawing his late-filed amendment.

On the question recurring,

Will the House agree to the bill on second consideration?

Bill was agreed to.

DECISION OF CHAIR RESCINDED ON SB 237

The SPEAKER. Without objection, the Speaker rescinds its announcement of giving second consideration to SB 237, PN 722, on page 5 of today's House calendar.

On the question recurring,

Will the House agree to the bill on second consideration?

BILL PASSED OVER

The SPEAKER. The bill will be over for the day.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1386, PN 2247,** entitled:

An Act amending the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, further providing for the Department of Environmental Protection; and repealing control of volatile organic compounds from gasoline-dispensing facilities.

On the question,

Will the House agree to the bill on second consideration?

Mr. **VITALI** offered the following amendment No. **A11274:**

Amend Bill, page 1, lines 1 through 23, by striking out all of said lines and inserting

Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, consolidating the Air Pollution Control Act; further providing for administration and for control of volatile organic compounds from gasoline-dispensing facilities; providing for air contaminant emissions, for exemptions from air pollution requirements for unconventional gas production processes prohibited and for permit fees; and making a related repeal.

Amend Bill, page 2, lines 10 through 30; page 3, lines 1 through 30; page 4, lines 1 through 6, by striking out all of said lines on said pages and inserting

Section 1. Title 35 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 21

AIR POLLUTION CONTROL

Subchapter

A. Preliminary Provisions

B. Regulatory Program

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

2101. Scope of chapter.

2102. Declaration of policy.

2103. Definitions.

§ 2101. Scope of chapter.

This chapter relates to air pollution control.

§ 2102. Declaration of policy.

The General Assembly finds and declares as follows:

(1) It is the policy of the Commonwealth to protect the air resources of this Commonwealth to the degree necessary for the:

(i) protection of public health, safety and well-being of its citizens;

(ii) prevention of injury to plant and animal life and to property;

(iii) protection of the comfort and convenience of the public and the protection of the recreational resources of this Commonwealth;

(iv) development, attraction and expansion of industry, commerce and agriculture; and

(v) implementation of the provisions of the Clean Air Act in this Commonwealth.

(2) Interstate pollution transport commissions established under the Clean Air Act should develop pollution control strategies via a process which involves public review and opportunity for comment.

(3) The public should be involved in developing and committing the Commonwealth to the adoption of particular pollution control strategies through review of State implementation plans required to be submitted by the Clean Air Act.

(4) The department should have adequate staff and technical resources needed to comply with the Clean Air Act. The department shall be required to explore the role private industry can play in developing and implementing the clean air programs as a mechanism to ensure that the Commonwealth meets Clean Air Act deadlines.

(5) States should not be penalized for missing Clean Air Act deadlines when the delay is the result of the Federal Government not finalizing guidance to states on implementing the act. The Commonwealth and other states must be given a reasonable opportunity to meet Clean Air Act deadlines.

(6) The purpose of this subchapter is to provide additional and cumulative remedies to abate the pollution of the air of this Commonwealth.

§ 2103. 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:

"Administrator." The Administrator of the United States Environmental Protection Agency.

"Air contaminant." Smoke, dust, fume, gas, odor, mist, radioactive substance, vapor, pollen or any combination of them.

"Air contamination." The presence in the outdoor atmosphere of an air contaminant which contributes to any condition of air pollution.

"Air contamination source." Any place, facility or equipment, stationary or mobile, at, from or by reason of which there is emitted into the outdoor atmosphere any air contaminant.

"Air pollution." The presence in the outdoor atmosphere of any form of contaminant, including the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances, waste or any other matter in a place, manner or concentration inimical or which may be inimical to the public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.

"Approved air pollution control agency." An air pollution control

agency of any political subdivision of the Commonwealth which has been granted approval by the Environmental Quality Board.

"Board" or "EQB." The Environmental Quality Board.

"Clean Air Act." (Public Law 95-95, 42 U.S.C. § 7401 et seq.).

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

"Environmental Protection Agency" or "EPA." The United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency.

"Gasoline-dispensing facility." A facility from which gasoline is transferred to motor vehicle fuel tanks.

"Hearing board." The Environmental Hearing Board.

"Person." Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the Federal Government or the Commonwealth, political subdivision, municipality, district, authority or any other legal entity which is recognized by law as the subject of rights and duties.

"Plan approval." The written approval from the Department of Environmental Resources which authorizes a person to construct, assemble, install or modify any stationary air contamination source or install on the source any air pollution control equipment or device.

"Region." Any geographical subdivision of this Commonwealth whose boundaries shall be determined by the Environmental Quality Board.

"Small business stationary source." A stationary source that:

(1) is owned or operated by a person that employs 100 or fewer individuals;

(2) is a small business as defined in the Small Business Act (Public Law 85-536, 15 U.S.C. § 78a et seq.);

(3) is not a major stationary source;

(4) does not emit 50 tons per year of any regulated pollutant; and

(5) emits less than 75 tons per year of all regulated pollutants.

"State implementation plan." The plan or plan revision that a state is authorized and required to submit under section 110 of the Clean Air Act (Public Law 95-95, 42 U.S.C. § 7410) to provide for attainment of the national ambient air quality standards.

"Stationary air contamination source." Any air contamination source other than that which, when operated, moves in a given direction under its own power.

SUBCHAPTER B
REGULATORY PROGRAM

Sec.
2111. (Reserved).
2112. (Reserved).
2113. (Reserved).
2114. Administration.
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2116.6. Hazardous air pollutants.
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2117.8. Compliance Advisory Committee.
2117.9. Small Business Ombudsman.
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2117.11. Notice of sanctions.
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2118. Unlawful conduct.
2119. Penalties.
2119.1. Civil penalties.
2119.2. Disposition of fees, fines and civil penalties.
2119.3. Continuing violations.
2120. (Reserved).
2120.1. Enforcement orders.
2120.2. Appealable actions.
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2131. Powers reserved to the department under existing laws.
2132. Powers reserved to political subdivisions.
2132.1. Construction.
2133. Public nuisance.
2133.1. Search warrant.
2133.2. Confidential information.
2133.3. Air contaminant emissions.
2133.4. Exemptions from air pollution requirements for unconventional gas production processes prohibited.
2133.5. (Reserved).
2133.6. Action to abate nuisance and restrain violation.
§ 2111. (Reserved).
§ 2112. (Reserved).
§ 2113. (Reserved).
§ 2114. Administration.

The department shall have the power and its duty shall be to:

(1) Implement the provisions of the Clean Air Act in this Commonwealth.

(2) Enter any building, property, premises or place and inspect any air contamination source for the purpose of investigating an actual or a suspected source of air pollution or for the purpose of ascertaining the compliance or noncompliance with this subchapter, a regulation promulgated under this subchapter or any plan approval, permit or order of the department. In connection with the inspection or investigation, samples of air, air contaminants, fuel, process material or other matter may be taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person who is suspected of causing air pollution or air contamination.

(3) Have access to, and require the production of, books, papers and records, including, but not limited to, computerized information in a format as the department may reasonably prescribe pertinent to any matter under investigation.

(4) Require the owner or operator of any air contamination source to establish and maintain records and make reports and furnish the information, including computerized information, in a format as the department may reasonably prescribe.

(5) Require the owner or operator of any air contamination source to install, use and maintain air contaminant monitoring equipment or methods as the department may reasonably prescribe.

(6) Require the owner or operator of any air contamination source to sample the emissions of the source in accordance with methods and procedures and at locations and intervals of time as the department may reasonably prescribe, and to provide the department with the results of the samples.

(7) Enter upon any property on which an air contamination source may be located and make tests upon the source as are necessary to determine whether the air contaminants being emitted from the air contamination source

are being emitted at a rate in excess of a rate provided for by this subchapter, any regulation promulgated under this subchapter or any plan approval, permit or order of the department or otherwise causing air pollution. If the department determines that a source test is necessary, it shall give reasonable written or oral notice to the person owning, operating or otherwise in control of the source, that the department will conduct a test on the source. After the test, the person to whom the notice is given shall provide reasonably safe access to the testing area and sampling ports, facilities, electrical power and water, as the department shall specify in its notice.

(8) Receive, initiate and investigate complaints, institute and conduct surveys and testing programs, conduct general atmospheric sampling programs, make observations of conditions which may or do cause air pollution, make tests or other determinations at air contamination sources and assess the degree of abatement required.

(9) Do the following in regard to orders:

(i) Issue orders to any person owning or operating an air contamination source or owning or possessing land on which the source is located, if the source is introducing or is likely to introduce air contaminants into the outdoor atmosphere in excess of any rate provided for by this subchapter, any regulation promulgated under this subchapter or any plan approval or permit applicable to the source, or at a level as to cause air pollution. Any order may require the cessation of any operation or activity which is introducing air contaminants into the outdoor atmosphere so as to cause air pollution, the reduction of emissions from the air contamination source, modification or repair of the source or air pollution control device or equipment or certain operating and maintenance procedures with respect to the source or air pollution control device or equipment, institution of a reasonable process change, installation of air pollution control devices or equipment, or any or all of the requirements as the department deems necessary. Orders may specify a time for compliance, require submission of a proposed plan for compliance and require submission of periodic reports concerning compliance. If a time for compliance is given, the department may, in its discretion, require the posting of a bond in the amount of twice the money to be expended in reaching compliance.

(ii) All department orders shall be in writing, contain a statement of the reasons for their issuance and be served either personally or by certified mail. Within 30 days after service of any order the person to whom the order is issued or any other person aggrieved by the order may file with the hearing board an appeal setting forth with particularity the grounds relied upon. An appeal to the hearing board of the department's order shall not act as a supersedeas except that upon application and for cause shown, the hearing board may issue a supersedeas.

(10) Institute, in a court of competent jurisdiction, proceedings to compel compliance with this subchapter, any regulation promulgated under this subchapter or any plan approval, permit or order of the department.

(11) Act as the agent for the board in holding public hearings when so directed by the board.

(12) Institute prosecutions under this subchapter.

(13) Recommend the minimum job qualifications of personnel employed by county and municipal air pollution control agencies hereafter created.

(14) Require the submission of, and consider for approval, plans and specifications of air pollution control equipment, devices or process changes and inspect the installations or modifications to ensure compliance with the plans which have been approved.

(15) Conduct or cause to be conducted studies and research with respect to air contaminants, their nature, causes and effects, and with respect to the control, prevention, abatement and reduction of air pollution and air contamination.

(16) Evaluate motor vehicle emission control programs, including vehicle emission standards, clean alternative fuels, oxygenated fuels, reformulated fuels, vehicle miles of travel, congestion levels, transportation control measures and other transportation control strategies with respect to their effect upon air pollution and determine the need for modifications of the programs.

(17) Determine by means of field studies and sampling the degree of air pollution existing in any part of the Commonwealth.

(18) Prepare and develop a general comprehensive plan for the control and abatement of existing air pollution and air contamination and for the abatement, control and prevention of any new air pollution and air contamination, recognizing varying requirements for the different areas of this Commonwealth, and to submit a comprehensive plan to the board for its consideration and approval.

(18.1) Within 60 days of the effective date of this paragraph, initiate a review and reevaluation of the State implementation plan. The review shall include alternative mechanisms to 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements) which will ensure compliance with this chapter. The following shall apply to the review:

(i) The department shall conduct meetings to consult with impacted organizations or entities, including gasoline refining and distribution companies, gasoline retailers, pipeline owners, impacted businesses, public utilities, local governments and other interested entities.

(ii) Within three months of the effective date of this paragraph, the department shall provide updates to the chair and minority chair of the Environmental Resources and Energy Committee of the Senate and the chair and minority chair of the Environmental Resources and Energy Committee of the House of Representatives. The department shall, on a regular basis, provide updates to the committees.

(18.2) If a supply disruption occurs, the Governor shall submit a request to the Environmental Protection Agency to waive the requirements. As used in this paragraph, a "supply disruption occurs" when either of the following subparagraphs apply:

(i) The department learns of a supply disruption of gasoline which would comply with 25 Pa. Code Ch. 126 Subch. C in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington or Westmoreland county; and the supply disruption under this subclause would reasonably qualify for a waiver of the low Reid Vapor Pressure requirements of 25 Pa. Code Ch. 126 Subch. C in accordance with section 211(c)(4)(C)(ii) and (iii) of the Clean Air Act (42 U.S.C. § 7545(c)(4)(C)(ii) and (iii)).

(ii) Five percent of all existing gasoline retailers in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland Counties are unable to obtain an adequate supply of low Reid Vapor Pressure gasoline which complies with the low Reid Vapor Pressure requirements of 25 Pa. Code Ch. 126 Subch. C.

(19) Encourage the formulation and execution of plans in conjunction with air pollution control agencies or civil associations of counties, cities, boroughs, towns and townships of this Commonwealth where any sources of air pollution or air contamination may be located, and enlist the cooperation of those who may be in control of the sources for the control, prevention and abatement of air pollution and air contamination.

(20) Encourage voluntary efforts and cooperation by all persons concerned in controlling, preventing, abating and reducing air pollution and air contamination.

(21) Conduct and supervise educational programs with respect to the control, prevention, abatement and reduction of air pollution and air contamination, including the preparation and distribution of information relating to the means of controlling and preventing air pollution and air contamination.

(22) Develop and conduct, in cooperation with local communities, demonstration programs relating to air contaminants, air pollution and air contamination and the control, prevention, abatement and reduction of air pollution and air contamination.

(23) Provide advisory technical consultative services to local communities for the control, prevention, abatement and reduction of air pollution and air contamination.

(24) Cooperate with the appropriate agencies of the United States or of other states or any interstate agencies with respect to the control, prevention, abatement and reduction of air pollution and, as appropriate, formulate interstate air pollution control compacts or agreements for the submission to the General Assembly.

(25) Serve as the agency of the Commonwealth for the receipt of money from the Federal Government or other public or private agencies, and expend money for studies and research with respect to air contaminants, air pollution and the control, prevention, abatement and reduction of air pollution.

(26) Develop and submit to the Environmental Protection Agency a procedure to implement and enforce the regulations which the Environmental Protection Agency promulgates under section 183(e) of the Clean Air Act to reduce emissions from consumer and commercial products, provided the department will receive credits for the reductions attributed to the Federal consumer and commercial products regulations under section 182 of the Clean Air Act regulations, and the department has the resources to implement and enforce the program.

(27) Do any and all other acts and things not inconsistent with any provision of this subchapter, which it may deem necessary or proper for the effective enforcement of this subchapter and the regulations promulgated under this subchapter.

§ 2114.1. Agricultural regulations prohibited.

(a) Applicability.–Except as may be required by the Clean Air Act or the regulations promulgated under the Clean Air Act, this subchapter shall not apply to the production of agricultural commodities and the Environmental Quality Board shall not have the power nor the authority to promulgate regulations relating to air contaminants and air pollution arising from the production of agricultural commodities.

(b) Definitions.–As used in this section, the term "production of agricultural commodities" shall include:

(1) The commercial propagation, production, harvesting or drying on the premises of the farm operation or the disposal of residual materials resulting from the commercial propagation, production, harvesting or drying on the premises of the farm operation of the following:

(i) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

(ii) Fruits, including apples, peaches, grapes, cherries and berries.

(iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions, mushrooms, sweet corn and green peas.

(iv) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

(v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

(vi) Timber, wood and other wood products derived from trees.

(vii) Aquatic plants and animals and their by-products.

(2) The processing of agricultural commodities propagated, produced, harvested or dried under paragraph (1) or the disposal of residual materials resulting from the processing. This paragraph shall apply to agricultural commodities propagated, produced, harvested or dried on the premises of the farm operation.

(3) The commercial production, processing or storage of compost, except for compost including, all or in part, biosolids originating at a municipal sewage treatment facility, to be predominantly used in the commercial propagation or production of any agricultural commodity identified under paragraph (1), regardless of whether the compost is being produced, processed or stored on a different premises than the premises in which the compost is being used.

(4) The use of any material whose production, processing or storage is exempt from this subchapter under paragraph (3) in the commercial propagation or production of any agricultural commodity identified under paragraph (1), or any odor or malodor or fugitive air emission resulting from the production, processing or storage of any material so exempted.

§ 2114.2. Permissible actions.

(a) Regulations.–In implementing the requirements of section 109 of the Clean Air Act, the board may promulgate, by regulation, only those control measures or other requirements which are reasonably required, in accordance with the Clean Air Act deadlines, to achieve and maintain the ambient air quality standards or to satisfy related Clean Air Act requirements, unless otherwise specifically authorized or required by this subchapter or specifically required by the Clean Air Act.

(b) Limitation.–Control measures or other requirements promulgated under subsection (a) shall be no more stringent than those required by the Clean Air Act unless authorized or required by this subchapter or specifically required by the Clean Air Act. This requirement shall not apply if the board determines that it is reasonably necessary for a control measure or other requirement to exceed minimum Clean Air Act requirements in order for the Commonwealth:

(1) to achieve or maintain ambient air quality standards;

(2) to satisfy related Clean Air Act requirements as they specifically relate to the Commonwealth;

(3) to prevent an assessment or imposition of Clean Air Act sanctions; or

(4) to comply with a final decree of a Federal court.

(c) Prohibition.–The board may not by regulation promulgate an ambient air quality standard for a specific pollutant which is more stringent than the air quality standard which the EPA has adopted for the specific pollutant under section 109 of the Clean Air Act.

(d) Challenges.–In any challenge to the enforcement of regulations promulgated to achieve and maintain the ambient air quality standards or to satisfy related Clean Air Act requirements, the person challenging the regulation shall have the burden to demonstrate that the control measure or other requirement or the stringency of the control measure or requirement is not reasonably required to achieve or maintain the standard or to satisfy related Clean Air Act requirements.

(e) Preenforcement review.–No person may file a preenforcement review challenge under this section based in any manner upon the standards set forth in subsection (b).

(f) Applicability.–This section shall not apply to regulations approved as a final rulemaking by the board prior to September 8, 1992, or to any ambient air quality standards promulgated by the board if no standard has been promulgated by the EPA.

(g) Construction.–This section shall not be construed to weaken or otherwise affect site-specific standards or other requirements for individual sources or facilities in place prior to September 8, 1992.

§ 2114.3. Evaluation.

Beginning five years after July 9, 1992, and every five years thereafter, the department shall conduct and submit to the General Assembly an evaluation of the effectiveness of the programs adopted to implement the Clean Air Act. The evaluation shall include:

(1) A determination of whether the limitation imposed in section 2114.2 (relating to permissible actions) has hindered in any way the Commonwealth's efforts to comply with the Clean Air Act and a recommendation on whether that provision should be changed.

(2) The specific steps taken to implement the Clean Air Act and progress made toward meeting the emission reductions required by the act and recommendations on any additional steps which must be taken.

(3) An evaluation of the funding available to implement the Clean Air Act programs and whether that funding is sufficient or inadequate and recommendations on if adjustments should be made.

(4) An analysis of the costs imposed on mobile and stationary air contamination sources to implement the requirements of the Clean Air Act, including on individuals and companies. The analysis of costs shall also consider the benefits of compliance with the Clean Air Act requirements and the public health, environmental and economic costs to the Commonwealth for failing to meet the requirements, including the impact of sanctions.

(5) An evaluation, in consultation with the Department of Community and Economic Development and the Office of Small Business Ombudsman, of the adequacy of measures taken by the Commonwealth to assist small businesses in complying with the Clean Air Act.

(6) A summary of the activities undertaken by the Citizens Advisory Council and the air technical advisory committee under section 2117.6 (relating to advice to department).

(7) An evaluation of the effectiveness of the Northeast Ozone Transport Commission in meeting the mandates of the Clean Air Act and recommendations on any changes that could make the commission more effective.

(8) An assessment of the impact of missing Federal deadlines identified under section 2117.12 (relating to missed Federal deadlines) has had or will have on the State implementation of the Clean Air Act programs.

§ 2115. Environmental Quality Board.

(a) Powers and duties.–The board shall have the power and its duty shall be to:

(1) Promulgate regulations, for the prevention, control, reduction and abatement of air pollution, applicable throughout this Commonwealth or to parts or regions or subregions specifically designated in the regulation which shall be applicable to all air contamination sources regardless of whether the source is required to be under permit by this subchapter. Regulations may establish maximum allowable emission rates of air contaminants from the sources, prohibit or regulate the combustion of certain fuels, prohibit or regulate open burning, prohibit or regulate any process or source or class of processes or sources, require the installation of specified control devices or equipment or designate the control efficiency of air pollution control devices or equipment required in specific processes or sources or classes of processes or sources. Regulations shall be promulgated under the provisions of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, upon notice and after public hearings as the board deems appropriate. In exercising its authority to promulgate regulations, the board may, and to the extent deemed desirable by it shall, consult with a council of technical advisers properly qualified by education or experience in air pollution matters, appointed by the board and to serve at the pleasure of the board, to consist of the number of advisers as the board may appoint, but the technical advisers shall receive no compensation other than their actual and necessary expenses for their services to the board.

(2) Establish and publish maximum quantities of air contaminants that may be permitted under various conditions at the point of use from any air contaminant source in various areas of this Commonwealth so as to control air pollution.

(3) By regulation, classify air contaminant sources, according to levels and types of emissions and other characteristics which relate to air pollution. Classifications made under this subsection shall apply to the entire Commonwealth or any part. Any person who owns or operates an air contaminant source of any class to which the regulations of the board under this subsection apply, shall make reports containing information as may be required by the board concerning location, size and height of air contaminant outlets, processes employed, fuels used and the nature and time periods or duration of emissions, and other information as is relevant to air pollution and available or reasonably capable of being assembled.

(4) Recommend to the Secretary of Transportation performance or specification standards, or both, for emission control systems and devices on motor vehicles.

(5) Promulgate regulations for the protection of public health and safety for periods when the accumulation of air contaminants in any area is attaining or has attained levels which, if sustained or exceeded, could lead to an acute threat to the health of the public. Regulations shall contain appropriate procedures to protect public health and safety during the periods.

(6) Promulgate regulations for the approval and the rescission and suspension of approval of local air pollution control agencies.

(7) Promulgate regulations designed to reduce emissions from motor vehicles, including centrally clean-fueled fleets, clean alternative fuels, oxygenated fuels, reformulated fuels, vehicle miles of travel, transportation control measures and other transportation control strategies. Regulations shall be developed in consultation with the Department of Transportation. The board shall not promulgate regulations mandating the sale or use of any set of specifications for motor fuel prescribed by the State of California under 42 U.S.C. § 7545(c)(4)(B) (relating to regulation of fuels) unless the set of specifications is required under the Clean Air Act or the regulations promulgated under the Clean Air Act.

(8) Promulgate regulations to implement the provisions of the Clean Air Act. The regulations promulgated to implement the provisions of the Clean Air Act shall be consistent with the requirements of the Clean Air Act and the regulations promulgated under the Clean Air Act.

(9) Promulgate regulations to exempt sources or categories of sources of minor significance from the provisions of section 2116.1 (relating to plan approvals and permits).

(10) Promulgate regulations establishing provisions to allow changes within a permitted facility or one operating under section 2116.1(b)(3) without requiring a permit revision if the changes are not modifications under any provision of 42 U.S.C. Ch. 85 Subch. I (relating to programs and activities) and the changes do not exceed the emissions allowable under the permit, whether expressed in the permit as a rate of emissions or in terms of total emissions, provided that the facility provides the department and the administrator with written notification in advance of the proposed changes which shall be a minimum of seven days, unless the board provides in its regulations a different time frame for emergencies.

(11) In its discretion, by regulation, require revisions to permits for major sources to incorporate applicable standards and regulations promulgated under the Clean Air Act and promulgated by the board after the issuance of the permit as required by section 502(b)(9) of the Clean Air Act.

(12) In its discretion, by regulation promulgate rules

containing reasonable procedures consistent with the need for expeditious action by the department on plan approvals and operating permit applications to make available to the public any plan approval or operating permit application, compliance plan, plan approval, operating permit and monitoring or compliance report as required by section 502(b)(8) of the Clean Air Act.

(13) Promulgate, by regulation, alternative volatile organic compound emission limitations for aerospace coatings and solvents, including extreme performance coatings, which are required to be used by the United States Department of Defense, the United States Department of Transportation and the National Aeronautic and Space Administration or to meet military and aerospace specifications, provided the alternative limitations are authorized by the Clean Air Act.

(b) Limitation.–In promulgating regulations containing transportation control measures, the board shall not have the authority to promulgate any regulation limiting or expanding any municipalities' authority under the Municipal Planning Code to regulate land development, subdivision approval, zoning revision, building permit or any other development activity unless specifically required by the Clean Air Act.

§ 2116. Environmental Hearing Board.

The hearing board shall have the power and its duty shall be to hear and determine all appeals from appealable actions of the department as defined in the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, in accordance with the provisions of this subchapter. Any and all action taken by the hearing board with reference to any appeal shall be in the form of an adjudication, and all action shall be subject to the provisions of 2 Pa.C.S. (relating to administrative law and procedure).

§ 2116.1. Plan approvals and permits.

(a) Plan approval.–No person shall construct, assemble, install or modify any stationary air contamination source, or install on the source any air pollution control equipment or device unless the person has applied to and received written plan approval from the department to do so: Provided, however, That no written approval shall be necessary with respect to normal routine maintenance operations, nor to any source, equipment or device used solely for the supplying of heat or hot water to one structure intended as a one-family or two-family dwelling, nor where construction, assembly, installation or modification is specifically authorized by the regulations of the department to be conducted without written approval. All applications for approval shall be made in writing and shall be on forms and contain information as the department shall prescribe and shall have appended to the applications detailed plans and specifications related to the proposed installation.

(b) Permit required.–

(1) No person shall operate any stationary air contamination source unless the department shall have issued to the person a permit to operate the source under the provisions of this section in response to a written application for a permit submitted on forms and containing information as the department may prescribe or where construction, assembly, installation modification is specifically authorized by the regulations of the department to be conducted without written approval. The department shall provide public notice and the right to comment on all permits prior to issuance or denial and may hold public hearings concerning any permit.

(2) A permit may be issued after July 9, 1992, to any applicant for a stationary air contamination source requiring construction, assembly, installation or modification if the requirements of subsection (a) have been met and there has been performed upon the source a test operation or evaluation which shall satisfy the department that the air contamination source will not discharge into the outdoor atmosphere any air contaminants at a rate in excess of that permitted by applicable regulation of the board, or in violation of any performance or emission standard or other requirement established by the EPA or the department for the source and which will not cause air pollution.

(3) A stationary air contamination source operating lawfully without a permit for which fees are required by section 2116.3 (relating to fees) or the regulations promulgated under this subchapter have been paid is authorized to continue to operate without a permit until 120 days after the department provides notice to the source that a permit is required or until November 1, 1996, whichever occurs first. If the applicant submits a complete permit application within the time frames in this subsection and the department fails to issue a permit through no fault of the applicant, the source may continue to operate if the fees required by section 2116.3 or the regulations promulgated under this subchapter have been paid and the source is operated in conformance with this subchapter, the Clean Air Act and the regulations promulgated under both this subchapter and the Clean Air Act. For any performance or emission standard or other requirement established by the EPA or the department for the source subsequent to January 8, 1960, but prior to the permit issuance date, the permit may contain a compliance schedule authorizing the source to operate out of compliance and requiring the source to achieve compliance as soon as possible but not later than the time required by this subchapter, the Clean Air Act or the regulations promulgated under either this subchapter or the Clean Air Act. For purposes of this subsection, a source is operating lawfully without a permit if it is a source for which no permit was previously required and the source is operating in compliance with applicable regulatory requirements.

(4) For repermitting of any stationary air contamination source which is operating under a valid permit on January 8, 1960, or which has received a permit under the provisions of paragraphs (2) and (3) and which is required to meet performance or emission standards or other requirements established subsequent to the issuance of the existing permit, the new permit may contain a compliance schedule authorizing the source to operate out of compliance and requiring the source to achieve compliance as soon as possible but not later than the time required by this subchapter, the Clean Air Act or the regulations promulgated under either this subchapter or the Clean Air Act.

(b.1) Terms and conditions.–A permit or plan approval issued under subsection (a) or (b) may contain terms and conditions as the department deems necessary to assure the proper operation of the source. The board shall by regulation establish a permit shield for permits issued under the authority delegated to the Commonwealth by the EPA under Title V of the Clean Air Act. The program shall be consistent with the requirements of section 504(f) of the Clean Air Act and the regulations promulgated under the Clean Air Act. Each permittee, on a schedule established by the department, shall submit reports to the department containing information as the department may prescribe relative to the operation and maintenance of the source.

(b.2) Permit term.–A permit issued or reissued under subsection (b) shall be issued for a five-year term unless a shorter term is required to comply with the Clean Air Act and regulations promulgated under the Clean Air Act or the permittee requests a shorter term, except that a permit for acid deposition control shall be issued for a five-year term. A permit may be terminated, modified, suspended or revoked and reissued for cause. The terms and conditions of an expired permit are automatically continued pending the issuance of a new permit if the permittee has submitted a timely and complete application for a new permit and paid the fees required by section 2116.3 or the regulations promulgated under this subchapter and the department is unable, through no fault of the permittee, to issue or deny a new permit before the expiration date of the previous permit. Failure of the department to issue or deny a new permit prior to the expiration date of the previous permit shall be an appealable action as described in section 2120.2 (relating to appealable actions). The hearing board may require that the department take action on an application without additional delay.

(b.3) Procedures.–The board shall by regulation establish

adequate, streamlined and reasonable procedures for expeditiously determining when applications are complete and for expeditious review of applications. The department shall approve or disapprove a complete application, consistent with the procedures established by the board for consideration of applications, within 18 months after the date of receipt of the complete application except that the department shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of the Title V permit program established to implement the requirements of the Clean Air Act. The schedule shall assure that at least one-third of the permits shall be acted upon by the department annually over a period not to exceed three years after that effective date. Failure of the department to issue or deny a permit by a deadline established by this subsection shall be an appealable action as described in section 2120.2. The hearing board may require that the department take action on an application without additional delay.

(b.4) Reactivation.–

(1) During the term of a permit, a permittee may reactivate any source under the permit that has been out of operation or production for a period of one year or more, provided that the permittee has submitted a reactivation plan to and received written approval from the department. The reactivation plan shall describe the measures that will be taken to ensure the source will be reactivated in compliance with all applicable permit requirements. A reactivation plan may be submitted to and approved by the department at any time during the term of a permit. The department shall take action on the reactivation plan within 30 days unless the department determines that additional time is needed based on the size or complexity of the reactivated source.

(2) A reactivation plan may also be submitted to and approved by the department as part of the plan approval or permit application process. An owner or operator who has an approved reactivation plan shall notify the department prior to the reactivation of the source.

(b.5) Regulations to implement Clean Air Act.–The board shall promulgate the regulations required by subsections (b.1), (b.3) and (i) as part of the regulatory package to implement the operating permit program required by Title V of the Clean Air Act.

(c) Termination, modification, suspension or revocation of plan approval or permit.–A plan approval or permit issued under this section may be terminated, modified, suspended or revoked and reissued if:

(1) the permittee constructs or operates the source subject to the plan approval or permit in such a manner as to be in violation of this subchapter, the Clean Air Act, the regulations promulgated under either this subchapter or the Clean Air Act, a plan approval or permit or in such a manner as to cause air pollution;

(2) the permittee fails to properly or adequately maintain or repair any air pollution control device or equipment attached to or otherwise made a part of the source;

(3) the permittee has failed to submit a report required by a plan approval or operating permit under this section; or

(4) the Environmental Protection Agency determines that the permit is not in compliance with the requirements of the Clean Air Act or the regulations promulgated under the Clean Air Act.

(d) Refusal to grant plan approval or issuance of permit.–

(1) The department may refuse to grant plan approval for any stationary air contamination source subject to the provisions of subsection (a) or to issue a permit to any source if:

(i) the department determines the source is likely to cause air pollution or to violate this subchapter, the Clean Air Act or the regulations promulgated under either this subchapter or the Clean Air Act applicable to the source; or

(ii) in the design of the source, no provision is made for adequate verification of compliance, including source testing or alternative means to verify compliance.

(2) The department may also refuse to issue a permit or may for cause terminate or revoke and reissue a permit to a person if:

(i) the EPA determines that the permit is not in compliance with the requirements of the Clean Air Act or the regulations promulgated under the Clean Air Act; or

(ii) the applicant has constructed, installed, modified or operated any air contamination source or installed any air pollution control equipment or device on the source contrary to the plans and specifications approved by the department.

(e) Written notice to affected person.–

(1) If the department refuses to grant an approval or to issue or reissue a permit under this section or terminates, modifies, suspends or revokes a plan approval or permit already issued, the action shall be in the form of a written notice to the person affected. The notice shall inform the person of the action taken by the department and provide a full and complete statement of the reasons for the action.

(2) The notice shall be served upon the person affected, either personally or by certified mail, and the action stated in the notice shall be final and not subject to review unless, within 30 days of the service of the notice, any person affected by the action appeals to the hearing board, stating with particularity the grounds relied upon.

(3) The hearing board shall hear the appeal under the provisions of the regulations relating to practice and procedure before the hearing board and shall issue an adjudication affirming, modifying or overruling the action of the department.

(f) Establishment of general plan approval and permit program.–

(1) The department may by regulation establish a general plan approval and a general permit program. After the program is established, the department may grant general plan approval or a general permit for any category of stationary air contamination source if the department determines that the sources in the category are similar in nature and can be adequately regulated using standardized specifications and conditions.

(2) An applicant proposing to use a general plan approval or general permit shall notify the department and must receive written approval prior to the proposed use.

(3) The department shall take action on a notification within 30 days.

(g) Stationary sources at multiple temporary locations.–

(1) The department may by regulation establish a plan approval and permit program for stationary sources operated at multiple temporary locations. After the program is established, the department may grant a plan approval or issue a single permit to any stationary air contamination source that may be operated at multiple temporary locations.

(2) The approval or permit shall require the owner or operator to notify the department and municipality where the operation shall take place in advance of each change in location and may require a separate application and permit or approval fee for operations at each location.

(3) An applicant proposing to use the plan approval or permit authorized by this subsection shall notify the department and must receive written approval prior to the proposed use.

(4) The department shall take action on a request within 30 days.

(h) Comprehensive plan approval and operating permit programs.–The department shall establish comprehensive plan approval and operating permit programs which meet the requirements of this subchapter and the Clean Air Act.

(i) Changes without permit revision.–The board shall by regulation establish provisions to allow changes within a permitted

facility or one operating under subsection (b)(3) without requiring a permit revision, if:

(1) the changes are not modifications under any provision of 42 U.S.C. Ch. 85 Subch. I (relating to programs and activities);

(2) the changes do not exceed the emissions allowable under the permit whether expressed in the permit as a rate of emissions or in terms of total emissions; and

(3) the facility provides the administrator and the department with written notification at least seven days in advance of the proposed changes, unless the board provides in its regulations a different time frame for emergencies.

(j) Availability or documents to public.–The department shall make available to the public any permit application, compliance plan, permit and monitoring or compliance report required by this subchapter.

(k) Permit revisions.–

(1) The department shall require revision to any permit to incorporate applicable standards and regulations promulgated under the Clean Air Act after the issuance of the permit. Revisions shall occur as expeditiously as practicable, but not later than 18 months after the promulgation of the standards and regulations.

(2) No revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term or if less than three years remain on the permit.

(3) The permit revision shall be treated as a permit renewal if it complies with the requirements of this subchapter regarding renewals.

§ 2116.2. Emergency procedure.

(a) Generalized condition of air pollution.–Any other provision of law to the contrary notwithstanding, if the department finds, in accordance with the regulations of the board promulgated under the provisions of section 2115(a)(5)(relating to Environmental Quality Board), that:

(1) a generalized condition of air pollution exists; and

(2) it creates an emergency requiring immediate action to protect human health or safety,

the department, with the concurrence of the Governor, shall order or direct persons causing or contributing to the air pollution to immediately reduce or discontinue the emission of air contaminants.

(b) Absence of generalized condition of air pollution.–In the absence of a generalized condition of air pollution, if the department finds that emissions from the operation of one or more air contamination sources are creating an imminent danger to human health or safety, the department may, without regard to the provisions of section 2114 (relating to administration), order the persons responsible for the operation of the air contamination sources in question to immediately reduce or discontinue the emission of air contaminants.

(c) Hearing.–

(1) An order issued under subsection (a) or (b) shall fix a place and time, not later than 24 hours after issuance of the order, for a hearing to be held before the hearing board.

(2) Within 24 hours after the commencement of the hearing, and without adjournment, the hearing board shall affirm, modify or set aside the order of the department.

(d) Construction.–This section shall not be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of the declaration.

§ 2116.3. Fees.

(a) Authorization.–This section authorizes:

(1) The establishment of fees sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process, operating permit program required by Title V of the Clean Air Act, other requirements of the Clean Air Act and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and Office of Small Business Ombudsman.

(2) The board by regulation to establish fees to support the air pollution control program authorized by this subchapter and not covered by fees required by section 502(b) of the Clean Air Act.

(b) Annual interim air emission fee.–

(1) The board shall establish an annual interim air emission fee of $14 per ton on emissions of sulfur dioxide, nitrogen oxides, particulate matter of ten microns or less and volatile organic compounds to cover the reasonable direct and indirect costs of developing and administering the air pollution control operating permit program required by Title V of the Clean Air Act, other requirements of the Clean Air Act and the reasonable indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and the Office of Small Business Ombudsman to be collected during fiscal year 1992-1993 for actual emissions occurring in calendar year 1991, for fiscal year 1993-1994 covering actual emissions occurring in calendar year 1992 and for fiscal year 1994-1995 covering actual emissions occurring during calendar year 1993.

(2) The interim fee shall not apply to air emissions of less than 100 tons for any of the listed pollutants, provided that when emissions exceed 100 tons, the entire amount of all air emissions for any of the listed pollutants up to 5,500 tons shall be chargeable emissions for interim fee purposes.

(c) Permanent annual air emission fee.–

(1) The board shall establish by regulation a permanent annual air emission fee as required for regulated pollutants by section 502(b) of the Clean Air Act to cover the reasonable direct and indirect costs of administering the operating permit program required by Title V of the Clean Air Act, other related requirements of the Clean Air Act and the reasonable indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and the Office of Small Business Ombudsman to be collected starting in fiscal year 1995-1996 for air emissions occurring during calendar year 1994.

(2) In no case shall the amount of the permanent fee be more than that which is necessary to comply with section 502(b) of the Clean Air Act.

(3) The permanent fee shall not apply to emissions of more than 4,000 tons for any regulated pollutant. In the event a final regulation containing the permanent annual air emission fee is not effective by July 1, 1995, the permanent annual air emission fee for sources subject to the Title V operating permit program shall be the adjusted minimum dollar amount set under section 502(b) of the Clean Air Act until the final regulation is effective.

(d) Factors to consider in establishing permanent air emission fee.–Unless precluded by the Clean Air Act, the board shall establish a permanent air emission fee which considers:

(1) The size of the air contamination source.

(2) The resources necessary to process the application for plan approval or an operating permit.

(3) The complexity of the plan approval or operating permit.

(4) The quantity and type of emissions from the sources.

(5) The amount of fees charged in neighboring states.

(6) The importance of not placing existing or prospective sources in this Commonwealth at a competitive disadvantage.

(7) Other relevant factors.

(e) Interim fees for stationary air contamination sources.–Until alternative fees are established by the board under subsection (c),

stationary air contamination sources shall pay the following interim fees:

(1) Two hundred dollars for the processing of an application for an operating permit.

(2) Two hundred dollars for annual operating permit administration fee.

(f) Prohibition.–No emissions fee established under subsection (b), (c) or (j) shall be payable by any State entity, instrumentality or political subdivision in relation to any publicly owned or operated facility.

(g) Deposit of fees into restricted account.–

(1) Any fees imposed under this section in areas with approved local air pollution control programs shall be deposited in a restricted account established by the governing body authorizing the local program for use by that program to implement the provisions of this subchapter for which they are responsible.

(2) The governing body shall annually submit to the department an audit of the account in order to ensure that the funds were properly spent.

(h) Duty to report emissions and pay fee.–

(1) Unless the board establishes a different payment schedule by regulation, a facility subject to the emission fees established in subsections (b) and (c) shall report its emissions and pay the fee within 120 days after receipt of a reporting form from the department or by September 1 of each year for the emission from the preceding year, whichever occurs first.

(2) An air contamination source that fails to pay the fees within the time frame established by this subchapter or by regulation:

(i) Shall pay a penalty of 50% of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) from the date the fee was required to be paid.

(ii) May have its permit terminated or suspended.

The fee, penalty and interest may be collected following the process for assessment and collection of a civil penalty contained in section 2119.1 (relating to civil penalties).

(i) Annual increase to permanent air emission fee.–

(1) The permanent air emission fee imposed under subsection (c) shall be increased in each year after implementation of the fee by regulation by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the calendar year 1989.

(2) For purposes of this subsection, the Consumer Price Index for any calendar year is the average of the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(3) The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(j) Categories of fees.–The board may by regulation establish the following categories of fees not related to Title V of the Clean Air Act. Until the regulations are promulgated, stationary air contamination sources shall pay the following fees:

(1) Two hundred dollars for the processing of any application for plan approval.

(2) Two hundred dollars for the processing of any application for an operating permit.

(3) Two hundred dollars for annual operating permit administration fee.

In regard to fees established under this subsection, individual sources required to be regulated by Title V of the Clean Air Act shall only be subject to plan approval fees authorized in this subsection.

(k) Limitations on collection and use of fees.–No administrative action shall prevent the deposit of the fees established under this section in the Clean Air Fund established in section 2119.2 (relating to disposition of fees, fines and civil penalties) during the fiscal year in which they are collected. The fees shall only be used for the purposes authorized in this section and section 2119.2 and shall not be transferred or diverted to any other purpose by administrative action.

(l) Deposits into Clean Air Fund.–Any fees, penalties and interest owed the Commonwealth for delinquent payment collected under this section shall be deposited in the Clean Air Fund.

(m) Definition.–As used in this section, the term "regulated pollutant" shall mean a volatile organic compound, each pollutant regulated under sections 111 and 112 of the Clean Air Act and each pollutant for which a national primary ambient air quality standard has been promulgated. The term does not include carbon monoxide.

§ 2116.4. Fee for certain ozone areas.

(a) Authorization.–

(1) If an area identified in a State implementation plan or any revision as a severe or extreme ozone nonattainment area has failed to meet the national primary ambient air quality standard for ozone by the applicable attainment date, each major source of volatile organic compounds (VOCs), as defined in the Clean Air Act and the regulations promulgated under the Clean Air Act, located in the area shall, except with respect to emissions during any year treated as an extension year under section 181(a)(5) of the Clean Air Act, pay a fee to the department as a penalty for the failure for each calendar year beginning after the attainment date until the area is redesignated as an attainment area for ozone.

(2) The fee shall be assessed and collected following the process for collection and assessment of a civil penalty contained in section 2119.1 (relating to civil penalties).

(b) Amount of fee.–

(1) The fee shall equal $5,000 and shall be adjusted in accordance with paragraph (3), per ton of VOC emitted by the source during the calendar year in excess of 80% of the baseline amount, computed under paragraph (2). The fee shall be in addition to all other fees required to be paid by the source.

(2) (i) For purposes of this section, the baseline amount shall be computed, in accordance with guidance as the administrator may provide, as the lower of the amount of actual VOC emissions, referred to as actuals, or VOC emissions allowed under the permit applicable to the source or, if no permit has been issued for the attainment year, the amount of VOC emissions allowed under the applicable implementation plan, referred to as allowables, during the attainment year.

(ii) Notwithstanding subparagraph (i), the administrator may issue guidance authorizing the baseline amount to be determined in accordance with the lower of average actuals or average allowables determined over a period of more than one (1) calendar year. This guidance may provide that the average calculation for a specific source may be used if that source's emissions are irregular, cyclical or otherwise vary significantly from year to year.

(3) The fee amount under paragraph (1) shall be adjusted annually, beginning 1991 in accordance with section 2116.3(h) and (i) (relating to fees).

(c) Nonapplicability of sanctions.–

(1) For areas with a total population under 200,000 that fail to attain the standard by the applicable attainment date, no sanction under this section or under any other provision of this subchapter shall apply if the area can demonstrate, consistent with guidance issued by the EPA, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas.

(2) The prohibition in paragraph (1) applies only in a case in which the area has met all requirements and implemented

all measures applicable to the area under the Clean Air Act.

§ 2116.5. Acid deposition control.

(a) Duty to develop permit program.–The department shall develop a permit program for acid deposition control in accordance with Titles IV and V of the Clean Air Act and submit it to the administrator for approval.

(b) Definitions incorporated by reference.–For purposes of the permit program authorized under subsection (a), the definitions in sections 402 and 501 of the Clean Air Act are incorporated in this subchapter by reference.

(c) Duty to submit permit application and compliance plan.–

(1) The owner or operator or the designated representative of each source affected under section 405 of the Clean Air Act shall submit a permit application and compliance plan for the affected source to the department no later than January 1, 1996.

(2) In the case of affected sources for which application and plans are timely received, the permit application and the compliance plan, including amendments to them, shall be binding on the owner or operator or the designated representative of the owners or operators and shall be enforceable as a permit for purposes of this section until a permit is issued by the department.

(3) Any permit issued by the department shall require the source to achieve compliance as soon as possible but not later than the date required by this subchapter, the Clean Air Act or the regulations promulgated under either this subchapter or the Clean Air Act for the source.

(d) Revised application and compliance plan.–At any time after the submission of a permit application and compliance plan, the applicant may submit a revised application and compliance plan. In considering any permit application and compliance plan under this section, the department shall coordinate with the Pennsylvania Public Utility Commission consistent with requirements that may be established by the administrator.

(e) Prohibitions.–In addition to other provisions, permits issued by the department shall prohibit all of the following:

(1) Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide that the owner or operator or designated representative hold for the unit.

(2) Exceedances of applicable emissions rates or standards, including ambient air quality standards.

(3) The use of any allowance prior to the year for which it is allocated.

(4) Contravention of any other provision of the permit.

§ 2116.6. Hazardous air pollutants.

(a) Performance and emission standards.–The regulations establishing performance or emission standards promulgated under section 112 of the Clean Air Act are incorporated by reference into the department's permitting program. After the effective date of the performance or emission standard, new, reconstructed, modified and existing sources shall comply with the performance or emission standards under the compliance schedule established under section 112 of the Clean Air Act and the regulations promulgated under the Clean Air Act. The Environmental Quality Board may not establish a more stringent performance or emission standard for hazardous air pollutant emissions from existing sources, except as provided in subsection (d). This section shall not apply to regulations promulgated as final prior to January 8, 1960, and shall not be construed to weaken standards for individual sources or facilities in effect prior to January 8, 1960. The board may establish performance or emission standards for sources or categories of sources that are not included on the list of source categories established under section 112(c) of the Clean Air Act.

(b) Establishment of standards by department.–In the event the administrator has not promulgated a standard to control the emissions of hazardous air pollutants for a category or subcategory of major sources under section 112 of the Clean Air Act, under a schedule established under section 112(c) of the Clean Air Act, the department shall have the authority to establish a performance or emission standard on a case-by-case basis for individual sources or a category of sources. The department shall have the authority to make the determinations required by section 112(g)(2) of the Clean Air Act regarding the construction, reconstruction and modification of sources. Any person challenging the performance or emission standards established by the department shall have the burden to demonstrate that the performance or emission standard does not meet the requirements of section 112 of the Clean Air Act. The department shall incorporate the standard to control the emissions of hazardous air pollutants into the plan approval or operating permit of any source within the category or subcategory. The performance or emission standard established on a case-by-case basis by the department shall be equivalent to the limitation that would apply to the source if a performance or emission standard had been promulgated by the administrator under section 112 of the Clean Air Act.

(c) Technology requirement.–The department is authorized to require that new sources demonstrate in the plan approval application that the source will reduce or control emissions of air pollutants, including hazardous air pollutants, by using the best available technology.

(d) Health-risk-based standards and operating practice requirements.–

(1) When needed to protect public health, welfare and the environment from emissions of hazardous air pollutants from new and existing sources, the department may impose health risk-based emission standards or operating practice requirements. In developing the health-risk-based emission standards or operating practice requirements, the department shall provide an explanation and rationale for the standards or requirements and provide for public review and comments on plan approvals, operating permits, guidelines and regulations that contain health-risk-based emission standards or operating practice requirements. Standards or requirements promulgated under this subsection shall be developed using an analysis that, among other factors, considers, as appropriate for a source or source category, the criteria set forth in section 112(f)(1) of the Clean Air Act in assessing the proposed risk to the public health, welfare and the environment from the source.

(2) In the case of coke oven batteries, the department may not impose health-risk-based emission standards more stringent than Federal requirements until eight years after promulgation of maximum achievable control technology (MACT) standards and not until the January 1, 2020 for coke oven batteries that satisfy the requirements of section 112(i)(8)(A) of the Clean Air Act.

(3) Notwithstanding the limitation in paragraph (2), if the operation of a coke oven battery would result in serious, substantial and demonstrable harm to public health, welfare and the environment, the department may impose health-risk-based emission standards by regulation that utilize proven, commercially available and economically available methods of technology.

(i) The department shall not impose health-risk-based emission standards until after January 1, 1998, for those coke oven batteries that satisfy the applicable MACT or lowest achievable emission rate (LAER) standards.

(ii) After January 1, 1998, the department shall only impose health-risk-based emission standards adopted under section 112(f) of the Clean Air Act, and, if no emission standards are adopted under section 112(f) of the Clean Air Act, the department may promulgate emission standards, provided that the standards are consistent with the criteria and the factors set forth in paragraph (1) and section 112(f) of the Clean Air Act and until health-risk-based standards are enacted by the Federal Government under section 112(f) of the Clean

Air Act.

(e) Reporting.–The department shall have the authority to require, in the plan approval and operating permit, reasonable monitoring, recordkeeping and reporting requirements for sources that emit hazardous air pollutants.

(f) Emergency action.–Nothing in this section may preclude the department from taking an emergency action if there is an immediate or potential threat to public health, welfare and the environment from an air pollutant, including a hazardous air pollutant.

(g) Early emissions reduction program.–The early emissions reduction program authorized under section 112(i)(5) of the Clean Air Act is incorporated by reference in the department's permitting program.

(h) Definition.–For purposes of this section, the term "performance standard" includes design, equipment, work practice or operational standards or any combination of them.

§ 2116.7. Control of volatile organic compounds from gasoline-dispensing facilities.–

(a) (Reserved).

(b) (Reserved).

(c) (Reserved).

(d) (Reserved).

(e) (Reserved).

(f) (Reserved).

(g) (Reserved).

(h) (Reserved).

§ 2117. Public hearings.

(a) In general.–Public hearings shall be held by the board or by the department, acting on behalf and at the direction or request of the board, in any region of this Commonwealth affected before any regulations with regard to the control, abatement, prevention or reduction of air pollution are promulgated for that region or subregion. When it becomes necessary to promulgate regulations for the control, abatement, prevention or reduction of air pollution for more than one region of this Commonwealth, the board may hold one hearing for any two contiguous regions to be affected by the regulations. The hearing may be held in either of the two contiguous regions. If it becomes necessary to promulgate regulations for the control, abatement, prevention or reduction of air pollution for any area of this Commonwealth that encompasses more than one region or parts of more than one region, public hearings shall be held in the area concerned. Full stenographic transcripts shall be taken of all public hearings and shall be made available by the department to any party concerned with the subject matter of the hearing upon the payment of prevailing rates for the transcripts.

(b) Additional input.–In addition to the matters discussed at the public hearings, the board may, in its discretion, solicit the views, in writing, of persons who may be affected by, or interested in, proposed regulations.

(c) Notice.–Notice to the public of the time and place of any public hearing shall be given at least 30 days prior to the scheduled date of the hearing by public advertisement in a newspaper or newspapers of general circulation in the region of this Commonwealth affected.

(d) Power to issue notices.–The persons designated to conduct the hearing shall have the power to issue notices of hearings in the name of the board.

(e) Opportunity to be heard.–Full opportunity to be heard with respect to the subject of the hearing shall be given to all persons in attendance, in addition to which persons, whether or not in attendance, may, within 30 days, submit their views to the department, which the department shall transmit to the board with its report.

§ 2117.1. Compliance review.

(a) Action upon violations.–The department shall not issue, reissue or modify any plan approval or permit under this subchapter or amend any plan approval or permit issued under this subchapter and may suspend, terminate or revoke any permit or plan approval previously issued under this subchapter if it finds that the applicant or permittee or a general partner, parent or subsidiary corporation of the applicant or permittee is in violation of this subchapter, or the regulations promulgated under this subchapter, any plan approval, permit or order of the department, as indicated by the department's compliance docket, unless the violation is being corrected to the satisfaction of the department.

(b) Intention or ability to comply.–The department may refuse to issue any plan approval or permit under this subchapter if it finds that the applicant or permittee or a partner, parent or subsidiary corporation of the applicant or permittee has shown a lack of intention or ability to comply with this subchapter or the regulations promulgated under this subchapter or any plan approval, permit or order of the department, as indicated by past or present violations, unless the lack of intention or ability to comply is being or has been corrected to the satisfaction of the department.

(c) Violations.–In performing the compliance review required under this section, the department shall only consider violations arising under this subchapter that occurred or are occurring in this Commonwealth.

(d) Appeal.–A permittee or applicant may appeal any violation arising under this subchapter that the department places on the compliance docket.

§ 2117.2. Permit compliance schedules.

In addition to the other enforcement provisions of this subchapter, the department may issue a permit under section 2116.1(b)(3) or (4) (relating to plan approvals and permits) to a source that is out of compliance with this subchapter, the Clean Air Act or the regulations promulgated under either this subchapter or the Clean Air Act. The permit must contain an enforceable schedule requiring the source to attain compliance. The compliance schedule may contain interim milestone dates for completing any phase of the required work, as well as a final compliance date, and may contain stipulated penalties for failure to meet the compliance schedule. If the permittee fails to achieve compliance by the final compliance date, the permit shall terminate. The permit shall be part of an overall resolution of the outstanding noncompliance and may include the payment of an appropriate civil penalty for past violations and shall contain other terms and conditions as the department deems appropriate. A permit may incorporate by reference a compliance schedule contained within a consent order and agreement, including all provisions related to implementation or enforcement of the compliance schedule or consent order and agreement.

§ 2117.3. Responsibilities of owners and operators.

(a) Corrective action.–Whenever the department finds that air pollution or danger of air pollution is or may be resulting from an air contamination source in this Commonwealth, the department may order the owner or operator to take corrective action in a manner satisfactory to the department, or it may order the owner or operator to allow access to the land by the department or a third party to take the action.

(b) Collection of costs.–For purposes of collecting or recovering the costs involved in taking corrective action or pursuing a cost recovery action under an order or recovering the cost of litigation, oversight, monitoring, sampling, testing and investigation related to a corrective action, the department may collect the amount in the same manner as civil penalties are assessed and collected following the process for assessment and collection of a civil penalty contained in section 2119.1 (relating to civil penalties).

§ 2117.4. Interstate transport commission.

(a) Public review.–The Commonwealth, through its representatives on an interstate transport commission formed under the Clean Air Act, shall provide public review of recommendations for additional control measures prior to final commission action consistent with the commission's public review requirements under section 184(c)(1) of the Clean Air Act. The opportunity for public review shall run concurrently with the commission's public comment period established under section 184(c)(1) of the Clean Air Act.

(b) Control strategies.–Control strategies approved by an

interstate transport commission and by the Commonwealth's representatives and set forth in resolutions or memoranda of understanding shall be considered commitments by the executive to pursue subsequent legislative, regulatory or other administrative actions to implement the control strategies.

(c) Recommendation.–The Commonwealth strongly recommends that an interstate transport commission adopt formal procedures that allow for an open public review and comment period prior to the adoption of resolutions or consideration of memoranda of understanding or other actions that recommend that states adopt control strategies. The Commonwealth's representatives shall take actions consistent with this recommendation.

(d) Pollutants from Ohio.–The General Assembly finds that the interstate transport of pollutants from the State of Ohio contributes significantly to the violation of national ambient air quality standards by the Commonwealth. Therefore, as set forth in section 176A of the Clean Air Act, the Governor, on behalf of the Commonwealth, may petition the Federal EPA Administrator to include the State of Ohio in any interstate transport commission to which this Commonwealth is a member state.

§ 2117.5. Public review of State implementation plans.

(a) Public comment period.–A State implementation plan required by the Clean Air Act that commits the Commonwealth to adopt air pollution control measures or procedures shall be the subject of a public comment period. The public comment period shall be not less than 60 days, and the department may, at its discretion, hold public informational meetings or public hearings as part of the comment period.

(b) Notice.–Notice of a proposed State implementation plan shall be published in the Pennsylvania Bulletin and in sufficient newspapers having general circulation in the area covered by the State implementation plan. If the State implementation plan covers the entire State, notice shall be published in at least six newspapers of general circulation throughout this Commonwealth.

(c) Contents.–A State implementation plan subject to this section shall include the following provisions:

(1) Statements clearly indicating the specific provisions of the Clean Air Act with which the State implementation plan is intended to comply.

(2) An analysis of the alternative control strategies considered if applicable in arriving at the recommended control strategies and the reasons the department or other agency selected the final strategy.

(3) An analysis of the economic impact of the alternative control strategies and the selected strategies on the regulated community and local governments.

(4) An analysis of the staff and technical resources needed by the department or other agency to implement the control strategy.

(d) Submission of final plan.–After the public comment period and prior to the submission to EPA of any State implementation plan required by the Clean Air Act that commits the Commonwealth to adopt air pollution control measures or procedures, the department shall submit a final State implementation plan to the board for its review together with a document that responds to all comments made during the public comment period.

(e) Implementation plans from other departments.–This section shall also apply in the case of State implementation plans required under the Clean Air Act that are developed by State agencies other than the department that commit the Commonwealth to the adoption of air pollution control measures or procedures.

(f) Applicability.–Subsections (c) and (d) shall not apply to State implementation plans or portions of them comprised of permit, emission offset or reasonably available control technology requirements for individual sources, consent orders and agreements or regulations.

(g) Plan from local air pollution control agency.–The requirements of this section shall not apply to state implementation plans submitted by a local air pollution control agency.

§ 2117.6. Advice to department.

(a) Citizens Advisory Council.–The department shall consult with the Citizens Advisory Council established under section 448 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as appropriate, in the consideration of State implementation plans and regulations developed by the department and needed for the implementation of the Clean Air Act. Nothing in this section may limit the council's ability to consider, study and review department policies and other activities related to the Clean Air Act implementation as provided under section 1922-A of The Administrative Code of 1929. This section shall not apply to State implementation plans or portions of them comprised of permit, emission offset or reasonably available control technology requirements for individual sources, consent orders and agreements or regulations. The requirements of this section shall not apply to State implementation plans submitted by a local air pollution control agency.

(b) Air technical advisory committee.–

(1) The Secretary of Environmental Resources, within 30 days after January 8, 1960, shall designate an air technical advisory committee. The committee shall include at least 11 members with technical backgrounds in the control of air pollution from stationary or mobile sources.

(2) The committee, at the request of the department, may be utilized to provide technical advice on department policies, guidance and regulations needed to implement the Clean Air Act. The committee may also request to review a department policy, guidance or regulation needed to implement the Clean Air Act.

§ 2117.7. Small Business Compliance Assistance Program.

(a) Program.–The department shall develop and implement a Small Business Stationary Source Technical and Environmental Compliance Assistance Program that shall include the following:

(1) Adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources and programs to encourage lawful cooperation among the sources and other persons to further comply with this subchapter and the Clean Air Act.

(2) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes and products and methods of operation that help reduce air pollution.

(3) A compliance assistance program for small business stationary sources that assists small business stationary sources in determining applicable requirements and in receiving permits under this subchapter in a timely and efficient manner.

(4) Adequate mechanisms to assure that small business stationary sources receive notice of their rights under this subchapter and the Clean Air Act in a manner and form as to assure reasonably adequate time for the sources to evaluate compliance methods and relevant or applicable proposed or final rulemaking plan, State implementation plan revision or program issued under this subchapter and the Clean Air Act.

(5) Adequate mechanisms for informing small business stationary sources of their obligations under this subchapter and the Clean Air Act, including mechanisms for referring these sources to qualified auditors or, at the department's option, for providing audits of the operations of the sources to determine compliance with this subchapter.

(6) Procedures for consideration of requests from a small business stationary source for modification of:

(i) any work practice or technological method of compliance; or

(ii) the schedule of milestones for implementing the work practice or method of compliance preceding any applicable compliance date based on the

technological and financial capability of any small business stationary source. No modification may be granted unless it is in compliance with the applicable requirements of this subchapter and the Clean Air Act, including the requirements of the applicable implementation plan. If applicable requirements are set forth in Federal regulations, only modifications authorized in the regulations may be allowed.

(7) Procedures for soliciting input from and exchanging information with the Office of Small Business Ombudsman regarding compliance requirements for small business stationary sources.

(8) Adequate mechanisms for the collection and dissemination of information to small business stationary sources, including, but not limited to:

(i) Developing of small business stationary sources guidance manuals indicating the categories of small businesses subject to the requirements of this subchapter and the Clean Air Act, specific compliance requirements and options, a schedule of compliance deadlines and other pertinent information.

(ii) Establishment of a toll-free telephone number dedicated to questions involving small business stationary source compliance.

(9) Procedures for assuring the confidentiality of information received from small business stationary sources.

(10) Procedures for conducting confidential, on-site consultations with small business stationary sources regarding applicability of compliance requirements.

(b) Administration.–The department shall evaluate the feasibility of contracting with consultants to administer all or part of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program. A third-party consultant will act as a source of confidential support for small business if one is selected by the department.

(c) Consultation.–The department shall consult with the Compliance Advisory Committee established in section 2117.8 (relating to compliance advisory committee) and the Office of Small Business Ombudsman established in section 2117.9 (relating to Small Business Ombudsman) in developing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(d) Public comment.–The department shall provide a reasonable opportunity for public comment on the proposed Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(e) Authorization.–The department is authorized to expend funds from the Clean Air Fund collected under subsection (a), (b) or (c) of section 2116.3 (relating to fees) to support the development and implementation of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Office of Small Business Ombudsman and the Compliance Advisory Committee.

(f) Certain stationary sources.–Upon petition by a source, the department may, after notice and opportunity for public comment, include as a small business stationary source for purposes of this subchapter any stationary source that is not a small business stationary source but that does not emit more than 100 tons per year of all regulated pollutants.

(g) Exclusion from definition.–The department, in consultation with the administrator and the Administrator of the Small Business Administration and after providing notice and opportunity for public hearing, may exclude from the definition of "small business stationary source" in section 2103 (relating to definitions) any category or subcategory of sources that the department determines to have sufficient technical and financial capabilities to meet the requirements of this subchapter and the Clean Air Act without the application of this section.

(h) Reduction of fee.–The department may reduce any fee required under this subchapter and the Clean Air Act to take into account the financial resources of small business stationary sources as authorized by the Clean Air Act.

§ 2117.8. Compliance Advisory Committee.

(a) Establishment.–There is established a Compliance Advisory Committee that shall perform all of the following:

(1) Provide guidance and recommendations to the department on the development of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(2) Render advisory opinions concerning the effectiveness of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, difficulties encountered and degree and severity of enforcement.

(3) Make periodic reports to the administrator concerning the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(4) Review information for small business stationary sources to assure the information is understandable by the layperson.

(5) Have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of the reports and advisory opinions.

(6) Review and advise the department on rulemaking, State implementation plans and programs under this subchapter and the Clean Air Act that affect small business stationary sources.

(7) Make recommendations for the development of programs to assist compliance for small business stationary sources, including technical and financial assistance programs.

(b) Composition.–The committee shall consist of eleven members as follows:

(1) Four members appointed by the Governor, three of whom shall not be owners or representatives of owners of small business stationary sources.

(2) Four members, each of whom shall be an owner or the representative of an owner of a small business stationary source. Of the four members, one shall be appointed by each of the following:

(i) The Majority Leader of the Senate.

(ii) The Minority Leader of the Senate.

(iii) The Majority Leader of the House of Representatives.

(iv) The Minority Leader of the House of Representatives.

(3) The Secretary of Community and Economic Development or his designee.

(4) The Secretary of Environmental Protection or his designee.

(5) The Small Business Ombudsman or his designee.

(c) Terms and vacancies.–The terms of appointed members shall be for four years. Vacancies shall be filled by the original appointing member for the remainder of the unexpired term. Initial terms of appointed members shall be as follows:

(1) Of the members appointed by the Governor under subsection (b)(1):

(i) Two members shall be appointed for two years.

(ii) Two members shall be appointed for four years.

(2) Of the members appointed under subsection (b)(2):

(i) The Majority Leader of the Senate shall appoint one member for four years.

(ii) The Minority Leader of the Senate shall appoint one member for two years.

(iii) The Majority Leader of the House of Representatives shall appoint one member for three years.

(iv) The Minority Leader of the House of Representatives shall appoint one member for one year.

§ 2117.9. Small Business Ombudsman.

(a) Establishment.–There is established an Office of Small Business Ombudsman within the Department of Environmental Protection for the purpose of serving as the confidential primary point of contact for small business on issues relating to compliance with this subchapter and the Clean Air Act.

(b) Duties.–The Office of Small Business Ombudsman shall perform all functions necessary to implement the requirements of section 507(a)(3) of the Clean Air Act. The Office of Small Business Ombudsman shall perform all of the following functions to the extent they are consistent with the guidelines developed by the EPA:

(1) Solicit input from small businesses regarding compliance with this subchapter and the Clean Air Act and interact with organizations representing small businesses, including Small Business Development Centers, the Small Business Administration, industry and trade associations and other entities.

(2) Provide guidance and recommendations to the department on the development of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(3) Make recommendations to the department regarding the content and operation of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(4) Collect and distribute information and materials on the requirements of this subchapter and the Clean Air Act.

(5) Report to the Small Business Stationary Source Technical and Environmental Compliance Assistance Program on problems and difficulties experienced by small businesses in complying with this subchapter and the Clean Air Act.

(6) Serve on the Compliance Advisory Committee established by section 2117.8 (relating to Compliance Advisory Committee).

(7) Conduct independent evaluations of all aspects of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(8) Review and provide comments and recommendations to the EPA and department regarding the development and implementation of regulations that impact small businesses.

(9) Arrange for and assist in the preparation of guidance documents by the Small Business Stationary Source Technical and Environmental Compliance Assistance Program to ensure that the language is readily understandable by the layperson.

(10) Assist small businesses in locating sources of funding for compliance with the requirements of this subchapter and the Clean Air Act.

(c) Annual report.–The Office of Small Business Ombudsman shall report annually to the Governor and General Assembly on the effectiveness of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program and other issues relating to the impact of the Clean Air Act implementation on small businesses in this Commonwealth.

(d) Certain proposed rulemakings.–For each proposed rulemaking significantly affecting small businesses, the Office of Small Business Ombudsman shall prepare a report that contains a detailed analysis of the economic impact of the proposed rulemaking on small businesses. The economic impact report shall be completed not later than 90 days from the date that the board approves the proposed rulemaking and shall be submitted to the board for consideration prior to approval of the final rulemaking package, provided the report is available within the time period prescribed by this section. The department shall provide the ombudsman with a reasonable opportunity to revise the report to reflect any proposed substantial change in the rulemaking that affects the initial report.

(e) Report contents.–The report shall include, but not be limited to:

(1) An analysis of the economic impact of the selected control strategies on small business.

(2) Data on comparable regulatory programs or plans administered by other states.

(3) An assessment of the economic impact of alternative control strategies.

(4) All other information that the Office of Small Business Ombudsman considers necessary for the board's review.

(f) Transfer.–All equipment, files, records, contracts, agreements and all other materials and supplies that are used, employed or expended by the Office of Small Business Ombudsman shall be transferred to the Department of Environmental Protection.

§ 2117.10. Transportation management associations.

(a) Authority of department.–The department, in consultation with the Department of Transportation, may, after public notice and comment, designate one or more transportation management associations to serve specific regions of this Commonwealth to provide services to employers required by the Clean Air Act to reduce employee vehicle trips and encourage the use of carpooling, vanpooling and public transportation to reduce air pollution.

(b) Definition.–As used in this section, the term "transportation management associations" shall consist of nonprofit corporations designated by the department to broker transportation services, including, but not limited to, public transportation, vanpools, carpools, bicycling and pedestrian modes, as well as strategies such as flextime, staggered work hours and compressed work weeks for corporations, employees, developers, individuals and other groups.

§ 2117.11. Notice of sanctions.

(a) Notification of finding.–Whenever the Commonwealth is notified that the EPA has made a final or proposed finding on a State implementation plan submitted by the Commonwealth or a local air pollution control agency, the department shall notify, within ten working days of receipt of the notice, the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives of the agency's findings.

(b) Notification of sanctions.–Whenever the Commonwealth is formally notified that it is subject to discretionary or mandatory sanctions under section 179 of the Clean Air Act, the department shall, within ten working days of the receipt of the notice, notify the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

§ 2117.12. Missed Federal deadlines.

Whenever the EPA has missed a deadline for developing regulations or guidance on which states must rely to comply with deadlines in the Clean Air Act by more than 90 days and, in the opinion of the department, the EPA has failed to provide it with timely guidance needed to comply with the act in a timely manner, the department may bring a legal action against the EPA in a court of competent jurisdiction seeking an injunction to restrain the EPA from enforcing the applicable Clean Air Act deadline on the Commonwealth until and unless the EPA develops the appropriate regulation or guidance that allows the Commonwealth a reasonable opportunity to comply with the Clean Air Act.

§ 2118. Unlawful conduct.

It shall be unlawful to:

(1) fail to comply with or to cause or assist in the violation of any of the provisions of this subchapter or the regulations adopted under this subchapter or to fail to comply with any order, plan approval, permit or other requirement of the department;

(2) cause a public nuisance;

(3) cause air pollution, soil or water pollution resulting from an air pollution incident;

(4) hinder, obstruct, prevent or interfere with the

department or its personnel in its performance of any duty under this subchapter, including denying the department access to the source or facility; or

(5) violate the provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) in regard to papers required to be submitted under this subchapter.

The owner or operator of an air contamination source shall not allow pollution of the air, water or other natural resources of this Commonwealth resulting from the source. For any air pollutant for which the board has set an emissions standard or for any source for which a permit has been issued by the department, a release of the pollutant in accordance with that standard or permit shall not constitute a violation of this subchapter.

§ 2119. Penalties.

(a) Violations and enforcement.–Any person who violates any provision of this subchapter, any regulation promulgated under this subchapter, any order of the department or any condition or term of any plan approval or permit issued under this subchapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than $100 nor more than $2,500 for each separate offense and, in default of the payment of the fine, may be sentenced to imprisonment for 90 days for each separate offense. Employees of the department authorized to conduct inspections or investigations are declared to be law enforcement officers authorized to issue or file citations for summary violations under this subchapter, and the General Counsel is authorized to prosecute these offenses. For the purpose of this subsection, a summary offense may be prosecuted before any district justice in the county where the offense occurred. There is no Accelerated Rehabilitative Disposition authorized for a summary offense.

(b) Specific violations.–

(1) Any person who willfully or negligently violates any provision of this subchapter, any regulation promulgated under this subchapter or any order of the department or any condition or term of any plan approval or permit issued under this subchapter commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than $1,000 nor more than $50,000 for each separate offense or to imprisonment for a period of not more than two years for each separate offense, or both.

(2) Any person who knowingly makes any false statement or representation in any application, record, report, certification or other document required to be either filed or maintained by this subchapter or the regulations promulgated under this subchapter commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than $2,500 nor more than $50,000 for each separate offense or to imprisonment for a period of not more than two years for each separate offense, or both.

(3) Any person who negligently releases into the ambient air any hazardous air pollutant listed under section 112 of the Clean Air Act or any extremely hazardous substance listed under section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499, 100 Stat. 1613) that is not listed in section 112 of the Clean Air Act and who at the time negligently places another person in imminent danger of death or serious bodily injury commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than $5,000 nor more than $50,000 for each separate offense or to imprisonment for a period of not more than one year for each separate offense, or both.

(c) Knowing release of hazardous air pollutants.–

(1) Any person who knowingly releases into the ambient air any hazardous air pollutant listed under section 112 of the Clean Air Act or any extremely hazardous substance listed under section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 that is not listed in section 112 of the Clean Air Act and who knows at the time that he, by that release, places another person in imminent danger of death or serious bodily injury commits a felony of the first degree and shall, upon conviction, be sentenced to pay a fine of not less than $25,000 nor more than $100,000 per day for each violation or to imprisonment for a period of not less than two years nor more than 20 years, or both. Any person that is an organization committing the violation shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of the person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any air pollutant for which the board has set an emissions standard or for any source for which a permit has been issued by the department, a release of the pollutant in accordance with that standard or permit shall not constitute a violation of this section.

(2) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury:

(i) the defendant is responsible only for actual awareness or actual belief possessed; and

(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant, except that, in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

(3) It is an affirmative defense to a prosecution under this subsection that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of either of the following:

(i) An occupation, a business or a profession and the person had been made aware of the risks involved prior to giving consent.

(ii) Medical treatment or medical or scientific experimentation conducted by professionally approved methods and the other person had been made aware of the risks involved prior to giving consent. The defendant may establish an affirmative defense under this subparagraph by a preponderance of the evidence.

(4) All general defenses, affirmative defenses and bars to prosecution that may apply with respect to other State criminal offenses may apply under this paragraph and shall be determined by the courts according to the principles of common law. Concepts of justification and excuse applicable under this section may be developed according to those principles.

(5) For purposes of this subsection, the term "organization" means a legal entity, other than a government, established or organized for any purpose, and the term includes a corporation, a company, an association, a firm, a partnership, a joint stock company, a foundation, an institution, a trust, a society, a union or any other association of persons.

(d) Negligence.–For purposes of this section, a person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and intent of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation.

(e) Definitions.–The following words and phrases when used as indicated shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Operator." For purposes of subsections (b) and (c), the term includes any person who is senior management personnel or a

corporate officer. Except in the case of knowing and willful violations, the term shall not include:

(1) Any person who is a stationary engineer or technician responsible for the operation, maintenance, repair or monitoring of equipment and facilities and who often has supervisory and training duties, but who is not senior management personnel or a corporate officer.

(2) For purposes of subsection (b)(3), an employee who is carrying out his normal activities and who is not a part of senior management personnel or a corporate officer.

(3) For the purposes of subsections (b)(1) and (2) and (c), an employee who is carrying out his normal activities and who is acting under orders from the employer.

"Person." The term includes, in addition to the entities referred to in section 2103 (relating to definitions), any responsible corporate officer.

"Serious bodily injury." For purposes of subsections (b) and (c), bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

§ 2119.1. Civil penalties.

(a) General rule.–In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this subchapter or any regulation promulgated under this subchapter or any order, plan approval or permit issued under this subchapter, the department may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed $10,000 per day for each violation that occurs in the first three years following enactment of this section, $15,000 per day for each violation that occurs in the fourth year following enactment of this section and $25,000 per day for each violation that occurs in the fifth year and all subsequent years following enactment of this section. In determining the amount of the penalty, the department shall consider the willfulness of the violation; damage to air, soil, water or other natural resources of this Commonwealth or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to the department; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved; whether the violation was voluntarily reported; other factors unique to the owners or operator of the source or facility; and other relevant factors.

(b) Procedure.–If the department proposes to assess a civil penalty, it shall inform the person of the proposed amount of the penalty. The person charged with the penalty shall then have 30 days to pay the proposed penalty in full, or, if the person wishes to contest the amount of the penalty or the fact of the violation to the extent not already established, the person shall forward the proposed amount of the penalty to the hearing board within the 30-day period for placement in an escrow account with the State Treasurer or any Commonwealth bank or post an appeal bond to the hearing board within 30 days in the amount of the proposed penalty, provided that the bond is executed by a surety licensed to do business in this Commonwealth and is satisfactory to the department. If, through administrative or final judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the hearing board shall, within 30 days, remit the appropriate amount to the person with any interest accumulated by the escrow deposit. Failure to forward the money or the appeal bond at the time of the appeal shall result in a waiver of all legal rights to contest the violation or the amount of the civil penalty unless the appellant alleges financial inability to prepay the penalty or to post the appeal bond. The hearing board shall conduct a hearing to consider the appellant's alleged inability to pay within 30 days of the date of the appeal. The hearing board may waive the requirement to prepay the civil penalty or to post an appeal bond if the appellant demonstrates and the hearing board finds that the appellant is financially unable to pay. The hearing board shall issue an order within 30 days of the date of the hearing to consider the appellant's alleged inability to pay. The amount assessed after administrative hearing or after waiver of administrative hearing shall be payable to the Commonwealth and shall be collectible in any manner provided by law for the collection of debts, including the collection of interest at the rate established in section 2116.3(c) (relating to fees), which shall run from the date of assessment of the penalty. If any person liable to pay the penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall constitute a debt of the person, as may be appropriate, to the Clean Air Fund. The debt shall constitute a lien on all property owned by the person when a notice of lien incorporating a description of the property of the person subject to the action is duly filed with the prothonotary of the court of common pleas where the property is located. The prothonotary shall promptly enter upon the civil judgment or order docket, at no cost to the department, the name and address of the person, as may be appropriate, and the amount of the lien as set forth in the notice of lien. Upon entry by the prothonotary, the lien shall attach to the revenues and all real and personal property of the person, whether or not the person is solvent. The notice of lien, filed under this subsection, which affects the property of the person, shall create a lien with priority over all subsequent claims or liens which are filed against the person, but it shall not affect any valid lien, right or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien under this subsection.

(c) Definitions.–The following words and phrases when used in this subsection shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Operator." As defined in section 2119(e) (relating to penalties).

§ 2119.2. Disposition of fees, fines and civil penalties.

(a) Clean Air Fund.–Except as provided under subsection (a.1), all fines, civil penalties and fees collected under this subchapter shall be paid into the State Treasury in a special fund known as the Clean Air Fund, established by this subsection, which, along with interest earned, shall be administered by the department for use in the elimination of air pollution. The department may establish separate accounts as may be necessary or appropriate to implement the requirements of this subchapter and the Clean Air Act. The board shall promulgate regulations for the management and use of the money in the fund.

(a.1) Procedure.–The following shall apply:

(1) If an incident results in the imposition of a fine or civil penalty of at least $50,000, 25% of the fine or civil penalty collected shall be returned by the department to the municipality in which the violation occurred to be used for projects that eliminate or reduce air pollution or for parks, recreation projects, trails or open spaces.

(2) The department shall notify the municipality in which the violation occurred of the imposition of the fine or civil penalty under subsection (a) within five business days after the expiration of the right to file an appeal of the fine or civil penalty or after all appeals of the fine or civil penalty have been exhausted.

(3) Within 180 days of the department's notification of the municipality under paragraph (2), the municipality shall submit a project proposal to the department for review and approval.

(4) Upon approval of the project, the department shall release 25% of the fine or civil penalty collected to the municipality. If the cost of the project exceeds 25% of the fine or civil penalty, the department may award additional money from the fine or civil penalty to the municipality.

(5) If all fines and civil penalties deposited into the Clean Air Fund are less than $1,850,000 for the previous fiscal year, paragraph (1) shall not apply for the current fiscal year.

(6) If the United States Environmental Protection Agency and the department jointly prosecute a violation of the Clean Air Act, this subchapter or a regulation promulgated under

this subchapter, the fines and penalties collected shall not be subject to this subsection and subsection (a.2).

(7) A municipality may assign its claim to funding under paragraph (1) to the county in which the violation occurred within the 180-day period specified in paragraph (3). The county shall submit a project proposal in compliance with paragraph (1) to the department for review and approval within 45 days of the expiration of the 180-day period.

(8) If a municipality does not submit a project proposal within the 180-day period specified in paragraph (3) or provides notification of its intent not to file a project proposal during the 180-day period, the county in which the violation occurred may submit a project proposal in compliance with paragraph (1) to the department for review and approval within 45 days of the expiration of the 180-day period.

(a.2) Notification of violation.–Within five business days of imposition of a fine or civil penalty under this subchapter, the department shall notify the municipality in which the violation occurred of the violation.

(b) Supplementation of Clean Air Fund.–The Clean Air Fund may be supplemented by appropriations from the General Assembly, the Federal, State or local government or any private source.

(c) Exemption.–The Clean Air Fund shall not be subject to 42 Pa.C.S. Ch. 37 Subch. C (relating to judicial computer system).

§ 2119.3. Continuing violations.

Each day of continued violation and each violation of any provision of this subchapter, any regulation promulgated under this subchapter or any order of the department or any condition or term of any plan approval or permit issued under this subchapter shall constitute a separate offense and violation.

§ 2120. (Reserved).

§ 2120.1. Enforcement orders.

(a) General rule.–The department may issue orders as are necessary to aid in the enforcement of the provisions of this subchapter. These orders shall include, but shall not be limited to, orders modifying, suspending, terminating or revoking any plan approvals or permits, orders requiring persons to cease unlawful activities or cease operation of a facility or air contamination source that, in the course of its operation, is in violation of any provision of this subchapter, any regulation promulgated under this subchapter or plan approval or permit, order to take corrective action or to abate a public nuisance or an order requiring the testing, sampling or monitoring of any air contamination source or orders requiring production of information. An order may be issued if the department finds that any condition existing in or on the facility or source involved is causing or contributing to or is creating a danger of air pollution or if it finds that the permittee or any person is in violation of any provision of this subchapter or of any regulation or order of the department.

(b) Content.–The department may, in its order, require compliance with conditions as are necessary to prevent or abate air pollution or effect the purposes of this subchapter.

(c) Effectiveness.–An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the hearing board of the department's order shall not act as a supersedeas, provided, however, that, upon application and for cause shown, the hearing board may issue a supersedeas under rules established by the hearing board.

(d) Applicability.–The authority of the department to issue an order under this section is in addition to any remedy or penalty which may be imposed under this subchapter. The failure to comply with an order is declared to be a public nuisance.

§ 2120.2. Appealable actions.

Any person aggrieved by an order or other administrative action of the department issued under this subchapter or any person who participated in the public comment process for a plan approval or permit shall have the right, within 30 days from actual or constructive notice of the action, to appeal the action to the 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).

§ 2120.3. Limitation on action.

The provisions of any other statute to the contrary notwithstanding, actions for civil or criminal penalties under this subchapter may be commenced at any time within a period of seven years from the date the offense is discovered.

§ 2131. Powers reserved to the department under existing laws.

Nothing in this subchapter shall limit in any way whatsoever the powers conferred upon the department under laws other than this subchapter, it being expressly provided that all powers are preserved to the department and may be freely exercised by it. No court exercising general equitable jurisdiction shall be deprived of jurisdiction even though a nuisance or condition detrimental to health is subject to regulation or other action by the board under this subchapter.

§ 2132. Powers reserved to political subdivisions.

(a) General rule.–Nothing in this chapter shall prevent counties, cities, towns, townships or boroughs from enacting ordinances with respect to air pollution which will not be less stringent than the provisions of this chapter, the Clean Air Act or the regulations promulgated under either this chapter or the Clean Air Act. This chapter shall not be construed to repeal existing ordinances, resolutions or regulations of political subdivisions under this section existing on January 8, 1960, except as they may be less stringent than the provisions of this chapter, the Clean Air Act or the regulations promulgated under either this chapter or the Clean Air Act.

(b) Applicability of administrative procedures provisions.– The administrative procedures for the abatement, reduction, prevention and control of air pollution set forth in this chapter shall not apply to any county of the first or second class which has and implements an air pollution control program that, at a minimum, meets the requirements of this chapter, the Clean Air Act and the regulations promulgated under both this chapter and the Clean Air Act and has been approved by the department.

(b.1) Applicability of provisions relating to dust control measures.–Provisions of this chapter pertaining to dust control measures shall not apply to portions of highways in townships of the second class where no businesses or residences are located.

(c) Notification of violation.–

(1) Whenever, either upon complaint made to or initiated by the department, the department finds that any person is in violation of air pollution control standards, or regulations promulgated under the grant of authority made in subsection (b), the department shall give notification of that fact to that person and to the air pollution control agency of the county involved.

(2) If the violation continues to exist after the notification has been given, the department may take any abatement action provided for under the terms of this chapter.

(d) Failure of local county agency to enforce.–Whenever the department finds that violations of this chapter or the regulations promulgated under this chapter are so widespread that the violations appear to result from a failure of the local county control agency involved to enforce those requirements, the department may assume the authority to enforce this chapter in that county.

(e) Department authority.–The department shall have the power to refuse approval, or to suspend or rescind approval, once given, to any county air pollution control agency if the department finds that the county agency is unable or unwilling to conduct an air pollution control program to abate or reduce air pollution problems within its jurisdiction in accordance with the requirements of this chapter, the Clean Air Act or the regulations promulgated under both this chapter and the Clean Air Act.

(f) Notice of department action.–Whenever the department takes action under subsection (d) or (e), it shall give written notification to the air pollution control agency of the county involved and the notification shall be an appealable action.

(g) Uniformity of penalties and remedies.–

(1) Irrespective of subsection (b), and in order that the

civil and criminal penalties and equitable remedies for air pollution violations are uniform throughout this Commonwealth, the penalties and remedies set forth in this chapter shall be the penalties and remedies available for enforcement of any municipal air pollution ordinance or regulation, and shall be available to any municipality, public official or other person having standing to initiate proceedings for the enforcement of the municipal ordinance or regulation, and the amounts of the fines or civil penalties set forth in this chapter shall be the amounts of the fines or civil penalties assessable and to be levied for violations of any municipal ordinance or regulation.

(2) Any action for the assessment of civil penalties brought for the enforcement of a municipal air pollution ordinance or regulation shall be brought in accordance with the procedures set forth in the ordinance. If a municipal ordinance or regulation does not provide a procedure for the assessment of civil penalties, the provisions related to assessment and collection of civil penalties of section 2119.1 (relating to civil penalties) shall apply.

(3) The General Assembly finds and declares that the intent of this section is to enunciate further that the purpose of this chapter is to provide additional and cumulative remedies to abate the pollution of the air of this Commonwealth.

(h) Pennsylvania Municipalities Planning Code not affected.–Nothing in this chapter shall affect the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, unless required by the Clean Air Act.

§ 2132.1. Construction.

(a) Proceeding to abate pollution or nuisance.–Nothing in this chapter shall be construed as estopping the Commonwealth, or any district attorney or solicitor of a municipality, from proceeding in a court of competent jurisdiction to abate pollution forbidden under this chapter, or abate a nuisance under existing law.

(b) Right of action.–Nothing contained in this chapter shall in any way abridge or alter any existing right of action or remedy under law, criminal or civil, nor shall any provision of this chapter, or the granting of any plan approval or permit under this chapter, or any act done by virtue of this chapter, be construed as estopping the Commonwealth, persons or municipalities, in the exercise of their rights under law, from proceeding in a court of competent jurisdiction to suppress a nuisance, or to abate any pollution existing, or enforce common law or a statutory right.

(c) Jurisdiction.–No court of this Commonwealth having jurisdiction to abate public or private nuisance shall be deprived of jurisdiction to abate any private or public nuisance instituted by any person for the reason that the nuisance constitutes air pollution.

§ 2133. Public nuisance.

(a) Violation.–A violation of this chapter or of any regulation promulgated under this chapter or any order, plan approval or permit issued by the department under this chapter shall constitute a public nuisance.

(b) Department authority.–The department shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, the department or any Commonwealth agency that undertakes to abate a public nuisance may recover the expenses of abatement following the process for assessment and collection of a civil penalty contained in section 2119.1 (relating to civil penalties).

(c) Nuisance continued.–Whenever the nuisance is maintained or continued contrary to this chapter or any regulation promulgated under this chapter or any order, plan approval or permit, the nuisance may be abatable in the manner provided by this chapter. Any person who causes the public nuisance shall be liable for the cost of abatement.

§ 2133.1. Search warrant.

(a) General rule.–Whenever an agent or employee of the department, charged with the enforcement of this chapter, has been refused access to property, or has been refused the right to examine any air contamination source, or air pollution control equipment or device, or is refused access to or examination of books, papers and records pertinent to any matter under investigation, the agent or employee may apply for a search warrant to any Commonwealth official authorized by the laws of this Commonwealth to issue the same to enable the agent or employee to have access, examine and seize the property, air contamination source, air pollution control equipment or device or books, papers and records, as the case may be.

(b) Probable cause.–It shall be sufficient probable cause to issue a search warrant that the inspection is necessary to properly enforce this chapter.

§ 2133.2. Confidential information.

(a) General rule.–All records, reports or information obtained by the department or referred to at public hearings under this chapter shall be available to the public, except that upon cause shown by any person that the records, reports or information, or a particular portion of them, but not emission data, to which the department has access under this chapter, if made public, would divulge production or sales figures or methods, processes or production unique to the person or would otherwise tend to affect adversely the competitive position of the person by revealing trade secrets, including intellectual property rights, the department shall consider the record, report or information, or particular portion of it, confidential in the administration of this chapter.

(b) Implementation.–The department shall implement this section consistent with sections 112(d) and 114(c) of the Clean Air Act.

(c) Construction.–Nothing in this section shall be construed to prevent disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of any Federal, State or local air pollution control laws, or when relevant in any proceeding under this chapter.

§ 2133.3. Air contaminant emissions.

(a) Protocols for air contaminant emissions.–No later than three months after the effective date of this section, the department shall publish protocols for the detection, quantification and reporting of air contaminant emissions from unconventional gas production processes including wellhead activities and the storage of unconventional gas prior to processing.

(b) Report on air contaminant emissions.–No later than nine months after the effective date of this section, the department shall publish for public comment a draft report quantifying through measurements and calculations the total air contaminant emissions in this Commonwealth from unconventional gas development processes including wellhead activities and the storage of unconventional gas prior to processing. The department shall publish the final report no later than one year after the effective date of this section. The department shall publish a revised report every five years thereafter.

(c) Use of best available scientific principles.–The department shall use best available scientific principles in developing the protocols and reports required by this section.

§ 2133.4. Exemptions from air pollution requirements for unconventional gas production processes prohibited.

No later than 90 days after the effective date of this section, the department shall amend its exemption list under 25 Pa. Code § 127.14 (relating to exemptions) to ensure that unconventional gas exploration and production processes, including wellhead activities and storage of natural gas prior to processing, are not exempted from the plan approval process and other requirements of this subchapter.

§ 2133.5. (Reserved).

§ 2133.6. Action to abate nuisance and restrain violation.

(a) Abatement action.–Any activity or condition declared by this chapter to be a nuisance or which is otherwise in violation of this chapter shall be abatable in the manner provided by law for the abatement of public nuisance. In addition, in order to restrain or prevent any violation of this chapter or the regulations promulgated under this chapter or any plan approval or permit or orders issued by the department or to restrain the maintenance and threat of public

nuisance, an action may be instituted in the name of the Commonwealth upon relation of the Attorney General, the General Counsel, the district attorney of any county or the solicitor of any municipality affected after notice has first been served upon the Attorney General of the intention of the General Counsel, district attorney or solicitor to so proceed.

(b) Jurisdiction.–Proceedings may be prosecuted in Commonwealth Court or in the court of common pleas of the county where the activity has taken place, the condition exists or the public is affected, and, to that end, jurisdiction is conferred upon the courts.

(c) Court action.–Except in cases of emergency if, in the opinion of the court, the exigencies of the case require immediate abatement of the nuisance, the court may, in its decree, fix a reasonable time during which the person responsible for the nuisance may make provision for the abatement of the same.

(d) Injunction.–If circumstances require it or the public health is endangered, a mandatory preliminary injunction, special injunction or temporary restraining order may be issued upon the terms prescribed by the court, notice of the application for the injunction having been given to the defendant. The Attorney General, the General Counsel, the district attorney or the solicitor of any municipality shall not be required to give bond. In the proceeding, the court shall, upon motion of the Commonwealth, issue a prohibitory or mandatory preliminary injunction if it finds that the defendant is engaging in unlawful conduct as defined by this chapter or is engaged in conduct that is causing immediate and irreparable harm to the public. In addition to an injunction, the court may levy civil penalties in the same manner as the department in accordance with section 2119.1 (relating to civil penalties).

(e) Civil action.–

(1) Except as provided in subsection (f), any person may commence a civil action to compel compliance with this chapter or any regulation, order or plan approval or permit issued under this chapter by any owner or operator alleged to be causing or contributing to a violation of any provision of this chapter or any regulation promulgated under this chapter or any plan approval, permit or order issued by the department.

(2) In addition to seeking to compel compliance, any person may request the court to award civil penalties. The court shall use the factors and amounts contained in section 2119.1 in awarding civil penalties under this subsection. Penalties shall be paid into the Clean Air Fund or be used to prevent air pollution in the county where the violation occurred.

(3) Unless otherwise required under 42 Pa.C.S. (relating to judiciary and judicial procedure), the courts of common pleas shall have jurisdiction of actions brought under this subsection.

(4) An action may not be commenced if the department has commenced and is diligently prosecuting a civil action in a Federal or State court or is in litigation before the hearing board to require the alleged violator to comply with this chapter, any regulation promulgated under this chapter or any order, plan approval or permit issued under this chapter, but, in an action in a Federal or State court or before the hearing board, any person having or representing an interest that is or may be adversely affected may intervene as a matter of right without posting bond.

(f) Commencement of action.–An action under subsection (e) may not be commenced prior to 60 days after the plaintiff has given notice in writing of the violation to the department and to any alleged violator.

(g) Exception to notice provision.–The notice provision of subsection (f) to the contrary notwithstanding, any action under subsection (e) may be initiated immediately upon written notification to the department if the violation or condition complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(h) Court order.–The court, in issuing any final order in any action brought under subsection (e), may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines that an award is appropriate. Except as provided in subsection (d), the court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Pennsylvania Rules of Civil Procedure.

SUBCHAPTER C
PERMIT FEES

Sec.
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§ 2141. General provisions.

(a) Scope.–This subchapter establishes fees to cover the direct and indirect costs of administering the air pollution control planning process, operating permit program required by Title V of the Clean Air Act (69 Stat. 322, 42 U.S.C. §§ 7661-7661f), other requirements of the Clean Air Act, the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and the Office of Small Business Ombudsman and the costs to support the air pollution control program authorized by Subch. B (relating to regulating program).

(b) Fund.–The fees collected under this subchapter shall be made payable to the Pennsylvania Clean Air Fund and deposited into the Clean Air Fund established under section 2119.2 (relating to disposition of fees, fines and civil penalties).

(c) Deposit.–Fees collected under this subchapter to implement the requirements of Title V of the Clean Air Act and the Small Business Stationary Source Technical and Environmental Compliance Assistance, Compliance Advisory Committee and the Office of Small Business Ombudsman shall be made payable to the Pennsylvania Clean Air Fund and deposited into a restricted revenue account within the Clean Air Fund.

(d) Evaluation.–At least every five years, the department will provide the board with an evaluation of the fees in this subchapter and recommend regulatory changes to the board to address any disparity between the program income generated by the fees and the department's cost of administering the air quality program with the objective of ensuring sufficient fees to meet all program costs.

§ 2142. Definitions.

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

"Title V facility." The term shall have the same meaning as in 25 Pa. Code § 121.1 (relating to definitions).

§ 2143. Plan approval fees.

(a) General rule.–Each applicant for a plan approval shall, as part of the plan approval application, submit the application fee required by this section to the department.

(b) Fees.–Except as provided in subsections (c), (d), (e), (f), (g), (h), (i) and (j), the owner or operator of a source requiring approval under 25 Pa. Code Ch. 127 Subch. B (relating to plan approval requirements) shall pay a fee equal to:

(1) One thousand three hundred dollars for applications filed during the 2012—2014 calendar years.

(2) One thousand six hundred dollars for applications filed during the 2015—2019 calendar years.

(3) Two thousand dollars for applications filed for the calendar years beginning in 2020.

(c) New nonattainment sources.–The owner or operator of a source requiring approval under 25 Pa. Code Ch. 127 Subch. E (relating to new source review) shall pay a fee equal to:

(1) Six thousand three hundred dollars for applications filed during the 2012—2014 calendar years.

(2) Seven thousand three hundred dollars for applications filed during the 2015—2019 calendar years.

(3) Eight thousand dollars for applications filed for the calendar years beginning in 2020.

(d) New stationary sources.–The owner or operator of a source subject to standards adopted under 25 Pa. Code Ch. 122 (relating to national standards of performance for new stationary sources) or 124 (relating to national emission standards for hazardous air pollutants) or section 127.35(b) (relating to maximum achievable control technology standards for hazardous air pollutants) shall pay a fee equal to:

(1) Two thousand dollars for applications filed during the 2012—2014 calendar years.

(2) Two thousand five hundred dollars for applications filed during the 2015—2019 calendar years.

(3) Three thousand dollars for applications filed during the calendar years beginning in 2020.

(e) Hazards.–The owner or operator of a source subject to 25 Pa. Code § 127.35(c), (d) or (h) shall pay a fee equal to:

(1) Ten thousand dollars for applications filed during the 2012—2014 calendar years.

(2) Twelve thousand dollars for applications filed during the 2015—2019 calendar years.

(3) Fourteen thousand dollars for applications filed during the calendar years beginning in 2020.

(f) Deterioration.–The owner or operator of a source requiring approval under 25 Pa. Code Ch. 127 Subch. D (relating to prevention of significant deterioration of air quality) shall pay a fee equal to:

(1) Twenty-seven thousand two hundred dollars for applications filed during the 2012—2014 calendar years.

(2) Thirty thousand seven hundred dollars for applications filed during the 2015—2019 calendar years.

(3) Thirty-five thousand seven hundred dollars for applications filed during the calendar years beginning 2020.

(g) Changes.–Except as provided in subsection (h), the owner or operator of a source proposing a modification of a plan approval, extension of a plan approval or transfer of a plan approval due to a change of ownership, shall pay a fee equal to:

(1) Four hundred dollars for applications filed during the 2012—2014 calendar years.

(2) Five hundred dollars for applications filed during the 2015—2019 calendar years.

(3) Six hundred fifty dollars for applications filed during the calendar years beginning in 2020.

(h) Reassessment.–The amendment of a plan approval or revision of an application by the applicant that requires the reassessment of a control technology determination or of the ambient impacts of the source is a significant modification of the plan approval or application.

(1) The applicant proposing an amendment of the plan approval or revision to an application that requires reassessment of a control technology determination shall pay fees as established under subsections (b), (c), (d), (e) and (f).

(2) The applicant proposing an amendment of a plan approval or revision to an application that requires changes to the ambient impact analysis or department reanalysis of the ambient impacts of the source to meet the requirements of 40 CFR 51, Appendix W (relating to guideline on air quality models), shall pay fees in accordance with the following:

(i) For modeling using a screening technique as defined in 40 CFR 51, Appendix W:

(A) Three thousand five hundred dollars for applications filed during the 2012—2014 calendar years.

(B) Four thousand five hundred dollars for applications filed during the 2015—2019 calendar years.

(C) Six thousand dollars for applications filed for calendar years beginning in 2020.

(ii) For all other modeling as defined in 40 CFR 51, Appendix W:

(A) Seven thousand five hundred dollars for applications filed during the 2012—2014 calendar years.

(B) Nine thousand dollars for applications filed during the 2015—2019 calendar years.

(C) Eleven thousand dollars for applications filed for the calendar years beginning in 2020.

(i) Multiple location sources.–The department may establish application fees for general plan approvals and plan approvals for sources operating at multiple temporary locations that will not be greater than the fees established under this section. These fees will be established at the time the plan approval is issued and will be published in the Pennsylvania Bulletin as provided in 25 Pa. Code §§ 127.612 (relating to public notice and review period) and 127.632 (relating to public notice and review period).

(j) Determination.–The owner or operator of a source that submits a request for determination for:

(1) A plan approval application shall pay a fee equal to:

(i) Four hundred dollars for requests for determination filed during the 2012—2014 calendar years.

(ii) Five hundred dollars for requests for determination filed during the 2015—2019 calendar years.

(iii) Six hundred fifty dollars for requests for determination filed for the calendar years beginning in 2020.

(2) Both a plan approval under this section and an operating permit under 2144 (relating to operating permit fees) shall pay one request for determination fee.

(k) Publication of fees.–The owner or operator of a source proposing to use a general plan approval under 25 Pa. Code Ch. 27 Subch. H (relating to general plan approvals and operating permits) shall pay a fee that will not be greater than the fees established under this section. The department will establish these fees at the time the general plan approval is issued and will publish the fees in the Pennsylvania Bulletin as provided in 25 Pa. Code §§ 127.612 and 127.632.

§ 2144. Operating permit fees.

(a) General rule.–Each applicant for an operating permit which is not a Title V facility shall, as part of the operating permit application and as required on an annual basis, submit the fees required under this section to the department. These fees apply to an administrative amendment, extension, minor modification, revision, renewal, reissuance or transfer due to a change of ownership of each operating permit or part thereof.

(b) Processing fees.–The fee for processing an application for an operating permit is:

(1) Five hundred dollars for applications filed during the 2012—2014 calendar years.

(2) Six hundred dollars for applications filed during the 2015—2019 calendar years.

(3) Eight hundred fifty dollars for applications filed for the calendar years beginning in 2020.

(c) Administration fee.–The annual operating permit administration fee is due on or before March 1 of each year for the current calendar year.

(1) Five hundred dollars for the 2012—2014 calendar years.

(2) Six hundred dollars for the 2015—2019 calendar years.

(3) Seven hundred fifty dollars for the calendar years

beginning in 2020.

(d) Establishment.–The department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations that will not be greater than the fees established under this section. These fees will be established at the time the operating permit is issued and will be published in the Pennsylvania Bulletin as provided in 25 Pa. Code §§ 127.612 (relating to public notice and review period) and 127.632 (relating to public notice and review period).

(e) Determination fees.–The owner or operator of a source that submits a request for determination for:

(1) An operating permit shall pay a fee equal to:

(i) Four hundred dollars for requests for determination filed during the 2012—2014 calendar years.

(ii) Five hundred dollars for requests for determination filed during the 2015—2019 calendar years.

(iii) Six hundred fifty dollars for requests for determination filed for the calendar years beginning in 2020.

(2) Both an operating permit under this section and a plan approval under 25 Pa Code § 127.702 (relating to plan approval fees) shall pay one request for determination fee.

(f) General plans and permits.–The owner or operator of a source proposing to use a general plan approval under 25 Pa. Code Ch. 127 Subch. H (relating to general plan approvals and operating permits) shall pay a fee that will not be greater than the fees established under this section. The department will establish these fees at the time the general plan approval is issued and will publish the fees in the Pennsylvania Bulletin provided in 25 Pa. Code §§ 127.612 and 127.632.

§ 2145. Title V operating permit fees.

(a) General rule.–Each applicant for an operating permit which is a Title V facility shall, as part of the operating permit application and as required on an annual basis, submit the fees required under this section to the department. These fees apply to an administrative amendment, extension, minor modification, revision, renewal, reissuance or transfer due to a change of ownership of each operating permit or part thereof.

(b) Fee.–The fee for processing an application for an operating permit is:

(1) Nine hundred dollars for applications filed during the 2012—2014 calendar years.

(2) One thousand one hundred dollars for applications filed during the 2015—2019 calendar years.

(3) One thousand five hundred dollars for applications filed for the calendar years beginning in 2020.

(c) Administration fee.–The annual operating permit administration fee to be paid by a facility identified in subparagraph (iv) of the definition of a Title V facility in 25 Pa. Code § 121.1 (relating to definitions):

(1) Nine hundred dollars for applications filed during the 2012—2014 calendar years.

(2) One thousand one hundred dollars for applications filed during the 2015-2019 calendar years.

(3) One thousand three hundred dollars for applications filed for the calendar years beginning in 2020.

(d) Temporary locations.–The department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations that will not be greater than the fees established under this section. These fees will be established at the time the operating permit is issued and will be published in the Pennsylvania Bulletin as provided in 25 Pa. Code §§ 127.612 (relating to public notice and review period) and 127.632 (relating to public notice and review period).

(e) Establishment of fees.–The owner or operator of a source proposing to use a general plan approval under 25 Pa. Code Ch. 127 Subch. H (relating to general plan approvals and operating permits) shall pay a fee that will not be greater than the fees established under this section. The department will establish these fees at the time the general plan approval is issued and will publish the fees in the Pennsylvania Bulletin as provided in Pa. Code §§ 127.612 and 127.632.

§ 2146. Emission fees.

(a) General rule.–Beginning January 1, 2010, the owner or operator of a Title V facility including Title V facilities located in Allegheny County and Philadelphia County, except a facility identified in subparagraph (iv) of the definition of a Title V facility in 25 Pa. Code § 121.1 (relating to definitions), shall pay an annual Title V emission fee of $70 per ton for each ton of a regulated pollutant actually emitted from the facility. The owner or operator will not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the facility. Sources located in Philadelphia County and Allegheny County shall pay the emission fee to the county program if the county Title V program has received approval under section 2132 (relating to powers reserved to political subdivisions), and 25 Pa. Code § 127.706 (relating to Philadelphia County and Allegheny County financial assistance).

(b) Fees.–The emissions fees required by this section shall be due on or before September 1 of each year for emissions from the previous calendar year. The fees required by this section shall be paid for emissions occurring in calendar year 2009 and for each calendar year thereafter.

(c) Increased fees.–The emission fee imposed under subsection (a) shall be increased in each calendar year after 2010, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.

(d) Definition.–As used in this section, the term "regulated pollutant" means a VOC, each pollutant regulated under sections 111 and 112 of the Clean Air Act (69 Stat. 322, 42 U.S.C. §§ 111—112) and each pollutant for which a national ambient air quality standard has been promulgated, except that carbon monoxide shall be excluded from this reference.

§ 2147. Philadelphia County and Allegheny County financial assistance.

(a) General rule.–Philadelphia and Allegheny Counties shall submit their local air pollution control program including Title V operating permit program implementation plan to the department for review and approval. The plan shall include the elements necessary for approval of a Title V program under the Clean Air Act (69 Stat. 322, 42 U.S.C. §7401 et seq.) and shall be consistent with the department's regulations for implementation of the air pollution control program, including the Title V operating permit program.

(b) Report.–On an annual basis according to a schedule established by the department, Philadelphia County and Allegheny County shall submit a description of the implementation of the local air pollution control program including the Title V operating permit program in the county along with a detailed accounting of the costs of implementation.

(c) Title V.–On an annual basis according to a schedule established by the department, the department may provide payment of a portion of the Title V emission fees collected by the department as necessary, appropriate and available to Philadelphia and Allegheny Counties to assist in implementation of the Title V operating permit program in the counties. The department may withhold this financial assistance if the county has not implemented the Title V program in the manner required by this section.

(d) Restricted account.–The fees imposed by Philadelphia and Allegheny Counties shall be deposited in a restricted account established by the governing body authorizing the local program for use by that program to implement the provisions of Subch. B (relating to regulatory program) for which they are responsible. The governing body shall annually submit to the department an audit of the account in order to insure that the funds were properly spent.

§ 2148. Failure to pay fee.

An air contamination source that fails to pay the fees within the time frame established by this chapter shall pay a penalty of 50% of the fee amount, plus interest on the fee amount computed in accordance with 26 U.S.C. § 6621(a)(2) (relating to determination of rate of interest) from the date the fee was required to be paid. In addition, the source may have its operating permit terminated or suspended. The fee, penalty and interest may be collected following the process for assessment and collection of a civil penalty contained in section 2119.1 (relating to civil penalties).

§ 2149. Risk assessment.

(a) General rule.–Each applicant for a risk assessment shall, as part of the plan approval application, submit the application fee required by this section to the department.

(b) With screening model.–The owner or operator of a source applying for a risk assessment that is inhalation only with a screening model shall pay a fee equal to:

(1) Five thousand dollars for applications filed during the 2012—2014 calendar years.

(2) Six thousand dollars for applications filed during the 2015—2019 calendar years.

(3) Seven thousand two hundred dollars for applications filed for the calendar years beginning in 2020.

(c) Inhalation only assessment.–The owner or operator of a source applying for a risk assessment that is inhalation only for all other modeling shall pay a fee equal to:

(1) Nine thousand dollars for applications filed during the 2012—2014 calendar years.

(2) Eleven thousand dollars for applications filed during the 2015—2019 calendar years.

(3) Thirteen thousand dollars for applications filed for the calendar years beginning in 2020.

(d) Multipathway risk assessment.–The owner or operator of a source applying for a risk assessment that is multipathway shall pay a fee equal to:

(1) Ten thousand dollars for applications filed during the 2012—2014 calendar years.

(2) Twelve thousand dollars for applications filed during the 2015—2019 calendar years.

(3) Fourteen thousand five hundred dollars for applications filed for the calendar years beginning in 2020.

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 35 Pa.C.S. Ch. 21.

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

Section 3. The addition of 35 Pa.C.S. Ch. 21 is a continuation of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act. The following apply:

(1) Except as otherwise provided in 35 Pa.C.S. Ch. 21, all activities initiated under the Air Pollution Control Act shall continue and remain in full force and effect and may be completed under 35 Pa.C.S. Ch. 21. Orders, regulations, rules and decisions which were made under the Air Pollution Control Act and which are in effect on the effective date of section 3(2) of this act shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Ch. 21. Contracts, obligations and collective bargaining agreements entered into under the Air Pollution Control Act are not affected nor impaired by the repeal of the Air Pollution Control Act.

(2) Except as set forth in paragraph (3), any difference in language between 35 Pa.C.S. Ch. 21 and the Air Pollution Control Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Air Pollution Control Act.

(3) Paragraph (2) does not apply to the addition of the following provisions:

(i) 35 Pa.C.S. § 2114(18.1) and (18.2).

(ii) 35 Pa.C.S. § 2116.7(h).

(iii) 35 Pa.C.S. § 2133.3.

(iv) 35 Pa.C.S. § 2133.4.

(v) 35 Pa.C.S. Ch. 21 Subch. C.

Section 4. This act shall take effect in 60 days.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

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

Mr. VITALI. I am going to be withdrawing my amendments on this bill.

The SPEAKER. Excuse me. The gentleman, Mr. Vitali, I apologize. I did not hear you.

Mr. VITALI. I will be withdrawing my amendments, all of my amendments on this bill.

The SPEAKER. The Speaker thanks the gentleman. He indicates that all amendments are withdrawn.

On the question recurring,

Will the House agree to the bill on second consideration?

Bill was agreed to.

GUEST INTRODUCED

The SPEAKER. The Speaker would like to take a moment and introduce an additional guest that is with us. To the left of the Speaker, we would like to welcome the wife of Representative Scott Boyd. Nancy Boyd is with us. Welcome to the hall of the House. Please stand. Welcome to the hall of the House, Nancy.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 367, PN 2209,** entitled:

An Act providing for certain resource development; and imposing powers and duties on the Department of General Services and the State System of Higher Education.

On the question,

Will the House agree to the bill on second consideration?

Mr. **BAKER** offered the following amendment No. **A11107:**

Amend Bill, page 7, line 1, by striking out "Forty" and inserting Sixty

Amend Bill, page 7, line 7, by striking out "Sixty" and inserting Forty

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

This merely flips the funding distribution from revenue generated through the State System of Higher Education's 14 universities to providing 60 percent to the host university and 40 percent to the State System of Higher Education.

I ask for an affirmative vote. Thank you, Mr. Speaker.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

I appreciate the gentleman's position on this because it would give more money to a college in his district, Mansfield, but the problem conceptually with this amendment is, if you use moneys from resource extraction and give the lion's share, such as in this case, to the host university, you are giving less to other uses such as the entire State System as a whole or other funds from the Commonwealth.

It should not be a matter of happenstance – this being how much resources are under a particular university's land – which determines the level of funding a university gets. That is choosing winners and losers for arbitrary reasons.

I understand that the gentleman is just being a good advocate for his district, but I think by increasing the amount that people from Mansfield and others get, we are reducing the amount that the rest of the State System gets, and I think as a matter of public policy, that is not, that is not a good thing.

So I would reluctantly, although commending the maker on protecting his own district, his own constituents, his own local interests, I would ask the members to sort of vote based on the interests of the Commonwealth as a whole, on the entire State System as a whole. I will not be supporting this.

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

On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

I also have a problem with this amendment. I think it is a matter of fairness, and here we have, again, it is a clear example of the haves and the have-nots and the haves wanting to get more from the have-nots.

There are six universities and possibly seven that are in the have-not class, and they are Cheyney University, East Stroudsburg, Kutztown, Millersville, Shippensburg, West Chester, and possibly Bloomsburg in the middle. It is clear that what is going to happen here if we change this formulation from 40 percent, when the bill came over from the Senate, 40 percent was to go to the host municipality and 60 percent was supposed to then be distributed to the other 13 State universities.

The SPEAKER. If I could have the members' attention. If we could kindly hold the conversations down. Some members are having trouble hearing. I would appreciate it if the members would hold the conversations down, please. Thank you.

The gentleman, Mr. Godshall, may proceed.

Mr. GODSHALL. Thank you, Mr. Speaker.

When this bill came over from the Senate, there was 40 percent to be given to the host municipalities of any well that was drilled, Marcellus well that was to be drilled on their property, and 60 percent was to be distributed then to the other 13 universities. What this means in moneys, a well, a typical Marcellus well, will throw 6 billion cubic feet of recoverable gas in approximately 50 years of a typical well, which it takes to decline. At royalty at 16 percent with a wellhead gas price of less than 50 cents for a million cubic feet per gathering, this is what it would mean: It would mean that according to the original bill, the amount going to the host municipality, such as Mansfield, would be $1.6 million, with $2.5 million being distributed to the other 13 universities. With the change that this amendment would make, we now have $2.5 million going to the host with only $1.6 million being distributed to the other universities.

I think it is a matter of fairness. It is a matter of we have a lot of kids in the southeast, we have a lot of kids going to the universities that I mentioned, starting, again, with Cheyney, East Stroudsburg, Kutztown, Millersville, Shippensburg, West Chester, and possibly Bloomsburg. As a matter of fairness, I ask that we defeat this amendment and go with the bill as it came over from the Senate.

Thank you, Mr. Speaker.

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

Is anyone else seeking recognition? Is the gentleman, Mr. Day, from Lehigh County seeking recognition on this amendment?

On the question, the gentleman from Lehigh County, Mr. Day, is recognized.

Mr. DAY. Thank you, Mr. Speaker.

Mr. Speaker, I wanted to rise today and echo the same comments of the previous speaker but say it in a little bit different way. It is obvious to me that the component in the underlying legislation brings dollars toward the universities that make the decision to drill on their campuses. So we already, in the underlying bill, say 40 percent will be just put aside for the people, the universities, the boards, that decide to drill on their campus, because that will be a challenge locally. It is always harder to do something than it is to do nothing.

This amendment takes that break from 40-60 and reverses it to 60-40. It is a perfect example of we have a good idea and we reach for more and take more. I do not think we should do that with this amendment. I think the underlying bill already—

The SPEAKER. Will the gentleman suspend.

Mr. DAY. Thank you.

The SPEAKER. We are still getting a few motions from some members that cannot quite hear. We would really appreciate if the members would take the conversations to the rear of the House if necessary. Otherwise, can we hold them down, please. Thank you.

The gentleman, Mr. Day, may continue.

Mr. DAY. Thank you, Mr. Speaker.

There are only two points that I am trying to make here today, and I appreciate the Speaker's help there to ask my colleagues to just listen to these two points.

Number one, already we distribute dollars through the State System of Higher Education through a formula, and that formula already shifts more dollars away from these to other universities that have traditionally needed more funding. So it is already slanted that way. Now comes along this new opportunity, and each university is going to have to make that choice, are we going to drill here or not? So the ones who decide to plow through that will be rewarded in the underlying bill with 40 percent, and I believe that what the chairman before me said I agree with wholeheartedly. A push to 60-percent

reward for these universities is too much in this amendment, and I respectfully ask my colleagues to vote against this amendment. Thank you.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I rise in support of this amendment. Those people that are saying that the 60 percent is too much for the State System schools, I think they need to take the time to just look at how much the cuts have been for the State System schools. This amendment is being supported by the Board of Governors, all the presidents of the 14 universities. This amendment is necessary.

Now, I live in California, Pennsylvania, the home of California University, and I know that there is some concern by many people concerning drilling. But quite honestly, we that live in western Pennsylvania and some of the schools that will deal with these types of issues, we have taken into consideration the impact of the university on the community and the impact of this on the university.

When we are cutting the State System schools – and there are 14, as you all know, all over the Commonwealth – the whole mission of the State System schools is the lowest-cost, quality education that we as a Commonwealth can provide through our own institutions. This bill helps to alleviate some of the losses that we are facing with these 14 State-owned institutions.

If the 60 percent is too much, how many is too much? Mr. Speaker, we cut this budget by 20 percent last year and the proposal was to do it again at 25 percent and possibly at 20 percent finally. There has to be ways for us to be able to recoup those losses.

I rise in support of the maker of the amendment and so does Mr. Hanna, and he is going to address this issue. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Clinton County, Mr. Hanna – who may speak for himself.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I appreciate the arguments put forth by the gentleman from California. I agree wholeheartedly with them. I agree wholeheartedly with the maker of the amendment. And as a member of the Board of Governors of the State System, this amendment is important to this bill and this bill is very important to the State System. So I urge a "yes" vote on the Baker amendment.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

Again, I certainly understand the need, and I appreciate the previous speaker, because he, representing the area of Lock Haven, is being a good advocate for his district, a good advocate for his constituents, and it is only his duty to want to get more and more for his constituents. But the reality is, you have a pie. You have a pie of potential revenues, and right now the schools with the gas are getting 40 percent of that pie, which is leaving 60 percent for the rest of the institutions. Now they are trying to expand that pie to 60 percent, leaving only 40 percent for the rest of the institutions. If we had an unlimited amount of money, this would be a good idea.

I want to salute the gentleman for being an advocate for his district, but to support this and give his district and his district's school more money means less moneys are available for the other schools in the State System of Higher Education. Each school in the State System of Higher Education has needs; I would suspect roughly equivalent needs as far as stress for more dollars. Those who advance the concept of drilling say that there really is not an impact upon the educational atmosphere of the university; therefore, there should not be a huge windfall to those schools who actually are doing the drilling.

So again I would say that giving those limited number of schools who have the drilling the lion's share of this is not a good idea.

POINT OF ORDER

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

On that question, the Speaker recognizes the gentleman from Clearfield County, Mr. Gabler.

Mr. GABLER. Thank you, Mr. Speaker.

First, just as a point of order, I would like to note that I think that the previous speaker was tiptoeing dangerously close to speaking to the motivations of other members rather than about the idea of public policy.

Secondly, I want to just make a note on the amendment that it is important— Mr. Speaker, may I have some order?

The SPEAKER. How is that?

Members, kindly hold the conversations down. Thank you.

The gentleman may proceed.

Mr. GABLER. Thank you, Mr. Speaker.

I think it is important, when talking about percentages, you always have to ask what percentage of what pie are you talking about? The underlying bill currently speaks to the host university getting 40 percent of their own gas and the other universities share 60 percent of all the gas that is produced at any other State System school. The risk that a host school is going to have in that situation is if they drill, they take themselves out of the 60-percent category, and if they have a low-producing well and only get 40 percent of their own gas, they are not going to get hardly anything to speak of, and they are actually going to see less money coming in to their university than had they not drilled at all. So that is why I think it is important that there needs to be some benefit to a school in order to drill on their own territory.

And I will point out that I am speaking to this specifically just because – I am looking at the numbers; I do not have a State System school in my district, but I think it is important that we support this amendment because the schools that are actually hosting the drilling need to have some reason to do it or else they will not do it at all, and none of the schools, regardless of whether they have gas under their campuses or not, will not receive any revenues at all.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Godshall, for the second time.

Mr. GODSHALL. Thank you, Mr. Speaker.

I do not want to prolong this, but at the same time I have heard that the Board of Governors, you know, has approved this. We are also probably going to hear that the presidents have all signed off of this, of the universities. Well, the problem is, they also signed off on 60-40. They signed off on – or I mean 40-60. They signed off on the premise that 40 percent should go to the host and 60 percent. Then all of a sudden we had a change of heart, and I cannot understand how willingly, willingly, we have the university presidents going from 40 percent to the host to 60 percent, you know, because it takes away from their own universities; it takes away from their own students.

So all of a sudden we go from 40-60 to 60-40 and everybody is in agreement as far as the university presidents. I do not believe it, and at the same time the host municipality, under a regular well, was getting $1.6 million during the lifetime of that well with $2.5 million going to 13 other universities. With the 60-40, all of a sudden the host gets $2 1/2 million and $1.6 million gets divided up among the other 13.

I have a concern for my students. I have a concern for my universities, and as a matter of fairness, I think we should stay with the bill as it came from the Senate.

Thank you, Mr. Speaker, and I ask for a negative vote.

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

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

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

I would just like to clarify a couple of things. Yes, the 14 State universities do support this. As a member of the Board of Governors, they strongly support this legislation. They feel it is only fair and reasonable that those universities that decide to move forward on this issue, that they have the 60 percent and it be shared with the nonproducing remainder of the universities in the State System, the sister universities.

And as far as I know, the entire 14 State university system is very supportive of this amendment. The presidents support it, the students support it, and I have not heard any other opposition to it. In fact, the underlying bill, HB 1238 that I authored, had the 60-40 split in it, so I do not really understand how it was flipped to begin with, but it happened. There is great support.

And the universities are trying to be more self-sufficient. They are looking for additional revenues where and when they can, and when the opportunity arises, they would like to generate additional revenue for themselves. So it is a very out-of-the-box, pro-entrepreneurial additional funding, hopefully, in the years to come for the universities that heretofore did not have such funding.

So, Mr. Speaker, I ask for your kind support of this amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–94

Adolph	Gabler	Mahoney	Rapp
Baker	Geist	Major	Reed
Barbin	George	Maloney	Reese
Benninghoff	Gibbons	Mann	Roae
Bloom	Gillespie	Markosek	Rock
Boback	Gingrich	Marshall	Saccone
Brooks	Goodman	Marsico	Saylor
Buxton	Grell	Metcalfe	Sonney
Causer	Grove	Metzgar	Stern
Christiana	Hahn	Millard	Stevenson
Clymer	Hanna	Miller	Swanger
Cohen	Harhart	Mirabito	Tallman
Creighton	Harper	Moul	Thomas
Daley	Harris	Mullery	Tobash
Delozier	Helm	Mustio	Toepel
Dermody	Hess	Neuman	Toohil
DiGirolamo	Hornaman	O'Neill	Turzai
Dunbar	Hutchinson	Oberlander	Vereb
Ellis	Kauffman	Payne	Vulakovich
Evankovich	Keller, M.K.	Perry	Watson
Evans, D.	Kirkland	Petrarca	White
Evans, J.	Knowles	Petri	
Everett	Krieger	Pickett	Smith, S.,
Farry	Kula	Pyle	Speaker

NAYS–104

Aument	Day	Kavulich	Quigley
Barrar	Dean	Keller, F.	Quinn
Bear	Deasy	Keller, W.	Ravenstahl
Bishop	DeLissio	Killion	Readshaw
Boyd	DeLuca	Kortz	Roebuck
Boyle, B.	Denlinger	Kotik	Ross
Boyle, K.	DePasquale	Lawrence	Sabatina
Bradford	Donatucci	Longietti	Sainato
Brennan	Emrick	Mackenzie	Samuelson
Briggs	Fabrizio	Maher	Santarsiero
Brown, R.	Frankel	Masser	Santoni
Brown, V.	Freeman	Matzie	Scavello
Brownlee	Galloway	McGeehan	Schmotzer
Burns	Gergely	Miccarelli	Simmons
Caltagirone	Gillen	Micozzie	Smith, K.
Carroll	Godshall	Milne	Smith, M.
Conklin	Hackett	Mundy	Staback
Costa, D.	Haluska	Murphy	Stephens
Costa, P.	Harhai	Murt	Sturla
Cox	Harkins	Myers	Taylor
Cruz	Heffley	Neilson	Truitt
Culver	Hennessey	Parker	Vitali
Curry	Hickernell	Pashinski	Waters
Cutler	James	Payton	Wheatley
Davidson	Josephs	Peifer	Williams
Davis	Kampf	Preston	Youngblood

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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?

Mr. **BAKER** offered the following amendment No. **A12193:**

Amend Bill, page 2, line 5, by inserting after "include"
State system land or
Amend Bill, page 3, line 3, by inserting after "Resources"
, pursuant to its authority in the act of June 28, 1995 (P.L.89, No.18), known as the Conservation and Natural Resources Act,
Amend Bill, page 4, line 27, by inserting after "Resources"
, pursuant to its authority in the act of June 28, 1995 (P.L.89, No.18), known as the Conservation and Natural Resources Act,
Amend Bill, page 4, by inserting between lines 28 and 29
(a.1) Limitations.–The department may not make or execute a contract or lease under subsection (a)(1) unless the president of the system university affected by the contract or lease has provided the department with written authorization to proceed with negotiating a contract or lease.
Amend Bill, page 5, lines 19 through 30; page 6, lines 1 through 27, by striking out all of said lines on said pages and inserting
(a) Payments derived from State-owned land.–Notwithstanding section 1 of the act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land," all payments or royalties received by the department pursuant to a contract or lease under section 3 in fiscal year 2011-2012 and every year thereafter shall be deposited as follows:
(1) Twenty percent of the payments or royalties shall be retained by the State agency where the coal, oil, natural gas, coal bed methane or limestone is leased or extracted.
(2) All remaining payments or royalties shall be deposited into the Oil and Gas Lease Fund.
Amend Bill, page 6, line 28, by striking out "by system" and inserting
from State system land
Amend Bill, page 7, by inserting between lines 15 and 16
(c) Executively authorized augmentations.–The costs incurred by the department or the Department of Conservation and Natural Resources in advertising and contracting, leasing or conveying the resources, including the fees of any survey, appraisal or report, shall be deducted from payments or royalties and that amount shall be an executively authorized augmentation to the appropriation to the department or the Department of Conservation and Natural Resources.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

Mr. BAKER. Thank you, Mr. Speaker.

I believe this is an agreed-to, technical amendment.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

Will the gentleman stand for interrogation?

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

Mr. VITALI. I was a little caught off guard when you said "technical amendment," and I skimmed down really quickly. I started to see numbers of lines of text. I do not think this comes under what the definition of a "technical amendment" is, so would the gentleman be so kind as to explain what this amendment does?

Mr. BAKER. It makes technical changes requested by DCNR (Department of Conservation and Natural Resources), DGS (Department of General Services), the State System of Higher Education, and the State System of Higher Education land to lands excluded by the term "State lands"; adds the Conservation and Natural Resources Act into the bill's text; changes "by system" to "from State system land"; moves a section related to executively authorized augmentations; ensures approval in writing of the system president; and the last point on the amendment is that DCNR does support the technical amendment.

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

Oh; excuse me. Is the gentleman, Mr. Vitali, seeking further recognition on the amendment?

Mr. VITALI. I am looking at the text, page 1, line 20, through lines to page 3. It talks about payments derived from State-owned lands. Could you explain that sub (a) that is on page 2, lines 20 through 30?

The SPEAKER. Would the gentleman, Mr. Vitali, repeat the lines that he was just pointing out?

Mr. VITALI. Page 1, lines 20 through 30. And then—

The SPEAKER. Will the gentleman, Mr. Vitali, I am not sure that they were clear on the page and line numbers.

Mr. VITALI. Okay. The first question involves page 1, lines 20 through 30, and then I have a follow-up. This certainly is not a technical amendment here. This is substantive. I am trying to figure out what this is doing.

Mr. BAKER. It is just rewriting the paragraph to stipulate State-owned land.

Mr. VITALI. Does it change the distribution scheme for the revenues derived from State-owned land? It looks like it is giving 20 percent to the State agency and the rest to the Oil and Gas Lease Fund. Is that what this is doing, and if so, how is that changing it from the bill itself?

Mr. BAKER. No, it is already in the bill. It is not changing that. It is just changing a couple of words.

Mr. VITALI. There are a lot of words there. Is it rewriting it?

Mr. BAKER. The clause of 20 percent which you are referring to, it is not changed at all. It is already in the bill, in the underlying bill.

Mr. VITALI. Okay. Thank you. That concludes my questions.

Mr. BAKER. Sure.

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

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

Ms. HARPER. Mr. Speaker, will the maker of the amendment stand for brief interrogation?

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

Ms. HARPER. Thank you, Mr. Speaker.

My first question relates to authority by the local campuses, and I thought that the gentleman had an amendment that would require the president of the local campus to have a say, but I do not see that in the language. Could you clarify that for me?

Mr. BAKER. The gentlelady is correct. This amendment, this particular amendment, would provide for the president of the university to agree and approve to such a lease.

Ms. HARPER. All right. Mr. Speaker, my worry was that it says the president of the State System, or at least that is the way I read it. Is that accurate? Because, Mr. Speaker, I was hoping that the local campus would get a say in this.

Mr. BAKER. The actual wording is "president of the system university affected by the contract or lease."

Ms. HARPER. Right.

Mr. BAKER. So that means the individual, the university president.

Ms. HARPER. And my understanding, Mr. Speaker, is that when the president of the university campus makes an agreement, that he is required to submit that to his local board of trustees for approval. Is that correct?

Mr. BAKER. Yes.

Ms. HARPER. Thank you.

Mr. Speaker, I have one more question.

Mr. Speaker, this particular amendment talks about State-owned land, which I understand to be different from the State System land, and it also talks about distributions to the Oil and Gas Lease Fund. I would like to have it clarified that this amendment does not change anything that we did with Act 13, the Marcellus Shale impact fee legislation. Is that correct, Mr. Speaker?

Mr. BAKER. That is correct.

Ms. HARPER. Thank you very much. That concludes my interrogation.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–198

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

NAYS–0

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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

On the question,

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

Mr. **SANTARSIERO** offered the following amendment No. **A11162:**

Amend Bill, page 1, line 2, by striking out "and" where it occurs the first time

Amend Bill, page 1, line 3, by inserting after "Education"

; and providing for prohibition on development

Amend Bill, page 4, lines 10 through 30; page 5, lines 1 through 17, by striking out all of said lines on said pages and inserting

Section 4. Prohibition on development of State system land.

Notwithstanding any other provision of law, State system land may not be leased for the purposes of natural gas exploration, drilling or production after the effective date of this act.

Amend Bill, page 5, lines 19 and 20, by striking out all of said lines and inserting

(a) Distribution.–All payments or royalties received by the department

Amend Bill, page 5, lines 21 and 22, by striking out ", except for a " in line 21 and "contract or lease under section 4," in line 22

Amend Bill, page 6, line 14, by striking out "(I) TWENTY PERCENT OF THE PAYMENTS OR ROYALTIES" and inserting

(1) Twenty percent of the payments or royalties

Amend Bill, page 6, line 18, by striking out "(II) ALL REMAINING PAYMENTS OR royalties shall be" and inserting

(2) All remaining payments or royalties shall be

Amend Bill, page 6, line 20, by striking out "~~(3)~~ (2) The costs incurred by the department or the" and inserting

(b) Costs.–The costs incurred by the department or the

Amend Bill, page 6, lines 28 through 30; page 7, lines 1 through 15, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

This amendment would very simply ban the leasing of State System land for the exploration, drilling, or extraction of natural gas.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

I rise to oppose this amendment. If you want the State System to be receiving additional revenues, potentially, in the future, you will oppose this amendment. This undoes the entire legislation, defeats the underlying purpose.

I ask that the amendment be defeated.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

I rise in support of the Santarsiero amendment.

Mr. Speaker, this does not undo the entire bill. A significant portion of this bill is drilling on government lands not part of the State System of Higher Education system.

Mr. Speaker, I think this Santarsiero amendment is a recognition of the fact that there is a place for drilling, but that place is not on college campuses. Mr. Speaker, this amendment is a recognition of the fact that college campuses should be places conducive to learning. Mr. Speaker, drilling is an extremely industrial activity. Those who have visited drilling sites understand the noise, the dust, the congestion, the disruption. Sometimes the noise is 24/7, Mr. Speaker, the truck traffic. Mr. Speaker, when one sends their child to a campus to learn, be it literature or history or mathematics or whatever it is, those parents expect an atmosphere conducive to learning. They expect quiet. They expect places, classrooms, where they are not hearing the noise of drilling. They expect dormitories not lit up by the lights of 24/7 drilling. They expect a tranquil place.

Mr. Speaker, by allowing drilling on college campuses, you are undermining the purpose of the university system. Mr. Speaker, I think this amendment is a reflection of the fact that if we need to fund our colleges, the way to do it is not through leasing college campuses; the way to do it, perhaps, is to have a reasonable severance tax on drilling that occurs away from college campuses.

Mr. Speaker, we are taking the wrong direction in our desperation to fund State System of Higher Education schools by going right on campus and putting drills and retention ponds and equipment and compressor stations and all the other things that go along with drilling. That is the wrong way to go. Mr. Speaker, this amendment is a reflection of the fact that the right way to go is a reasonable severance tax on drilling that occurs on private lands away, away from the university setting.

Are we so, are we so commingled with the drillers that we would rather have drilling done at our kids' educational quality of life than not impose a reasonable severance tax on them so we can pay for these things? Mr. Speaker, we really have misplaced priorities. We have misplaced priorities if we choose to drill on college campuses as opposed to imposing a reasonable severance tax on these drillers for drilling on private lands. There is a place for everything. The place for drilling is not on college campuses. The place for drilling is on private lands away from the college setting.

Mr. Speaker, I commend the maker of this amendment for having the courage to recognize this. We are not saying no to drilling; we are saying no to drilling on college campuses and raising the money in a different way. So I urge a "yes" vote for the Santarsiero amendment.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I think the former speaker just does not get it. I mean, I do not know the last time you were on a college campus that it was quiet. Quite honestly, what he is trying to do is mix a position of antidrilling into the fact that we should not be drilling near college campuses.

We have 14 State schools that really need additional revenues. California University, my home university, where I sit on the council of trustees, our student association has a lot of land around the campus, outside the campus. And I have been to every campus of every one of the State System schools, and most of them are not in downtown Philadelphia or downtown Pittsburgh; they are more rural settings, and most of the student associations have lands that surround the campus that are outside the town or outside the main part of the campus.

California University, our student association already has contracted to have drilling done. Does the passing of this amendment, does that stop that contract from going on if this bill becomes law? I do not believe, quite honestly, that those drilling, and I know, because in my counties in Fayette and Washington Counties, we have drill rigs that come in, go up, drill, go down. They do not sit there, as has been painted by the former speaker, to sit there and drill constantly outside the window of a college dormitory or outside the window of a classroom, because there are setback requirements. And in most of the communities, those wells are going to be set back so far away from campus, you are not going to see it right in the middle of the main part of campus, a drill rig drilling for gas. Come on, let us be serious.

Every one of these institutions is surrounded in one way or another with industrial property. Are we going to set up safe zones and quiet zones because we think students ought to have an atmosphere of quiet for education? Let us be serious.

There are industrial areas around every campus, every campus of the 14 State schools. This is a way to help alleviate the budget crisis we have. Do not forget, every State college campus where State-owned property is is tax-exempt. The local municipalities lose tons of revenue off of the property tax – every one. Half of California, Pennsylvania, downtown is tax-exempt. This is the way to generate revenue; this is the way to help offset the loss of taxes.

I ask for this amendment to be defeated, Mr. Speaker.

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

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

Mr. HANNA. Thank you, Mr. Speaker.

I likewise ask for a "no" vote on the amendment. Contrary to the argument of the gentleman from Delaware County, this in fact does nullify this bill. It clearly says that these State-owned lands, campus lands, cannot be leased for natural gas

development. This amendment completely reverses the bill. That argument, that fight, happened a long time ago. Where natural gas development is happening in Pennsylvania, it is happening on public lands. This amendment is a fight that has already been fought and is over.

I am asking for a "no" vote. If you want the provisions of the bill to benefit the State-owned system, to benefit our schools that desperately need these dollars, then you need to vote "no" on this amendment. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the lady from Montgomery County, Mrs. Dean.

Mrs. DEAN. Thank you, Mr. Speaker.

With all due respect to the maker of the bill, I rise in support of the Santarsiero amendment, and I offer you the perspective of somebody who, up until 6 weeks ago, spent the last 11 years on a college campus teaching young people. I cannot really think of much more that would be more incongruous with our educational system than supporting the drilling on our college campuses. There are just so many elements to this that fight the actual atmosphere of what should be going on on the college campuses.

So I respectfully ask for support of the Santarsiero amendment and say that we do have quiet, contemplative, thoughtful thinking on college campuses, along with a lot of fun and noise, but I really cannot support this bill; therefore, I support this amendment.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker, for the second time.

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

Once again, I rise to respectfully ask for a "no" vote. This amendment prohibits natural resource extraction on State System of Higher Education lands, all 14 universities, eliminating their ability to draw revenues for such activities.

Make no mistake about it, this amendment obviates, nullifies, prohibits any extraction of mineral, natural gas included, from the State System property. My goodness, $230 million of funding has been cut to our 14 State universities over the last 10 years. We have a $2 billion backlog on deferred maintenance to repair and keep up all the buildings on the 14 State universities. This would once and for all prohibit any university from being self-sufficient to try to draw additional revenues, and if we want to soften the load financially for these universities, we should be looking for ways to do that.

In terms of drilling, I would doubt very, very much if there would actually be drilling itself. Most of these units are unitized in a 1-square-mile unit. The laterals go out so deep and so long that I would doubt very much if you would actually see a drilling rig on a campus. So if you are in favor of the universities being more self-sufficient and having additional revenue, you would want to defeat this amendment.

Thank you very much, Mr. Speaker.

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

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

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Obviates, nullifies, prohibits. I prefer the simple English word "stops." That is right, it would stop natural gas drilling on our college campuses.

I find myself in the unusual position, Mr. Speaker, of being on the opposite side of the gentleman from Washington County and the gentleman from Clinton County, but so be it. I will respond nonetheless to the arguments that were advanced earlier.

The gentleman from Washington County talked about setbacks. Well, one of the reasons that many of us voted against Act 13 is that those setbacks created in that act are woefully inadequate, and in fact that was what I tried to remedy just last week in my amendment to another piece of legislation which was voted for and then voted against. We will not rehash that. But, Mr. Speaker, the fact remains, those setbacks are inadequate to protect our college students, and we need look no further than the history of the natural gas industry in this State already with the failure of blowout protectors and explosions to know that this poses a very real hazard to our children in the State colleges.

I am somewhat dismayed that the gentleman from Clinton opposes this amendment, because it was just a couple of years ago that I was privileged enough to work with him and many others in our caucus, and indeed some members on the other side of the aisle, in order to try to limit and then stop further leasing of our State forest land, and in my view, Mr. Speaker, this issue is no different than that.

The argument has been put forth that this bill is necessary to provide funding for our State System of Higher Education. But the fact of the matter is that that would not be necessary through a vehicle such as this if that funding had not been cut a year ago, and that funding would not have needed to be cut a year ago had we enacted a reasonable natural gas severance tax. But instead of doing that, Mr. Speaker, Act 13 was enacted that, just as with the setback issue, does a woefully inadequate job of bringing revenue into the State and does nothing for our State System. And so now at the eleventh hour, to try to remedy the mistake of Act 13, we are going to compound the problem by allowing drilling on our college campuses.

Mr. Speaker, it is a wrongheaded policy. It is contrary to the health and safety of our college students, and for those reasons I urge all of our members, on both sides of the aisle, to support this amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–69

Boback	DeLissio	Keller, W.	Ravenstahl
Boyle, B.	DeLuca	Kirkland	Roebuck
Boyle, K.	Dermody	Kotik	Ross
Bradford	Donatucci	Markosek	Sabatina
Brennan	Evans, D.	Matzie	Samuelson
Briggs	Fabrizio	McGeehan	Santarsiero
Brown, V.	Frankel	Mullery	Santoni
Brownlee	Freeman	Mundy	Schmotzer
Caltagirone	Galloway	Murt	Smith, M.
Conklin	George	Myers	Staback
Costa, D.	Harkins	Neilson	Sturla
Costa, P.	Harper	Parker	Vitali

Cruz	Hornaman	Pashinski	Waters
Curry	James	Payton	Wheatley
Davidson	Josephs	Petrarca	White
Davis	Kampf	Preston	Williams
Dean	Kavulich	Quinn	Youngblood
Deasy			

NAYS–129

Adolph	Evans, J.	Krieger	Quigley
Aument	Everett	Kula	Rapp
Baker	Farry	Lawrence	Readshaw
Barbin	Gabler	Longietti	Reed
Barrar	Geist	Mackenzie	Reese
Bear	Gergely	Maher	Roae
Benninghoff	Gibbons	Mahoney	Rock
Bishop	Gillen	Major	Saccone
Bloom	Gillespie	Maloney	Sainato
Boyd	Gingrich	Mann	Saylor
Brooks	Godshall	Marshall	Scavello
Brown, R.	Goodman	Marsico	Simmons
Burns	Grell	Masser	Smith, K.
Buxton	Grove	Metcalfe	Sonney
Carroll	Hackett	Metzgar	Stephens
Causer	Hahn	Miccarelli	Stern
Christiana	Haluska	Micozzie	Stevenson
Clymer	Hanna	Millard	Swanger
Cohen	Harhai	Miller	Tallman
Cox	Harhart	Milne	Taylor
Creighton	Harris	Mirabito	Thomas
Culver	Heffley	Moul	Tobash
Cutler	Helm	Murphy	Toepel
Daley	Hennessey	Mustio	Toohil
Day	Hess	Neuman	Truitt
Delozier	Hickernell	O'Neill	Turzai
Denlinger	Hutchinson	Oberlander	Vereb
DePasquale	Kauffman	Payne	Vulakovich
DiGirolamo	Keller, F.	Peifer	Watson
Dunbar	Keller, M.K.	Perry	
Ellis	Killion	Petri	Smith, S.,
Emrick	Knowles	Pickett	Speaker
Evankovich	Kortz	Pyle	

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. **A11151:**

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

Except as provided in subsection (a.1), the

Amend Bill, page 4, by inserting between lines 28 and 29

(a.1) Requirement.–Before employing the powers specified in subsection (a), the department must first obtain the consent of the following:

(1) the president of the institution as defined under section 2001-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949; and

(2) eight members of the council as defined under section 2001-A of the Public School Code of 1949.

On the question,

Will the House agree to the amendment?

AMENDMENT PASSED OVER TEMPORARILY

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

Mr. VITALI. Mr. Speaker, I had provided the Parliamentarian with the order of amendments which I would be offering, and the first amendment on that list was 11349.

The SPEAKER. Amendment A11151 will be over temporarily.

On the question recurring,

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

Mr. **VITALI** offered the following amendment No. **A11349:**

Amend Bill, page 1, by inserting between lines 14 and 15

"Resource removal activity." Any activity conducted in whole or in part for the mining or removal of valuable coal, oil, natural gas, coal bed methane or limestone.

Amend Bill, page 4, by inserting between lines 28 and 29

(a.1) Surface prohibition.–Notwithstanding any other provision of this act, no entity may conduct resource removal activity on the surface of State system land.

On the question,

Will the House agree to the amendment?

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

Mr. VITALI. Thank you, Mr. Speaker.

This amendment does not prevent State System of Higher Education schools from profiting by the natural gas underneath their land. This allows that. But what this says is that there shall be no surface activity on State System lands.

Now, the gentleman from Tioga County, in his recent rise to speak, indicated that, well, there probably will not be any surface activity because the horizontal drilling can go right under, and that is true. Horizontal drilling by its very nature can go 2 miles underground, so it is possible to avoid surface disturbance on land by drilling on adjacent lands and just going under them, because you can go horizontally for over 2 miles. So what this would do would be to say that you cannot engage in surface activity on State System land.

Now, the reason, the genesis for this amendment was, in discussing this with other members – for example, the gentleman from Clinton County with regard to Lock Haven University – he indicated that to access Lock Haven University natural gas, it is very easy to go underground and it is not necessary to be on the campus. So what this amendment does, it tries to balance. It tries to balance, one, the needed revenues for these schools on one hand with the need to preserve the tranquility and conducive education atmosphere. So what this amendment basically will do will be to accomplish both those goals: allow extraction of the gas but not disturb the surface.

I think this is a win-win. I think especially in my area, southeastern Pennsylvania – Bucks, Montgomery, Delaware, Chester – they would be outraged if they knew drilling went on on campus, and they would be outraged at their legislators who

allowed drilling on campuses. So this allows, I think, those legislators to, one, fund those schools but not alienate the people who go to those schools, the parents and children.

So I think this is a win-win, it is a compromise, and I would ask for an affirmative vote here.

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

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

Mr. MAHER. Thank you, Mr. Speaker.

And notwithstanding what we have heard from the maker of the amendment, it goes well beyond what he has described. It prohibits any activity, any activity related to resource extraction, which could be as simple as attending a meeting. If he intends to offer an amendment that would do what he describes, that might be worthy of our consideration.

This amendment is simply silly. I urge you to oppose it.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–62

Boyle, B.	DeLissio	Kavulich	Petrarca
Boyle, K.	DeLuca	Keller, W.	Ravenstahl
Bradford	DePasquale	Kirkland	Roebuck
Briggs	Dermody	Kotik	Sabatina
Brown, V.	Donatucci	Markosek	Samuelson
Brownlee	Evans, D.	Matzie	Santarsiero
Caltagirone	Fabrizio	McGeehan	Santoni
Cohen	Frankel	Mullery	Schmotzer
Conklin	Freeman	Mundy	Staback
Costa, D.	George	Murt	Sturla
Costa, P.	Gibbons	Myers	Vitali
Cruz	Harkins	Neilson	Waters
Curry	Harper	Parker	Wheatley
Davidson	Hornaman	Pashinski	Williams
Dean	James	Payton	Youngblood
Deasy	Josephs		

NAYS–136

Adolph	Everett	Lawrence	Rapp
Aument	Farry	Longietti	Readshaw
Baker	Gabler	Mackenzie	Reed
Barbin	Galloway	Maher	Reese
Barrar	Geist	Mahoney	Roae
Bear	Gergely	Major	Rock
Benninghoff	Gillen	Maloney	Ross
Bishop	Gillespie	Mann	Saccone
Bloom	Gingrich	Marshall	Sainato
Boback	Godshall	Marsico	Saylor
Boyd	Goodman	Masser	Scavello
Brennan	Grell	Metcalfe	Simmons
Brooks	Grove	Metzgar	Smith, K.
Brown, R.	Hackett	Miccarelli	Smith, M.
Burns	Hahn	Micozzie	Sonney
Buxton	Haluska	Millard	Stephens
Carroll	Hanna	Miller	Stern
Causer	Harhai	Milne	Stevenson
Christiana	Harhart	Mirabito	Swanger
Clymer	Harris	Moul	Tallman
Cox	Heffley	Murphy	Taylor
Creighton	Helm	Mustio	Thomas
Culver	Hennessey	Neuman	Tobash
Cutler	Hess	O'Neill	Toepel
Daley	Hickernell	Oberlander	Toohil
Davis	Hutchinson	Payne	Truitt
Day	Kampf	Peifer	Turzai
Delozier	Kauffman	Perry	Vereb
Denlinger	Keller, F.	Petri	Vulakovich
DiGirolamo	Keller, M.K.	Pickett	Watson
Dunbar	Killion	Preston	White
Ellis	Knowles	Pyle	
Emrick	Kortz	Quigley	Smith, S.,
Evankovich	Krieger	Quinn	Speaker
Evans, J.	Kula		

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. **A11738:**

Amend Bill, page 4, by inserting between lines 28 and 29

(a.1) Prohibition.–The mining or removal authorized under subsection (a) may not occur on the campus of a university in the system. It may occur only on land that is noncontiguous to the campus of a university in the system.

On the question,

Will the House agree to the amendment?

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

Mr. VITALI. Thank you, Mr. Speaker.

Again, what this amendment does is allows drilling on both surface, it allows drilling surface activity and underground activity but only on noncontiguous land, noncontiguous to the campus. This, again, was drafted in consultation with members who said, listen, we do not want to prohibit drilling; what if someone bequeathed a part of land to a college but it was not next to the college campus? So what this amendment does, in that circumstance where the college owns land that is not contiguous to the campus, this allows drilling on that noncontiguous land but prohibits drilling on college campus land. So I ask for an affirmative vote.

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

On the question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

Mr. BAKER. Thank you, Mr. Speaker.

I rise to oppose the amendment. It prohibits the resource production, once again, on the campus of a university and contiguous property. It limits the universities, once again, in being able to provide additional revenue for themselves if and when the offer comes to enter into a lease agreement and generate both lease payments and/or royalties.

I rise to oppose this. You know, I think about what the University of Texas has done. They have already generated $8, $9 million for their university for property on campus as well as adjacent to the campus, and it is very, very important that they

make every opportunity available to draw additional resources for themselves, perhaps in the future, maybe sooner rather than later.

The universities certainly need the revenue, so I once again rise to oppose this amendment.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I also rise to oppose the amendment. This will handcuff 99 percent of the 14 State schools. Although California does have noncontiguous land, does have a contract right now for the drilling on that property, which is what we call the college farm outside the university, I think this amendment really handcuffs all the schools, and I rise in opposition to this amendment.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–64

Boyle, B.	DeLissio	Kavulich	Ravenstahl
Boyle, K.	DeLuca	Keller, W.	Readshaw
Bradford	DePasquale	Kirkland	Roebuck
Brennan	Dermody	Kortz	Sabatina
Briggs	Donatucci	Kotik	Samuelson
Brown, V.	Evans, D.	Markosek	Santarsiero
Brownlee	Fabrizio	Matzie	Santoni
Caltagirone	Frankel	McGeehan	Schmotzer
Cohen	Freeman	Mullery	Smith, M.
Conklin	George	Mundy	Staback
Costa, D.	Gibbons	Murt	Sturla
Cruz	Harkins	Myers	Vitali
Curry	Harper	Neilson	Waters
Davidson	Hornaman	Parker	Wheatley
Dean	James	Pashinski	Williams
Deasy	Josephs	Payton	Youngblood

NAYS–134

Adolph	Evans, J.	Kula	Quigley
Aument	Everett	Lawrence	Quinn
Baker	Farry	Longietti	Rapp
Barbin	Gabler	Mackenzie	Reed
Barrar	Galloway	Maher	Reese
Bear	Geist	Mahoney	Roae
Benninghoff	Gergely	Major	Rock
Bishop	Gillen	Maloney	Ross
Bloom	Gillespie	Mann	Saccone
Boback	Gingrich	Marshall	Sainato
Boyd	Godshall	Marsico	Saylor
Brooks	Goodman	Masser	Scavello
Brown, R.	Grell	Metcalfe	Simmons
Burns	Grove	Metzgar	Smith, K.
Buxton	Hackett	Miccarelli	Sonney
Carroll	Hahn	Micozzie	Stephens
Causer	Haluska	Millard	Stern
Christiana	Hanna	Miller	Stevenson
Clymer	Harhai	Milne	Swanger
Costa, P.	Harhart	Mirabito	Tallman
Cox	Harris	Moul	Taylor
Creighton	Heffley	Murphy	Thomas
Culver	Helm	Mustio	Tobash
Cutler	Hennessey	Neuman	Toepel
Daley	Hess	O'Neill	Toohil
Davis	Hickernell	Oberlander	Truitt
Day	Hutchinson	Payne	Turzai
Delozier	Kampf	Peifer	Vereb
Denlinger	Kauffman	Perry	Vulakovich
DiGirolamo	Keller, F.	Petrarca	Watson
Dunbar	Keller, M.K.	Petri	White
Ellis	Killion	Pickett	
Emrick	Knowles	Preston	Smith, S.,
Evankovich	Krieger	Pyle	Speaker

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. **A12005:**

Amend Bill, page 2, lines 15 and 16, by striking out all of said lines and inserting

(a) Authority.–

(1) The department has the following powers:

(i) To make and execute contracts or leases in the name

Amend Bill, page 2, line 23, by striking out all of said line and inserting

(ii) To grant a right-of-way through State-owned land to

Amend Bill, page 3, line 2, by striking out all of said line and inserting

(iii) To cooperate with, consult with or delegate to the

Amend Bill, page 3, by inserting between lines 4 and 5

(2) Notwithstanding paragraph (1), no interest in State-owned land shall be transferred unless approved through an act of the General Assembly.

Amend Bill, page 4, lines 11 and 12, by striking out all of said lines and inserting

(a) Authority.–

(1) The department has the following powers:

(i) To make and execute contracts or leases in the name

Amend Bill, page 4, line 17, by striking out all of said line and inserting

(ii) To grant a right-of-way through State system land to

Amend Bill, page 4, line 26, by striking out all of said line and inserting

(iii) To cooperate with, consult with or delegate to the

Amend Bill, page 4, by inserting between lines 28 and 29

(2) Notwithstanding paragraph (1), no interest in State system land shall be transferred unless approved through an act of the General Assembly.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

This amendment allows drilling on college campuses – on the surface, below the ground. It allows for drilling on other government lands – on the surface, below the ground. But what it does is simply treats that interest in government land like other parcels that we as a Commonwealth own, and simply requires legislative approval. It requires us as a legislature to approve the leasing of land for drilling. This is only wise and prudent. We do this whenever we want to sell off government land. We have a process. The Department of General Services does a rule 32 analyzing whether it is a good idea. It goes through the committee process. We have our input. We do this with all Commonwealth interests in real estate. So what this does is simply says, yes; let us continue that prudent process. Yes, if there is a plan to lease off land at Lock Haven, or yes, if there is a plan to lease off land at Mansfield, yes; the Department of General Services can negotiate. Yes, they can enter into leases. Yes, university presidents have input. But we as a legislature should not cede the authority we now have to approve or disapprove. Right now as we sit here, we as a legislature approve or disapprove the sale, lease, disposition of Commonwealth lands. What I am saying is, let us retain that so we can use our judgment as to what parcels can be sold or leased and what cannot.

So this really just requires legislative approval for any transfers of our interest in our land. I think this should be very straightforward, and I ask for an affirmative vote.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

Again, this is another derivation of trying to eliminate or limit the leasing and payment to the State universities. It requires that no interest in State-owned or State lands, SSHE (State System of Higher Education) land, 14 State university's land "be transferred unless approved through an act of the General Assembly." This would obviously politicize contractual approvals, would add significant delays to projects, and DGS and DCNR I believe are more than capable of managing these activities; in fact, they already do currently in law.

So for all the reasons enunciated earlier, I rise to oppose this amendment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS–60

Boyle, B.	Dean	Josephs	Payton
Boyle, K.	Deasy	Kavulich	Ravenstahl
Bradford	DeLissio	Keller, W.	Roebuck
Brennan	DeLuca	Kirkland	Sabatina
Briggs	Dermody	Kotik	Samuelson
Brown, V.	Donatucci	Matzie	Santarsiero
Brownlee	Evans, D.	McGeehan	Santoni
Caltagirone	Fabrizio	Metzgar	Schmotzer
Cohen	Frankel	Mullery	Staback
Conklin	Freeman	Mundy	Sturla
Costa, D.	George	Murt	Vitali
Costa, P.	Harkins	Myers	Waters
Cruz	Harper	Neilson	Wheatley
Curry	Hornaman	Parker	Williams
Davis	James	Pashinski	Youngblood

NAYS–138

Adolph	Everett	Kula	Quinn
Aument	Farry	Lawrence	Rapp
Baker	Gabler	Longietti	Readshaw
Barbin	Galloway	Mackenzie	Reed
Barrar	Geist	Maher	Reese
Bear	Gergely	Mahoney	Roae
Benninghoff	Gibbons	Major	Rock
Bishop	Gillen	Maloney	Ross
Bloom	Gillespie	Mann	Saccone
Boback	Gingrich	Markosek	Sainato
Boyd	Godshall	Marshall	Saylor
Brooks	Goodman	Marsico	Scavello
Brown, R.	Grell	Masser	Simmons
Burns	Grove	Metcalfe	Smith, K.
Buxton	Hackett	Miccarelli	Smith, M.
Carroll	Hahn	Micozzie	Sonney
Causer	Haluska	Millard	Stephens
Christiana	Hanna	Miller	Stern
Clymer	Harhai	Milne	Stevenson
Cox	Harhart	Mirabito	Swanger
Creighton	Harris	Moul	Tallman
Culver	Heffley	Murphy	Taylor
Cutler	Helm	Mustio	Thomas
Daley	Hennessey	Neuman	Tobash
Davidson	Hess	O'Neill	Toepel
Day	Hickernell	Oberlander	Toohil
Delozier	Hutchinson	Payne	Truitt
Denlinger	Kampf	Peifer	Turzai
DePasquale	Kauffman	Perry	Vereb
DiGirolamo	Keller, F.	Petrarca	Vulakovich
Dunbar	Keller, M.K.	Petri	Watson
Ellis	Killion	Pickett	White
Emrick	Knowles	Preston	
Evankovich	Kortz	Pyle	Smith, S.,
Evans, J.	Krieger	Quigley	Speaker

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. **A11151:**

Amend Bill, page 4, line 11, by striking out "The" and inserting
Except as provided in subsection (a.1), the

Amend Bill, page 4, by inserting between lines 28 and 29

(a.1) Requirement.–Before employing the powers specified in subsection (a), the department must first obtain the consent of the following:

(1) the president of the institution as defined under

section 2001-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949; and

(2) eight members of the council as defined under section 2001-A of the Public School Code of 1949.

On the question,

Will the House agree to the amendment?

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

Mr. VITALI. Thank you, Mr. Speaker.

What this amendment does is with regard to State System of Higher Education land, before it can be leased out, the approval of both the president of the university plus 8 of the 11 members of the council of trustees at that State System must be given. Mr. Speaker, I think what we are trying to do with this amendment is to make sure that it is the will of the local university to lease out this land.

Now, a previous amendment had required that the president sign off, but the president, frankly, has a job, a job that could be lost, a job that perhaps if he does not go along with what higher-ups want could be lost. There might be pressure. But the 11-person council of trustees, which each one of these State System institutions has, they are more broad-based. They are less likely as a body to be pressured into doing things that are not within the best interest of the university. So we have required a supermajority of the council of trustees to approve this, to make sure that this is really what is in the best interest of the university as reflected by this council. So it is sort of like a two-pronged test: To do drilling on a college campus, the president of that State System school has to sign off, but also 8 of the 11 members of that council of trustees must sign off.

So just to double-check, and I think it is prudent. I ask for an affirmative vote.

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

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

Mr. MILNE. Thank you, Mr. Speaker.

I rise in opposition to this amendment for a couple different reasons. One, in the omnibus amendment, we did give the authority to the president to have to approve these kinds of decisions. I happen to trust the leadership of our PASSHE institutions and believe the presidents will act in the best interest of their schools and take all the stakeholders' perspectives into account in making their decision. I can tell you as somebody who has spent 20 years at one of the PASSHE institutions, the presidents and the board of trustees or the board of council are in regular communication, regular consultation, and are both jointly trying to do what is best for each of those institutions. And I believe they will act in what is in best interest of the student body, the faculty, the alumni, and all that care about these PASSHE institutions. I do not believe it is the role of the legislature to micromanage what the presidents and the board of trustees do in this particular instance. I would urge the members to oppose this amendment.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I also echo the last sentiments of the former speaker and rise in opposition to this. As a member of the council of trustees, I think what we are simply doing is micromanaging what we do now anyway. I think the omnibus amendment that we passed addresses the president dealing with this. As a member of the council of trustees, we deal every day with issues that the president raises and gets in contract with. We are advised consent, and most times, by law today, by law, the law subscribes that we must vote on certain contracts. So I think this amendment really is not necessary, and I rise in opposition to it.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

For all the reasons heretofore expressed, I, too, ask for opposition to this amendment. They expressed it very eloquently. I cannot say it better. I ask for a "no" vote. Thank you, Mr. Speaker.

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

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

Mr. VITALI. I just wanted to take exception to the suggestion that this amendment tends to micromanage; just the opposite, we are staying away from the decision. We are giving it to the local people. Councils of trustees frequently have alumni; they have a student body representative; they have local people, people who know the local situation, people who have the best interest of the university at heart. The council of trustees is in a good position to assess what is best for the university. It is not us micromanaging; to the contrary, it is us letting go and giving the local people local control and making decisions, what is in the best interest for them. So far from micromanaging, it is us letting go. So again I ask for an affirmative vote.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–68

Boback	Deasy	James	Ravenstahl
Boyle, B.	DeLissio	Josephs	Roebuck
Boyle, K.	DeLuca	Kavulich	Sabatina
Bradford	DePasquale	Keller, W.	Samuelson
Brennan	Dermody	Kirkland	Santarsiero
Briggs	Donatucci	Kotik	Santoni
Brooks	Evans, D.	Matzie	Schmotzer
Brown, V.	Fabrizio	McGeehan	Smith, M.
Brownlee	Frankel	Mirabito	Staback
Caltagirone	Freeman	Mullery	Stephens
Cohen	Galloway	Mundy	Sturla
Conklin	George	Murt	Thomas
Costa, D.	Gibbons	Myers	Vitali
Costa, P.	Goodman	Neilson	Waters
Cruz	Harkins	Parker	Wheatley
Curry	Harper	Pashinski	Williams
Dean	Hornaman	Payton	Youngblood

NAYS–130

Adolph	Everett	Lawrence	Quigley
Aument	Farry	Longietti	Quinn
Baker	Gabler	Mackenzie	Rapp
Barbin	Geist	Maher	Readshaw
Barrar	Gergely	Mahoney	Reed
Bear	Gillen	Major	Reese
Benninghoff	Gillespie	Maloney	Roae
Bishop	Gingrich	Mann	Rock
Bloom	Godshall	Markosek	Ross
Boyd	Grell	Marshall	Saccone
Brown, R.	Grove	Marsico	Sainato
Burns	Hackett	Masser	Saylor
Buxton	Hahn	Metcalfe	Scavello
Carroll	Haluska	Metzgar	Simmons
Causer	Hanna	Miccarelli	Smith, K.
Christiana	Harhai	Micozzie	Sonney
Clymer	Harhart	Millard	Stern
Cox	Harris	Miller	Stevenson
Creighton	Heffley	Milne	Swanger
Culver	Helm	Moul	Tallman
Cutler	Hennessey	Murphy	Taylor
Daley	Hess	Mustio	Tobash
Davidson	Hickernell	Neuman	Toepel
Davis	Hutchinson	O'Neill	Toohil
Day	Kampf	Oberlander	Truitt
Delozier	Kauffman	Payne	Turzai
Denlinger	Keller, F.	Peifer	Vereb
DiGirolamo	Keller, M.K.	Perry	Vulakovich
Dunbar	Killion	Petrarca	Watson
Ellis	Knowles	Petri	White
Emrick	Kortz	Pickett	
Evankovich	Krieger	Preston	Smith, S.,
Evans, J.	Kula	Pyle	Speaker

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. **A12185:**

Amend Bill, page 4, line 16, by inserting after "land."

Before the department makes or executes a contract or lease under this paragraph, it must first obtain the approval of the president for the mining or removal activities. The president may specify contract or lease conditions, including, but not limited to:

(i) hours of operation;
(ii) setback requirements;
(iii) placement of roads;
(iv) placement of drilling;
(v) placement of equipment; and
(vi) placement of retention ponds.

Amend Bill, page 5, by inserting between lines 17 and 18

(e) Definition.–As used in this section, the term "president" means the president of the system university where the mining or removal activities are proposed to occur under this section.

On the question,

Will the House agree to the amendment?

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

Mr. VITALI. Thank you, Mr. Speaker.

This is meant to complement the concept of having the president of a university approve a contract. What this says is that the president of the university will be able to specify certain conditions in the contract that would be offered a potential driller, such as the hours of operation, the setback requirements, the location of the drilling, the location of retention ponds, and so forth.

And the reason it is important to give the president this sort of control and influence over the drilling is the sensitive nature of the educational institution. You know, this is not drilling on private lands in the middle of nowhere uninhabited by people. This is a college campus with special needs and sensitivities. To give the university president, for example, control over the hours of operation would avoid a situation where drilling could occur at a time that would disrupt learning or a time that would disrupt the sleep of students. To give the university, as this amendment does, control over setback requirements would again help that university president protect the integrity of the campus, having setback requirements from certain important buildings, classrooms, dormitories, and so forth. So it is important if we want to maintain the educational character of the university. It is not enough that we give the college president a yes or no, but allow him some say in these things, the placement of drilling rigs; very important, very important. We want to make sure that once the contract is signed, the president is not surprised to see a drilling rig on Old Main or some other inappropriate place.

So retention basins pose certain environmental threats. Again, we want a college president to have control over his campus. We want him to have, we want him to be able to make sure this happens in a way that does not affect the quality of life on his campus. So all this does is says when a college decides it leases out land, it gives the president some sign off on hours of operation, setbacks, placement of roads, drilling, and so forth. So if we are really interested in protecting the integrity of the college campus, I think this is an amendment we should support, and I would ask for an affirmative vote.

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

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

Mr. MILNE. Thank you, Mr. Speaker.

Again, as someone who has spent 20 years at one of the PASSHE institutions as a faculty member, I think we need to give the university presidents just a little bit more credit in this process. I will share with the body that one of the biggest concerns any university president has about any decision he or she makes is how it will affect the student body, how it will affect campus activities, and how can the main mission of the university be met, which is certainly creating a good learning environment for the students.

Any university president is going to ask a lot of questions about the drilling operations – how they will take place, when they will take place, methodology. They will consult with all

kinds of stakeholders on campus – the faculty senate, the student body, alumni – and make sure that there is buy-in from all concerned about how the university moves forward on this process. The university president is not going to want to have a problem on his or her hands for making a bad decision. Since it is not going to happen willy-nilly or whimsically, it will happen with careful thought. A university by definition is a place of careful thought and deliberation in everything it does. I have no questions in my mind that universities will make good decisions that sustain and cultivate a good, strong learning environment for the students, who of course are the main consumers of a college education.

So, Mr. Speaker, let us give the presidents a little more credit, and let us vote down this amendment. Thank you.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I also rise in opposition to this amendment. I think once again we are micromanaging how the president does his work. The omnibus amendment really has already dealt with that. My involvement with California University spans 42 years from the student body president to today as a member of the council of trustees. We believe our presidents are going to make the right decisions; they are not going to make the wrong decisions. I think this amendment, once in, is another way that the maker of this amendment is reaching in trying to micromanage how we run these State universities. I ask for a "no" vote.

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

On that question, the Speaker recognizes the gentleman from Tioga, Mr. Baker.

Mr. BAKER. Thank you, Mr. Speaker.

I, too, rise in opposition to this amendment. We gave the presidents of the universities the authority to approve of these agreements. Let us give them more credit. Let us not micromanage them. They do not make these decisions in a vacuum. There is a lot of decisionmaking going on, a lot of discussions. I fully expect that the legal teams would be called in to look over the terms of these agreements, all the constituency groups at the university would be consulted, perhaps the Board of Governors would be consulted. Let us please not try to micromanage and dictate every little job duty for our presidents of our 14 State universities, and oppose this amendment.

Thanks, Mr. Speaker.

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

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

Mr. VITALI. Thank you, Mr. Speaker.

To be clear, we are doing just the opposite of micromanaging. What we are doing is giving the president more tools to effectuate I think what we all want to do. We are not imposing anything. We are allowing him to have a greater control over the contract process. Mr. Speaker, frankly, university presidents are academians. They are not, you know, oil executives. This will be, when they encounter this for the first time, their first time through this. Just as we know some of the earlier people engaged in leasing in the Commonwealth were taken advantage of by drillers because it was their first time through, we just want to put some added safeguards in here to make sure that the president, in addition to approving or disapproving, specifically can approve things like the hours of operation, setbacks, placement of some of the equipment. We are not micromanaging; we are allowing a president to retain more control. We are making sure that a president, who is an academian at heart, not a drilling expert or an industrial contract expert, but an academian, to really give him some extra tools at his disposal to really make sure his campus is protected. I say let us err on giving him more control as opposed to less control, give him as much power as we can to protect the institution, because it is really about protecting the kids, at the end of the day, and this will help the president protect the kids.

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

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

Mr. DALEY. Thank you, Mr. Speaker.

I feel really compelled to respond to the last statements. I know the presidents of the State university system, and they are not just academics; they are running multimillion-dollar businesses every day. They are running thousands of students. They are dealing with hundreds of faculty members. They are dealing with a countless amount of maintenance folks on the campuses. This is not just the way it was back in 1945 on these ivy-covered campuses. It is a different world today. These are multimillion-dollar corporations. These gentlemen and ladies can make the decisions. We are saying, let us not micromanage – by the gentleman from Delaware County's amendment – we do not want to micromanage the way they do their business. Let us let them run the universities like they can run them.

I ask for a "no" vote.

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

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

Mr. MILNE. Thank you, Mr. Speaker.

I rise again because I want to take exception to this characterization that an academician cannot be a good manager, cannot be a good decisionmaker, cannot make good business decisions. Secondly, most university presidents these days actually have served in management capacities first before becoming a president, and most university presidents actually come up through nonacademic routes these days, the nature of the way higher education has changed over the years compared to earlier times.

Thirdly, there is nothing in State law that prohibits university presidents from asking the very questions that are being raised by the maker of this amendment. University presidents have every right and every ability to ask those very questions, and I have every confidence that university presidents will ask those questions based on the experiences I have seen in our PASSHE institutions.

So again, I would urge defeat of this amendment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS–74

Boback	Deasy	Kavulich	Ravenstahl
Boyle, B.	DeLissio	Keller, W.	Readshaw
Boyle, K.	DeLuca	Kirkland	Roebuck
Bradford	DePasquale	Kortz	Sabatina
Brennan	Dermody	Maher	Samuelson
Briggs	Donatucci	Markosek	Santarsiero
Brooks	Evans, D.	Matzie	Santoni
Brown, V.	Fabrizio	McGeehan	Schmotzer
Brownlee	Frankel	Mullery	Smith, M.
Caltagirone	Freeman	Mundy	Staback
Cohen	Galloway	Murt	Stephens
Conklin	George	Myers	Sturla
Costa, D.	Gibbons	Neilson	Thomas
Costa, P.	Gillen	Parker	Vitali
Cruz	Godshall	Pashinski	Waters
Curry	Harkins	Payton	Wheatley
Davidson	Hornaman	Petrarca	Williams
Davis	James	Quinn	Youngblood
Dean	Josephs		

NAYS–124

Adolph	Farry	Lawrence	Quigley
Aument	Gabler	Longietti	Rapp
Baker	Geist	Mackenzie	Reed
Barbin	Gergely	Mahoney	Reese
Barrar	Gillespie	Major	Roae
Bear	Gingrich	Maloney	Rock
Benninghoff	Goodman	Mann	Ross
Bishop	Grell	Marshall	Saccone
Bloom	Grove	Marsico	Sainato
Boyd	Hackett	Masser	Saylor
Brown, R.	Hahn	Metcalfe	Scavello
Burns	Haluska	Metzgar	Simmons
Buxton	Hanna	Miccarelli	Smith, K.
Carroll	Harhai	Micozzie	Sonney
Causer	Harhart	Millard	Stern
Christiana	Harper	Miller	Stevenson
Clymer	Harris	Milne	Swanger
Cox	Heffley	Mirabito	Tallman
Creighton	Helm	Moul	Taylor
Culver	Hennessey	Murphy	Tobash
Cutler	Hess	Mustio	Toepel
Daley	Hickernell	Neuman	Toohil
Day	Hutchinson	O'Neill	Truitt
Delozier	Kampf	Oberlander	Turzai
Denlinger	Kauffman	Payne	Vereb
DiGirolamo	Keller, F.	Peifer	Vulakovich
Dunbar	Keller, M.K.	Perry	Watson
Ellis	Killion	Petri	White
Emrick	Knowles	Pickett	
Evankovich	Kotik	Preston	Smith, S.,
Evans, J.	Krieger	Pyle	Speaker
Everett	Kula		

NOT VOTING–0

EXCUSED–3

Fleck	Gerber	O'Brien, M.

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. **A12007:**

Amend Bill, page 5, by inserting between lines 14 and 15
(d) Additional requirements for leases.–
(1) Prior to the leasing of any State system land under this section, the affected university must engage in all of the following:
(i) Hold an initial public hearing on or near the campus of the affected university to solicit input from stakeholders of the affected university and to inform those stakeholders of:
(A) The desire to lease State system land.
(B) The location of the State system land desired to be leased.
(C) The acreage of the State system land desired to be leased.
(D) The names of the potential lessees of the State system land.
(E) The drilling activities to be performed on the State system land.
(ii) After the initial public hearing is held, prepare a campus impact statement. The campus impact statement shall detail the impact of the proposed drilling on all of the following:
(A) The mission of the affected university.
(B) Traffic around the affected university.
(C) Air quality of the affected university.
(D) Noise pollution of the affected university.
(E) Ecology of the affected university.
(iii) Hold a second public hearing to review the campus impact statement and any drilling proposals and to solicit input from stakeholders of the affected university.
(2) As used in this subsection, the term "stakeholders" means the faculty, administration and student body of the affected university; the community adjacent to the affected university; and any other groups with an interest in the affairs of the affected university.
Amend Bill, page 5, line 15, by striking out "(d)" and inserting
(e)

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

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

Mr. VITALI. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is a recognition that the campus is a community consisting of many stakeholders. The president, faculty, administration, student body, other campus groups, the adjacent community, all have an interest when a highly industrial activity is being considered for location upon their campus. What this does is creates something that I think we all in concept support, which is a public hearing process. It is a process designed to let the entire campus community know, all of the stakeholders we have talked about, let them know what is being considered so they can all lend their voice. What

this does is creates a process that requires, before the execution of a lease, two public hearings and one campus impact statement. It would work something like this: If a university is considering drilling on their land, they would first need to conduct a public hearing on or around the campus and outline to these stakeholders we have talked about – faculty, administration, students, the community at large, other interest groups – what they are considering, where they are considering drilling, how much acreage they are considering drilling, a description of the drilling activity, who might be the company drilling; in general terms, what they are thinking generally, what they are thinking generally, and then get feedback, feedback from all these groups.

Then after that hearing is completed and the idea has been sharpened, doing a campus impact statement, which is a statement which details the impact that this drilling might have on the mission of the university, the traffic around the university, the air quality of the university, the noise levels at the university, the ecology of the university. In other words, just an impact statement about what this drilling and the proposal they are considering would mean to the university. How it would impact it. I envision a situation where they might even hire a private consultant to do this for them. Then after that campus impact statement is completed, then hold a second public hearing, and at this second public hearing, review the campus impact statement with all those stakeholders we talked about and get their input as to what they think of the idea now. This way, before they move forward, all of the stakeholders in the university community are fully informed and have been given time and opportunity to give input about what they think of the proposed drilling process. This is just open, accountable government.

We value public hearings because we value what can be gained from getting the opinions of as many people as possible before we make an important decision. And believe me, for a college campus, bringing drilling onto that campus is an important decision. So this just opens it up. It does not prohibit drilling; it does not limit drilling. It just says if you want to do drilling, have a public hearing process so everyone really knows what is going to be happening when, what impact it is going to have, what their opinions are, and then they may move forward.

So I am hoping that this is an agreed-to amendment by the gentleman from Tioga. I am hoping that the gentleman from Washington can agree, because we all agree public hearings are important. We all agree of the value of open and accountable government. No one wants to go back to our constituents and say, you know what? I voted against – you know, no one wants to go back to the citizens of Mansfield and say, I voted against you having a public hearing. No one wants to go back to the citizens of Lock Haven and say, you know, I voted against you having the right to a public hearing. No one wants to go back to the other universities and say, you know what? We talked about having a public hearing to let you guys know what was happening, but you know what? I did not really think you guys ought to have that public hearing. I did not think that we really wanted to get you involved in this process. I did not really think we wanted your input. You know, I do not think that that is what we want to go back and tell our constituents.

I think what we want to tell our constituents is we value your opinion, residents of Mansfield. We value your opinion, residents of Washington County. We value your opinion, residents of Lock Haven. That is why we want to hear what you say. We want to hear what you say. We want to explain this to you. We want to explain this to you in a public forum. We want to do a little analysis so you have all the facts. We care about what you think. That is why we are having two public hearings, so you can give your input. We value your minds. We value your opinions. We care what you think, and that is why we can all proudly vote "yes," vote "yes" for this public hearing process as a way to say to our constituents, we care what you think. We would never disrespect you. We would never disrespect you by voting against a public hearing for you. We would never disrespect you by not giving you information.

You elect us, so we care about what you think, and we are going to reward you electing us by showing you we care about your opinion, we care about letting you know what we think, and that is why we are going to vote, everyone, all 203 of us or 201 of us are going to vote "yes," because we want to say to our constituents, your opinion matters. You matter to us. We are just not going run roughshod over what you think. We are giving you the chance to let your voice be heard. That is America, letting every person's voice be heard.

Vote "yes," and God bless the United States of America. Thank you.

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

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

Mr. MILNE. Well, Mr. Speaker, about the only thing I agree with was that last sentence.

But beyond that, I can assure you that in the United States of America on college campuses, environmentalism is alive and well and is certainly a very strong culture of wanting to do the right thing by our environment. Green is a very popular color on college campuses, so I have no doubt that all the stakeholders will be consulted. No university president or upper management is going to ramrod a decision like this through the process. There will be extensive consultation with the faculty senate, with student representatives, with the alumni base, and all our PASSHE institutions, and I think all of our institutions in the Commonwealth certainly try to practice a good-neighbor policy, and there are regular dialogues that happen with surrounding communities, officially and unofficially, about decisions the university is making.

So I internally have no doubt that there will be a lot of consultation with all the stakeholders and a decision will emerge on campus that makes sense for that particular campus in that particular part of the State. Secondly, externally, no campus is an island. It is situated in a municipality. There are governing municipal ordinances and laws that apply to planning and development and zoning and land-use decisions and approvals that a campus community is going to have to follow, as it does for all matters that affect anything it constructs or builds or does on campus. And certainly State law will continue to be applicable in every way that it is today in terms of what State universities must do to gain approval to do a project on campus.

So again, I would urge the members to defeat this amendment. Let the campuses make a decision that makes sense for them. Thank you, Mr. Speaker.

LEAVE OF ABSENCE

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

CONSIDERATION OF SB 367 CONTINUED

The SPEAKER. For what purpose does the gentleman, Mr. Frankel, rise? One second, please.

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

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

Mr. FRANKEL. Thanks, Mr. Speaker.

I just want to make one quick point to the prior speakers. Basically, Act 13 eviscerated the ability of local governments to have local ordinances and zoning rules with respect to drilling, and I think we ought to recognize that. So some of these protections that we are asking for, particularly in an environment where university presidents and their boards of directors, who have been put in such a bind by our State government with the funding cuts that they have, are faced sometimes with the lesser of two evils. Do I make this concession to drilling on my campus, or do I get more revenue because I am getting cut by hundreds of millions of dollars by the Commonwealth?

So I think that some of these protections make an enormous amount of sense, particularly because we have eviscerated the ability of local governments to protect their communities that include some of these college campuses. I support the amendment.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I rise in opposition to the amendment. The last speaker prior to the previous speaker had indicated that the individuals in various communities may be offended by the fact that we may have voted here in the legislature to stop open-ended accountability in government. I think, quite honestly, what this creates is duplicity. It creates more government. It creates more oversight. It creates more involvement that does not necessarily need to be there. The way the law specifically is and the way the omnibus amendment is, quite honestly, what happens with these contracts, they are submitted and approved and go through the Department of General Services, or what happens is they can be provided to the Department of Conservation and Natural Resources. Now, everyone knows there is a permitting process, there is a review process when they are involved. There is a public impact statement that is involved in that permitting process.

What the maker of this amendment wants to do is create more duplicity in government when we have less funds, less ability to govern properly, and what we simply need to do is try to cut every way we can in duplicity in government. I think this amendment is a bad amendment, and I ask for a "no" vote.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

Mr. BAKER. Thank you, Mr. Speaker.

I, too, rise in opposition to this amendment. Our various laws and regulations already provide for an open public process when approving permits for projects. Applicants must notify surface landowners, local and adjacent municipalities, water purveyors. Surface owners may file objections, and local municipalities may submit comments on permit approvals. This amendment, once again, would only serve to add more and expensive delays to the projects – add red tape, bureaucracy, and delays – and can cost substantial potential revenues. I strongly oppose the amendment.

Thank you, Mr. Speaker.

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

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

Ms. JOSEPHS. Thank you, Mr. Speaker.

I have to tell you, I am just astounded that anybody would stand up and say exposing government policies to the public is somehow wrong. We have been hearing from local people; they are not happy with the fact that we took their autonomy away. I would never go, even though my district is very far from any of this activity, people in my district understand, and I think all over the State understand, that their input is needed when we are making local decisions. I cannot believe it. I certainly would never go back to my people and say, guess what? I voted so your voice will not be heard. Boy, that is a good idea. I would not do it. I just feel bad for the rest of you who are going to.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–80

Bishop	Deasy	Kampf	Quinn
Boyle, B.	DeLissio	Kavulich	Ravenstahl
Boyle, K.	DeLuca	Keller, W.	Roebuck
Bradford	DePasquale	Kirkland	Sabatina
Brennan	Dermody	Kortz	Samuelson
Briggs	Donatucci	Kotik	Santarsiero
Brooks	Evans, D.	Markosek	Santoni
Brown, V.	Fabrizio	Matzie	Schmotzer
Brownlee	Frankel	McGeehan	Smith, K.
Caltagirone	Freeman	Mirabito	Smith, M.
Carroll	Galloway	Mullery	Staback
Cohen	George	Mundy	Stephens
Conklin	Gibbons	Murt	Sturla
Costa, D.	Gillen	Myers	Thomas
Costa, P.	Goodman	Neilson	Vitali
Cruz	Harkins	Parker	Waters
Curry	Harper	Pashinski	Wheatley
Davidson	Hornaman	Payton	White
Davis	James	Petrarca	Williams
Dean	Josephs	Petri	Youngblood

NAYS–117

Adolph	Everett	Lawrence	Rapp
Aument	Farry	Longietti	Readshaw
Baker	Gabler	Mackenzie	Reed
Barbin	Geist	Maher	Reese
Barrar	Gergely	Mahoney	Roae
Bear	Gillespie	Major	Rock
Benninghoff	Gingrich	Maloney	Ross
Bloom	Godshall	Mann	Saccone
Boback	Grell	Marshall	Sainato
Boyd	Grove	Marsico	Saylor
Brown, R.	Hackett	Masser	Scavello
Burns	Hahn	Metcalfe	Simmons
Buxton	Haluska	Metzgar	Sonney
Causer	Hanna	Miccarelli	Stern
Christiana	Harhai	Micozzie	Stevenson
Clymer	Harhart	Millard	Swanger
Cox	Harris	Miller	Tallman
Creighton	Heffley	Milne	Taylor
Culver	Helm	Moul	Tobash
Cutler	Hennessey	Murphy	Toepel
Daley	Hess	Mustio	Toohil
Day	Hickernell	Neuman	Truitt
Delozier	Hutchinson	O'Neill	Turzai
Denlinger	Kauffman	Oberlander	Vereb
DiGirolamo	Keller, F.	Payne	Vulakovich
Dunbar	Keller, M.K.	Peifer	Watson
Ellis	Killion	Perry	
Emrick	Knowles	Pickett	Smith, S.,
Evankovich	Krieger	Pyle	Speaker
Evans, J.	Kula	Quigley	

NOT VOTING–0

EXCUSED–4

Fleck	Gerber	O'Brien, M.	Preston

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. **A11848:**

Amend Bill, page 5, line 19, by striking out all of said line and inserting

The following shall apply:

Amend Bill, page 5, lines 21 and 22, by striking out "except for a " in line 21 and "contract or lease under section 4," in line 22

Amend Bill, page 6, lines 13 through 19, by striking out "AS FOLLOWS:" in line 13 and all of lines 14 through 19 and inserting in the General Fund.

Amend Bill, page 6, line 21, by inserting after "Resources" under section 3

Amend Bill, page 6, lines 28 through 30; page 7, lines 1 through 15, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

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

Mr. VITALI. I am going to be withdrawing that amendment.

The SPEAKER. The Speaker thanks the gentleman.

Does that hold true with the next amendment? Well, I can always hope.

On the question recurring,

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

Mr. **VITALI** offered the following amendment No. **A12168:**

Amend Bill, page 6, lines 13 through 19, by striking out "AS FOLLOWS:" in line 13 and all of lines 14 through 19 and inserting into the General Fund.

Amend Bill, page 7, line 1, by striking out "Forty" and inserting Twenty

Amend Bill, page 7, line 7, by striking out "Sixty" and inserting Eighty

Amend Bill, page 7, lines 7 through 15, by striking out "State System " in line 7 and all of lines 8 through 15 and inserting General Fund.

On the question,

Will the House agree to the amendment?

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

Mr. VITALI. Thank you, Mr. Speaker.

What this amendment does is changes the distribution formula of the revenues derived for drilling on State-owned lands and State System of Higher Education lands. It basically says that with regard to the State System of Higher Education lands, 20 percent goes to the State school affected and 80 percent goes to the General Fund. With regard to the other lands, with regard to the other government lands, all goes to the General Fund.

Now, I am not suggesting that the gentleman from Tioga or the gentleman from Lock Haven were introducing amendments in such a way that would direct money to their constituents, but this amendment, if you wanted to vote in a way that is going to benefit your own constituents, I would say this does that. This bill, by putting moneys into the General Fund, will help fund things that are important to your constituents like basic ed, higher ed, health care, transportation, environmental protection. This is a recognition of the fact that these lands, which happen to be where universities happen to be or where other government lands happen to be, belong to all of the Commonwealth, all of the Commonwealth, all 12.5 million Pennsylvanians. And if this land, which is owned by all 12.5 million Pennsylvanians, is drilled, we should all benefit by it.

Now, this gives 20 percent to the local school because, yes, there will be an impact with this industrial activity, but it is also a recognition of the fact that, you know what? People in Delaware County, people in Chester County, people in Bucks County, we have unmet needs too. We have schools whose art

programs are being cut. We have health-care programs that are being cut. We have college tuitions that are going up because our higher ed is being cut. We should all benefit. We should all benefit from the leasing of State-owned lands.

We have a budget that is very austere. We need more money in our General Fund so we can benefit people in all 67 counties. I would suggest to you that a "yes" vote on this amendment is a way to help your own constituents, each and every one of your own constituents by helping fund programs important to them. This land we are talking about is owned by all Pennsylvanians. It just, by happenstance, happens to be under a university or it happens to be under Department of Corrections' land or happens to be under some government land, but that does not mean they should get all the benefit of it.

Our budget, our appropriations bill, is a collective decision as to how our money should be best spent. We need more money to benefit all Pennsylvanians. This amendment will help benefit all our constituents, so vote for your own constituents and vote for this amendment. Thank you.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I think this amendment, although it makes some sense, it cuts too much cents. It cuts the money going to the State System from 40 percent to 20 percent. I think it is a bad amendment, and I ask for a "no" vote.

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

The following roll call was recorded:

YEAS–50

Bradford	Dean	Josephs	Readshaw
Brennan	Deasy	Keller, W.	Roebuck
Briggs	DeLissio	Kirkland	Samuelson
Brown, V.	Dermody	Matzie	Santarsiero
Brownlee	Evans, D.	McGeehan	Santoni
Caltagirone	Fabrizio	Mundy	Schmotzer
Carroll	Frankel	Myers	Smith, K.
Cohen	Freeman	Neilson	Sturla
Conklin	Galloway	Parker	Vitali
Costa, P.	Godshall	Pashinski	Wheatley
Cruz	Harkins	Payton	Williams
Curry	Hornaman	Ravenstahl	Youngblood
Davidson	James		

NAYS–147

Adolph	Evans, J.	Krieger	Quigley
Aument	Everett	Kula	Quinn
Baker	Farry	Lawrence	Rapp
Barbin	Gabler	Longietti	Reed
Barrar	Geist	Mackenzie	Reese
Bear	George	Maher	Roae
Benninghoff	Gergely	Mahoney	Rock
Bishop	Gibbons	Major	Ross
Bloom	Gillen	Maloney	Sabatina
Boback	Gillespie	Mann	Saccone
Boyd	Gingrich	Markosek	Sainato
Boyle, B.	Goodman	Marshall	Saylor
Boyle, K.	Grell	Marsico	Scavello
Brooks	Grove	Masser	Simmons
Brown, R.	Hackett	Metcalfe	Smith, M.
Burns	Hahn	Metzgar	Sonney
Buxton	Haluska	Miccarelli	Staback
Causer	Hanna	Micozzie	Stephens
Christiana	Harhai	Millard	Stern
Clymer	Harhart	Miller	Stevenson
Costa, D.	Harper	Milne	Swanger
Cox	Harris	Mirabito	Tallman
Creighton	Heffley	Moul	Taylor
Culver	Helm	Mullery	Thomas
Cutler	Hennessey	Murphy	Tobash
Daley	Hess	Murt	Toepel
Davis	Hickernell	Mustio	Toohil
Day	Hutchinson	Neuman	Truitt
Delozier	Kampf	O'Neill	Turzai
DeLuca	Kauffman	Oberlander	Vereb
Denlinger	Kavulich	Payne	Vulakovich
DePasquale	Keller, F.	Peifer	Waters
DiGirolamo	Keller, M.K.	Perry	Watson
Donatucci	Killion	Petrarca	White
Dunbar	Knowles	Petri	
Ellis	Kortz	Pickett	Smith, S.,
Emrick	Kotik	Pyle	Speaker
Evankovich			

NOT VOTING–0

EXCUSED–4

Fleck	Gerber	O'Brien, M.	Preston

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

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

Mr. **GEORGE** offered the following amendment No. **A11439:**

Amend Bill, page 7, line 1, by striking out "Forty percent" and inserting

Except as provided under paragraph (3), 40%

Amend Bill, page 7, line 7, by striking out "Sixty percent" and inserting

Except as provided under paragraph (3), 60%

Amend Bill, page 7, by inserting between lines 15 and 16

(3) Fifteen percent of the funds distributed under paragraphs (1) and (2) shall be used exclusively for tuition reduction.

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

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

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, this will not be a long delay in effort. It is quite simple in that there are not any of us here that do not believe that education is a prerequisite to success and our young people should have a chance to get that further education. This amendment, 11439, provides that 15 percent of the revenue generated from drilling at our State System schools must be used exclusively for tuition reduction. At a time when we have seen school costs go up due to budget cuts and students and parents alike being forced to sacrifice more for an education, we must make sure that if drilling is to occur on land owned by our

State System schools, that the revenue goes back to the students. We owe it to our college-aged kids who will be the driving force behind our economy some day. They deserve an affordable education, and if our schools are going to make money from drilling, then some of that money deserves to go back to the students rather than all of it for deferred maintenance costs or other projects.

I would remind the members that under the bill, without my amendment, no money can be used for tuition reduction. Do what is right for our students. I urge an affirmative vote. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I think this amendment, what it does, it limits the amount of money that goes to student tuition. Under the bill right now, every bit of revenue that is generated by this bill that goes on campus will be used for tuition reduction. I think on some campuses it may create an inequity between the campuses on tuition, and I think although this bill is a good bill, it limits what we can give to tuition. I think when you set an amount of 15 percent, I think that is too low. That does not make good sense. We do not want to be limited to how much. It should be 100 percent of the general revenue that is generated by this bill, not just 15 percent. I ask for a "no" vote.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Brendan Boyle.

Mr. B. BOYLE. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the amendment from the gentleman from Clearfield. Mr. Speaker, we have a real issue throughout the country, but especially here in Pennsylvania, where the cost of a higher education has become out of reach for too many families. Here in Pennsylvania we have the second most expensive public colleges and universities in the country. I am not talking about the elite private institutions; our public colleges are more expensive in Pennsylvania for our families than almost every other State in the country. So the gentleman's amendment is a small measure in the right direction to try to finally focus attention on what is a serious problem for too many working- and middle-class families and lower-income families here in Pennsylvania.

For too long the efforts for those of us in office and policymakers have been on student loans. That has been the answer for a generation when it comes to higher education affordability, and what it has left us is year after year after year of tuition increases that are far greater than the rate of inflation. And what it has also left us is, for the first time in American history, the amount of student loan debt is greater than that of even credit card debt. It is about time that we address the out-of-control tuition increases that we see here in the Commonwealth.

So I applaud the gentleman from Clearfield for his amendment. I hope that this is the first of many initiatives that this body addresses so that we can focus on the much-needed tuition relief for our families. Thank you.

LEAVE OF ABSENCE

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

CONSIDERATION OF SB 367 CONTINUED

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

On that question, the Speaker recognizes the gentleman, Mr. George. Excuse me; does the gentleman, Mr. Hanna, seek recognition?

Mr. George, I will come back to you, if you do not mind.

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

Mr. HANNA. Mr. Speaker, I just want to address the previous comments that were made about the cost of public education in Pennsylvania. While accurate with respect to our State-related schools, it is absolutely inaccurate with respect to the State-owned schools. The PASSHE system has done a marvelous job over the course of the last decade or so of controlling tuition increases. We are considered one of the most affordable State Systems in the nation, that is the State-owned schools. We are one of the most affordable in the nation with the control that we have had over tuition increases.

Now, the previous speaker talked about Pennsylvania leading the nation in the cost of public education; unfortunately, that is driven by the tremendous tuition increases we have seen in our State-related schools, not at our State-owned schools. Mr. Speaker, I would just like to echo what the gentleman from Washington County said: Ultimately, while these funds in this bill are directed to go to deferred maintenance and so on, every single dime that is raised for the State System through this bill ultimately will benefit keeping tuition under control. Any additional dollars that find their way to the State System will help to keep tuition at a reasonable level.

So in essence, Mr. Speaker, as the gentleman from Washington said, all of the dollars that are being raised by this bill are going to benefit tuition, and this amendment is not necessary, so I ask for a "no" vote. Thank you, Mr. Speaker.

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

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

Mr. KORTZ. Thank you, Mr. Speaker.

I rise in support of amendment A11439, and I commend the chairman for bringing this to this House floor. Mr. Speaker, if you read the verbiage of this amendment, it says at the very bottom there, "Fifteen percent of the funds distributed under paragraphs (1) and (2) shall be used exclusively for tuition reduction." This does not limit the amount of funds that can be used. All it is saying is that it is used exclusively for tuition reduction. We can use more of the funds.

The gentleman from Washington County implied that we would be limited to that. I do not see it that way. I think we can use more, and I would ask for an affirmative vote on this. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Northampton County, Mr. Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

Just a correction to some of the previous discussion. I know two of the previous speakers said that this money, under the existing legislation, can be used for tuition reduction. Well, if you look at the bill, without this amendment, this bill directs that the money "shall be used" – this is on page 7, lines 4 to 6 – without the amendment, the money "…shall be used…for deferred maintenance projects or energy efficiency or energy cost saving improvements." That is for the 40 percent that stays with the host school, and the 60 percent that goes to the overall system "…shall only be used for deferred maintenance or energy efficiency or energy cost saving improvements." I am on lines 13, 14, and 15. So if you look at line 13, where the bill directs that it shall only be used for maintenance projects and energy efficiency, I think that Representative George has a wonderful idea to say in this legislation that some of the money has to be used for tuition reduction.

Without the George amendment, the language of the bill is clear: This is for maintenance projects. This is for energy efficiency. This is not for tuition the way the Senate sent it over to us. Representative George has an improvement to make sure that some of this money goes for tuition reduction, and I urge a "yes" vote on the George amendment.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Representative George? Representative George?

The SPEAKER. The gentleman will suspend.

The questions should be directed to the Speaker, not directly to a member.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, to the author of the amendment, would you let him know that I thank him for advancing this proposal? It is a good bill, but, Mr. Speaker, this becomes the one opportunity that we can speak as one – not as R's, D's, I's; tall, short – we can speak as one voice on the need for tuition relief.

Mr. Speaker, I have witnessed a lot of good ideas, and we have provided more money in some years, a lesser amount in other years. And every time that we have addressed this question, we have asked the question of what can we do to hold down tuition? Because families are not getting any more money. Students are not receiving any more money and costs for higher education are constantly going up, but this gives us an opportunity to provide a dedicated anchor of support on the issue of tuition. And we can do it this time, Mr. Speaker. We can do it as one voice. Vote "yes" on the George amendment.

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

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

Mr. GEORGE. Mr. Speaker, I thank you.

I am somewhat troubled, and really I am. I am not an actuary like some of my colleagues, but I am a very lucky individual that I put six children through college, and they were Pennsylvania colleges. Without any BEOGs (basic educational opportunity grant), without any State loans. That is because in those days you could send a kid to school and afford to do so.

Now here we are, and this is not Republican, Democrat. The Republicans are as fair as we can be, but we have to understand that 90 percent of our working class back home does not make $75,000 like we do, does not have the insurance program we do, does not have jobs like we do, but they have kids, and those kids need us to understand that the responsibility of those kids is ours as well as their parents'. Let us do the right thing. In 1981, 41 of us Democrats – and the Speaker will acknowledge – voted for the Republican budget when the Republicans would not put it up, because in those days we cared about each other. We cared about our friends. We cared about our neighbors. We cared about doing what is right. Heck, anybody can do wrong. You do not have to go to school to do wrong. Thank you very much.

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

The following roll call was recorded:

YEAS–118

Barbin	DePasquale	Kirkland	Payton
Barrar	Dermody	Kortz	Petrarca
Bishop	Donatucci	Kotik	Petri
Boyle, B.	Dunbar	Kula	Quinn
Boyle, K.	Emrick	Longietti	Ravenstahl
Bradford	Evankovich	Maher	Readshaw
Brennan	Evans, D.	Mahoney	Reed
Briggs	Fabrizio	Maloney	Roebuck
Brooks	Farry	Mann	Sabatina
Brown, R.	Frankel	Markosek	Sainato
Brown, V.	Freeman	Masser	Samuelson
Brownlee	Gabler	Matzie	Santarsiero
Burns	Galloway	McGeehan	Santoni
Buxton	George	Metzgar	Scavello
Caltagirone	Gergely	Miccarelli	Schmotzer
Carroll	Gibbons	Micozzie	Smith, K.
Cohen	Gillen	Milne	Smith, M.
Conklin	Gingrich	Mirabito	Staback
Costa, D.	Goodman	Moul	Stephens
Costa, P.	Haluska	Mullery	Sturla
Cox	Harhai	Mundy	Thomas
Cruz	Harkins	Murt	Toepel
Culver	Harper	Mustio	Truitt
Curry	Helm	Myers	Vitali
Davidson	Hornaman	Neilson	Waters
Davis	James	Neuman	Wheatley
Dean	Josephs	Parker	White
Deasy	Kauffman	Pashinski	Williams
DeLissio	Kavulich	Payne	Youngblood
DeLuca	Keller, W.		

NAYS–78

Adolph	Everett	Knowles	Rock
Aument	Geist	Krieger	Ross
Baker	Gillespie	Lawrence	Saccone
Bear	Godshall	Mackenzie	Saylor
Benninghoff	Grell	Major	Simmons
Bloom	Grove	Marshall	Sonney
Boback	Hackett	Marsico	Stern
Boyd	Hahn	Metcalfe	Stevenson
Causer	Hanna	Millard	Swanger
Christiana	Harhart	Miller	Tallman
Clymer	Harris	O'Neill	Taylor
Creighton	Heffley	Oberlander	Tobash
Cutler	Hennessey	Peifer	Toohil

Daley	Hess	Perry	Turzai
Day	Hickernell	Pickett	Vereb
Delozier	Hutchinson	Pyle	Vulakovich
Denlinger	Kampf	Quigley	Watson
DiGirolamo	Keller, F.	Rapp	
Ellis	Keller, M.K.	Reese	Smith, S.,
Evans, J.	Killion	Roae	Speaker

NOT VOTING–0

EXCUSED–5

Fleck	Murphy	O'Brien, M.	Preston
Gerber			

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. GEORGE

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

Mr. GEORGE. Because I want to address my colleagues, Mr. Speaker. I am lonely. May I address them?

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

Mr. GEORGE. No. I just want to say God bless you.

The SPEAKER. The gentleman will suspend.

Mr. GEORGE. God bless you. Do you not want God to bless you?

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

Mr. GEORGE. Yes, I am seeking recognition.

The SPEAKER. The gentleman is in order under unanimous consent.

Mr. GEORGE. Now, from this point on, and I will not be here next year, but I want this body of good, decent people on both sides to understand we have the same purposes, the same dreams, the same philosophies, the same cares. We are decent and concerned. Let us be more friendly. Let us show these people in Pennsylvania they have the very best in these 203. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

CONSIDERATION OF SB 367 CONTINUED

On the question recurring,

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

Mr. **FRANKEL** offered the following amendment No. **A11398:**

Amend Bill, page 1, line 2, by striking out "and" where it occurs the first time

Amend Bill, page 1, line 3, by inserting after "Education"

; and providing for contractual and lease restrictions on the use of waivers and variances

Amend Bill, page 5, by inserting between lines 17 and 18

Section 4.1. Contractual and lease restrictions on the use of waivers and variances.

(a) State system land.–The department may not enter into a contract or lease in the name of the Commonwealth under this act unless it contains a provision that a lessee or its assignees may not request a waiver or a variance from the Department of Environmental Protection regarding a location restriction provided in the law of this Commonwealth without explicit written consent of the department, the system and the specific system school. The Department of Environmental Protection shall publish notice in the Pennsylvania Bulletin of the application for a waiver or variance under this subsection.

(b) Certain land uses.–The department may not enter into a contract or lease in the name of the Commonwealth under this act unless it contains a provision that a lessee or its assignees may not request a waiver or a variance from the Department of Environmental Protection regarding a location restriction provided in the law of this Commonwealth for a building that is used as a residence, dormitory, student center, student health center, hospital, athletic facility, classroom, laboratory, auditorium, cafeteria, chapel or day care center.

(c) Certain water uses.–The department may not enter into a contract or lease in the name of the Commonwealth under this act unless it contains a provision that a lessee or its assignees may not request a waiver or a variance from the Department of Environmental Protection from a location restriction provided in the law of this Commonwealth regarding an existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor or 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.

On the question,

Will the House agree to the amendment?

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

Mr. FRANKEL. Thank you, Mr. Speaker.

My amendment is very simple. It would prohibit the Department of General Services from entering into contracts for drilling on State land or State System land unless those contracts contain language that prevents the drilling company from seeking a waiver or variance to drill closer to certain structures or bodies of water on that land. That particularly would relate to residence halls and student centers; health facilities and hospitals; athletic facilities; classrooms and laboratories; auditoriums; cafeterias; day-care centers; or water sources, such as existing water wells, surface water, or intake reservoirs.

Let me be clear: This does nothing to change existing setbacks. The debate on setbacks has been settled for the time being, and while I may have voted against that, it is established in the current law. But, Mr. Speaker, my amendment does not seek to alter these existing setbacks; it does serve to raise the serious concerns I have about the waiver process with regard to drilling permits.

In a recent Post-Gazette article, a Department of Environmental Protection Deputy Secretary admitted that the department is still working on its waiver policy and that the department does not track waivers that are granted to Marcellus Shale operation. That admission from the department is increasingly frustrating when you realize that Act 13 was passed earlier this year, without my support, but it contained language requiring DEP to issue waivers and variances to drillers seeking to disregard existing setbacks for buildings and water sources.

I believe it is very important that we adopt this amendment to correct a loophole that exists in Act 13 regarding waivers, and to provide an additional layer of protection for the safety of our students and citizens who live near these State System universities.

More than 100,000 students attend these wonderful schools in our State System, and tens of thousands of citizens live in these communities. I am saddened that the State System of Higher Education has been put into this position with unsustainable funding that we have a responsibility to restore, but as long as we do not, they are put in this catch-22 position. Drill, baby, drill on these campuses, or giving them these waivers? So we put them in a financial bind.

Other speakers have talked about how college presidents and boards of directors of these, trustees of these universities always make the right decision. Well why, if you are put in a position of firing teachers, raising tuition, limiting classes, increasing class sizes, diminishing the quality of the educational product, given the bind, the unsustainable bind that we have put these colleges in, maybe they are going to make a decision that may not be the most favorable one on the health and welfare of their communities. They have got to balance these things.

So I would rather put into law that there is not an ability for these campuses, for the drillers to appeal for waivers, variances, to the setbacks that we set in law. That is reasonable. They should not even have to have that discussion. They should not even have to have that choice. We should tweak this law so that those appeals for variances are not going to be granted, that there is not a question that these colleges will not be put in that bind, and that the college president does not have to make that choice sometimes between more revenue and the safety for their students.

So, Mr. Speaker, I think this is a reasonable tweak to this bill that I would hope would garner the support of my colleagues. Thank you very much.

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

On that question, the Speaker recognizes the gentleman from Tioga County, Mr. Baker.

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

I rise to oppose this amendment. This amendment once again provides a clever way for enhanced location restrictions and limits the ability of our State universities to extract resources on State System Higher Education 14 university properties and adjacent land, and I ask for a "no" vote. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

Contrary to my position on the last several amendments, I rise in support of this amendment. I believe it is a reasonable tweak, and I ask for a "yes" vote.

LEAVE OF ABSENCE

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

CONSIDERATION OF SB 367 CONTINUED

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

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

Mr. SAYLOR. Mr. Speaker, I rise to ask for a "no" vote on the amendment.

As was stated earlier, this is just another way of keeping the resources away from our State System and drilling on campuses. So I ask for a "no" vote. I think that we have made it very clear that the practice of these university presidents as well as the personnel that are involved in it, they are not going to make these decisions very lightly. They will make the decision in the best interest of their student body and their faculty and the community around them. They have done that. They have done a great job over the years. I am very proud that I went to one of these fine institutions. And so, you know, I think they have made some great decisions over the years, and to suggest that they are not capable of making decisions in the best interest of the students on the campuses is somewhat insulting.

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

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

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

Mr. FRANKEL. Thank you, Mr. Speaker.

I think it is our responsibility to be crystal clear in what our expectations are if we are going to allow this to take place, that there should not be the ability to obtain variances that we have allowed in other places on these college campuses. With all due respect, this body should stand up and say affirmatively that we will not, we will not accept a variance of less than 1500 feet from a dormitory or from a water source on a campus where 100,000 of our students from this Commonwealth attend. We should take every effort to protect them and to make it very clear in the law, to codify it that we will not accept, under any circumstance, a variance that would perhaps endanger the health and welfare of our students, our faculty, the people that work there, and the communities who surround them. This is a very reasonable amendment, as my colleague from Washington County said. I think it deserves all of our support. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS–92

Barbin	Davis	James	Payton
Bishop	Dean	Josephs	Petrarca
Boback	Deasy	Kavulich	Petri
Boyle, B.	DeLissio	Keller, W.	Ravenstahl
Boyle, K.	DeLuca	Kirkland	Readshaw
Bradford	DePasquale	Kortz	Roebuck

Brennan	Dermody	Kotik	Sabatina
Briggs	Donatucci	Kula	Sainato
Brooks	Evans, D.	Longietti	Samuelson
Brown, V.	Fabrizio	Mahoney	Santarsiero
Brownlee	Frankel	Mann	Santoni
Burns	Freeman	Markosek	Schmotzer
Buxton	Galloway	Matzie	Smith, K.
Caltagirone	George	McGeehan	Smith, M.
Carroll	Gergely	Mirabito	Staback
Cohen	Gibbons	Mullery	Sturla
Conklin	Gillen	Mundy	Thomas
Costa, D.	Goodman	Murt	Toohil
Costa, P.	Haluska	Myers	Vitali
Cruz	Hanna	Neilson	Waters
Curry	Harhai	Neuman	White
Daley	Harkins	Parker	Williams
Davidson	Hornaman	Pashinski	Youngblood

NAYS–103

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

NOT VOTING–0

EXCUSED–6

Fleck	Murphy	Preston	Wheatley
Gerber	O'Brien, M.		

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. It is the Speaker's understanding that the other amendments filed to this bill, to SB 367, have been withdrawn.

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

(Bill as amended will be reprinted.)

SUPPLEMENTAL CALENDAR B

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2460, PN 3709,** entitled:

An Act designating State Route 233 from the western corporate limits of Newville Borough to State Route 11 in Cumberland County as the Marine Lance Corporal Nicholas B. Morrison Memorial Highway.

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

* * *

The House proceeded to second consideration of **HB 1078, PN 1182,** entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for the Office for Safe Schools.

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

Mrs. **DAVIDSON** offered the following amendment No. **A11692:**

Amend Bill, page 1, line 16, by inserting after "hotlines"
and Internet notification systems

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

The SPEAKER. On that question, the Speaker recognizes the lady from Delaware County, Mrs. Davidson.
Mrs. DAVIDSON. Thank you, Mr. Speaker.
This is an agreed-to amendment. It just makes a provision for an Internet way of extending the hotline so that it can be accessed through the Internet.
The SPEAKER. The question is, will the House agree to the amendment?
On that question, the Speaker recognizes the gentleman from York County, Mr. Saylor.
Mr. SAYLOR. We agree with the lady from Delaware County, it is an agreed-to amendment.

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

The following roll call was recorded:

YEAS–195

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

Benninghoff	Evans, J.	Kula	Reese
Bishop	Everett	Lawrence	Roae
Bloom	Fabrizio	Longietti	Rock
Boback	Farry	Mackenzie	Roebuck
Boyd	Frankel	Maher	Ross
Boyle, B.	Freeman	Mahoney	Sabatina
Boyle, K.	Gabler	Major	Saccone
Bradford	Galloway	Maloney	Sainato
Brennan	Geist	Mann	Samuelson
Briggs	George	Markosek	Santarsiero
Brooks	Gergely	Marshall	Santoni
Brown, R.	Gibbons	Marsico	Saylor
Brown, V.	Gillen	Masser	Scavello
Brownlee	Gillespie	Matzie	Schmotzer
Burns	Gingrich	McGeehan	Simmons
Buxton	Godshall	Metcalfe	Smith, K.
Caltagirone	Goodman	Metzgar	Smith, M.
Carroll	Grell	Miccarelli	Sonney
Causer	Grove	Micozzie	Staback
Christiana	Hackett	Millard	Stephens
Clymer	Hahn	Miller	Stern
Cohen	Haluska	Milne	Stevenson
Conklin	Hanna	Mirabito	Sturla
Costa, D.	Harhai	Moul	Swanger
Costa, P.	Harhart	Mullery	Tallman
Cox	Harkins	Mundy	Taylor
Creighton	Harper	Murt	Thomas
Cruz	Harris	Mustio	Tobash
Culver	Heffley	Myers	Toepel
Curry	Helm	Neilson	Toohil
Cutler	Hennessey	Neuman	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	Watson
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.	Pyle	Speaker
DiGirolamo			

NAYS–0

NOT VOTING–0

EXCUSED–6

Fleck	Murphy	Preston	Wheatley
Gerber	O'Brien, M.		

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

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

Mr. **TRUITT** offered the following amendment No. **A12037:**

Amend Bill, page 1, line 5, by inserting after "thereto,""
in school districts, further providing for value-added assessment system; and, in safe schools,

Amend Bill, page 1, lines 9 through 11, by striking out all of said lines and inserting

Section 1. Section 221 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, added November 17, 2010 (P.L.996, No.104), is amended to read:

Section 221. Value-added Assessment System.–(a) Beginning on the effective date of this section, the Department of Education shall make available on its publicly accessible Internet website the following:

(1) Value-added assessment system data, consisting of academic growth and projections for achievement on future assessments, for the school district level [and], the school level, the grade level, the classroom level and the teacher level. The Department of Education's disclosure of value-added assessment system data shall be subject to the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g) or a successor Federal statute.

(2) Instructions that may assist the public in understanding and interpreting the data provided under paragraph (1).

(b) For purposes of this section:

"Value-added assessment system" shall mean a statistical analysis of results on the Pennsylvania System of School Assessment test or any other test established by the State Board of Education to meet the requirements of section 2603-B(d)(10)(i) pursuant to 22 Pa. Code § 403.3 (relating to single accountability system) that uses measures of student learning to enable the estimation of student, teacher, classroom, grade, school or school district statistical distributions.

Section 2. Section 1302-A(b) of the act is amended by adding a paragraph to read:

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

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Chester County, Mr. Truitt.

Mr. TRUITT. Thank you, Mr. Speaker.

Mr. Speaker, amendment A12037 is an expansion of something called the Pennsylvania Value-Added Assessment System. The Value-Added Assessment System compares, year over year, PSSA (Pennsylvania System of School Assessment) scores. It is an existing system that we already have. It is a much more valid way to assess the effectiveness of a school, the effectiveness of a school district. And what we are proposing in this amendment is to expand the system to include data analysis down to the classroom, teacher, and grade level so that we can get more data out of the system for school administrators to make better decisions about where to allocate resources.

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

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

Mr. VITALI. Yes, Mr. Speaker. I was a little surprised that—

The SPEAKER. The gentleman, Mr. Vitali, is recognized on the amendment before the House.

Mr. VITALI. This bill has to do with hotlines, but the amendment itself has nothing to do with that. Am I correct? I just looked at it really quickly.

The SPEAKER. Are you making a parliamentary inquiry?

Mr. VITALI. No. I want to make a germaneness motion, because I want to be consistent with what this body has been doing all term.

The SPEAKER. The gentleman has been properly recognized on the amendment, and in the course of that recognition would be in order to make a motion if he so chooses.

GERMANENESS QUESTIONED

Mr. VITALI. No, I am going to make a motion that this amendment not be germane, because all term we have been limiting germaneness vote after vote, amendment after amendment, to the exact subject matter of the bill. So if we had—

The SPEAKER. The gentleman will suspend then.

So the gentleman is questioning germaneness of this amendment?

Mr. VITALI. Yes. Yes. Certainly.

The SPEAKER. Let me put that question before the House, then you will be recognized to make your argument.

The gentleman from Delaware County, Mr. Vitali, has raised the question of whether amendment A12037 is germane. Under House rule 27, questions involving whether an amendment is germane to the subject shall be decided by the House.

On the question,

Will the House sustain the germaneness of the amendment?

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

Mr. VITALI. Mr. Speaker, it is my understanding – I am not overly familiar with all of this, so someone help me out here – but the bill itself deals with simply establishing a hotline, but the amendment deals with something totally different. It deals with PSSAs, and I think we have consistently held this term, and you know, I have been ruled out of order and many of you on the House floor have been ruled, your amendments have been ruled not germane unless it is the exact subject matter. In other words, unless, for example, in this case we were somehow changing the nature of the hotline or adding to a hotline, it seems to me the way we have been ruling all term is that, for example, in this particular case, the amendment, to be germane, would have to have something to do with a hotline, but this does not have anything to do with the hotline. This is a totally different thing. This is assessments.

Now, we used to, a term or two ago, rule that if it was the same title it was germane, but we stopped doing that long, long ago. And I think that in order for us to be consistent with what we did last week and what we may want to do next week, we have to find this not to be germane because it is not dealing with the subject matter of the bill. It is dealing with a different subject matter. The subject matter of the bill is hotlines, and the amendment deals with PSSAs; not germane.

Thank you, Mr. Speaker.

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

Mr. SAYLOR. Mr. Speaker, this bill entails the School Code. The School Code is a very broad code that includes this subject matter in it, and this subject matter of the amendment is in the School Code, and we would ask that it is germane.

The SPEAKER. The question is the germaneness of the amendment.

The gentleman, Mr. Vitali, already spoke once on this and is not in order to speak a second time under the rules.

PARLIAMENTARY INQUIRIES

The SPEAKER. Is the gentleman seeking recognition for a parliamentary inquiry? He may so direct his question.

Mr. VITALI. I would like if the Parliamentarian could assist in the standard for germaneness. Is the standard for germaneness, would a bill be germane in floor proceedings if it modified the same title? What is the standard for germaneness, is my parliamentary inquiry?

The SPEAKER. Under our House rules, the question of germaneness is to be settled by the House. That is rule 27. That is why I read that upon the presentment of a germaneness motion. Under rule 27, "Questions involving whether an amendment is germane to the subject shall be decided by the House." It is not a decision made by the Speaker or the Parliamentarian. It is a question decided by the House.

Mr. VITALI. Further parliamentary inquiry.

The SPEAKER. The gentleman may state his inquiry.

Mr. VITALI. So is the Speaker saying that the scope of germaneness is broad and is to be decided by the House? So it could be very broad or very narrow depending on what the House wishes. Is that what the Speaker is saying in answer to my inquiry?

The SPEAKER. The Speaker is saying exactly what he just said, that the decision of whether an amendment is germane is subject to the decision of the House.

Mr. VITALI. Further parliamentary inquiry, just to underscore it. So is the Speaker saying that a bill can be germane if it is not dealing with the right subject matter—

The SPEAKER. The gentleman will suspend.

Mr. VITALI. —of the bill—

The SPEAKER. The gentleman will suspend.

Mr. VITALI. —but just the title?

The SPEAKER. The gentleman will suspend.

Those are your words. The rules of the House say that germaneness is decide by the House. That is the answer to your parliamentary inquiry.

Mr. VITALI. Just to be clear. I just, I want to be clear. Can a bill be germane in the opinion of the House if it does not modify the subject matter of the bill but merely changes the same title—

The SPEAKER. The gentleman—

Mr. VITALI. —if the House so decides?

The SPEAKER. The answer to the question of germaneness is decided by the House, period.

Mr. VITALI. Thank you, Mr. Speaker. That concludes my inquiry.

QUESTION OF GERMANENESS WITHDRAWN

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

Mr. VITALI. To withdraw that motion.

The SPEAKER. The Speaker thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The question before the House is consideration of amendment A12037.

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

Mr. SCHMOTZER. Mr. Speaker, may I speak on unanimous consent?

The SPEAKER. For someone to be in order under unanimous consent, it normally is not in the middle of the consideration of a bill and/or an amendment.

Mr. SCHMOTZER. Mr. Speaker, I will withdraw.

The SPEAKER. We have an amendment before us, and I would normally not do that unless it was an exceptional situation.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

VOTE STRICKEN

The SPEAKER. Excuse me. The clerk will strike the vote. I apologize.

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

Mr. DERMODY. On the amendment, Mr. Speaker.

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

Mr. DERMODY. Mr. Speaker, as I understand this amendment, it provides for posting of some information on the Internet, and some of that information has to do with teacher evaluations. Now, we are working on a program here right now. There are discussions of legislation dealing with teacher evaluations that is still to be developed. And right now it goes from district to district. There is not a set way or there is not a set process and procedure for these evaluations, and I believe it would be improper to have that information, it would be wrong and unfair to have that information on the Internet as it is today.

We should talk about that if we do finally succeed in developing a teacher evaluation plan during this week, in the coming days, but not in this amendment, not on this bill. We should vote against the Truitt amendment. Thank you, Mr. Speaker.

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

Is the gentleman from Chester County, Mr. Truitt, seeking recognition for the second time?

Mr. TRUITT. Yes, Mr. Speaker.

The SPEAKER. The gentleman is in order on the amendment for the second time.

Mr. TRUITT. Thank you, Mr. Speaker.

I would just like to remind my colleagues that this amendment does not require anybody to do anything with the data. It just requires that the Department of Education compile the data and make it available for use by whoever can make good use of it for allocating resources within our educational system.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

I think we ought to understand exactly what this amendment proposes to do, and that is to make everything about evaluations public, not only the schools, the classrooms, the teachers. It is certainly against anything we have done before in terms of information about individual performance, personal information, that now we make public. Now, if that is what we want to do, we ought to understand what we are doing. I do not think it is clear. It is not just about some sort of system of evaluation; it is about putting individual, personal information in the public realm. That, Mr. Speaker, I believe is far broader than anything we have done before and certainly is something we have not even discussed or talked about or debated either in Education Committee or on this floor. And I think that if we are going to do that, we ought to at least have some kind of extensive public discussion about it.

Would any of us want the same standard applied to us as legislators or to employees in any other profession? I think not, Mr. Speaker. This amendment needs to be defeated. Thank you.

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

The House will come to order.

AMENDMENT WITHDRAWN

The SPEAKER. For what purpose does the gentleman from Chester County, Mr. Truitt, rise?

Mr. TRUITT. I would like to withdraw the amendment, Mr. Speaker. Based on a conversation with the chairman of the Education Committee, we have agreed to work on this as part of future legislation.

The SPEAKER. The Speaker thanks the gentleman. The amendment is withdrawn.

On the question recurring,

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

Mr. **ROEBUCK** offered the following amendment No. **A12219:**

Amend Bill, page 1, line 6, by inserting after "Schools"
; and in State Board of Education, further providing for powers and duties of the board

Amend Bill, page 2, by inserting between lines 1 and 2

Section 2. Section 2603-B(h) of the act, added March 30, 1988 (P.L.321, No.43), is amended to read:

Section 2603-B. Powers and Duties of the Board.–* * *

(h) Every five (5) years, the board shall adopt a master plan for higher education which shall be for the guidance of the Governor, the General Assembly, and all institutions of higher education financed wholly or in part from State appropriations. The master plan shall:

[(1) define the role of each type of institution (State-owned universities, State-related universities, community colleges, private colleges and universities and off-campus centers of any of these and other institutions authorized to grant degrees) in this Commonwealth;

(2) recommend enrollment levels for each such institution;

(3) recommend methods for governance;

(4) recommend methods for the distribution of State funds among the institutions;

(5) evaluate the status of physical plants and technical equipment and project needs;

(6) evaluate the status of and projection of manpower needs;

(7) evaluate enrollment accessibility to institutions of higher

learning by the public; and

(8) otherwise provide for an orderly development of institutions of higher education in this Commonwealth.]

(1) describe the current higher education landscape in this Commonwealth;

(2) identify unmet needs and gaps with regard to career fields and geographic and financial access;

(3) identify emerging higher education issues and recommend strategies and options designed to address the issues;

(4) identify gaps and opportunities for collaboration with basic education, work force development programs, economic development and other related systems; and

(5) outline a plan for action by the board to revise or update its higher education regulations.

* * *

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

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

This amendment is a straightforward proposal. It calls for the updating of the Master Plan for Higher Education. The original master plan was adopted in the 1960s. Since then there have been substantial changes in the way we do higher education regulations, community college system, changing of the actual function and structure of the higher education system. This merely calls for the updating of that system so it conforms with the general master plan for the way we deliver higher education to students in Pennsylvania. I would ask for your favorable consideration of the amendment.

Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

The Roebuck amendment is one that we had passed out of committee by unanimous vote, and I would ask the members to support his amendment. Thank you.

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

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

Mr. SAYLOR. Mr. Speaker, we agree to the amendment as presented by the gentleman from Philadelphia.

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

The following roll call was recorded:

YEAS–195

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

NAYS–0

NOT VOTING–0

EXCUSED–6

Fleck	Murphy	Preston	Wheatley
Gerber	O'Brien, M.		

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?

Ms. **HARPER** offered the following amendment No. **A12261:**

Amend Bill, page 1, line 5, by inserting after "thereto,""
in professional employees, further providing for causes for suspension and for persons to be suspended; and

Amend Bill, page 1, lines 9 through 11, by striking out all of said lines and inserting

Section 1. Section 1124 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended August 8, 1963 (P.L.564, No.299), is amended to read:

Section 1124. Causes for Suspension.–Any board of school directors may suspend the necessary number of professional employes, for any of the causes hereinafter enumerated:

(1) Substantial decrease in pupil enrollment in the school district;

(2) Curtailment or alteration of the educational program on recommendation of the superintendent, concurred in by the board of school directors, approved by the Department of Public Instruction, as a result of substantial decline in class or course enrollments or to conform with standards of organization or educational activities required by law or recommended by the Department of Public Instruction;

(3) Consolidation of schools, whether within a single district, through a merger of districts, or as a result of joint board agreements, when such consolidation makes it unnecessary to retain the full staff of professional employes.

(4) When new school districts are established as the result of reorganization of school districts pursuant to Article II., subdivision (i) of this act, and when such reorganization makes it unnecessary to retain the full staff of professional employes.

(5) Beginning in the 2012-2013 school year and each school year thereafter, for economic reasons as part of a plan to reduce or control overall school district costs: Provided, That suspension for economic reasons may occur only after passage of a resolution approving such action by the board of school directors at a public meeting held after a minimum of ten (10) days' public notice, at which public meeting an opportunity for public comment regarding planned suspension of professional employes is provided. The board shall provide documentation to demonstrate the economic reasons for the suspension, which may include the school district preliminary budget, proposed final budget, final budget, annual financial report or any other document the school district deems necessary and shall make the documents available for public inspection at least ten (10) days prior to the meeting. The following shall apply to suspensions for economic reasons under this paragraph:

(i) All savings realized from a suspension for economic reasons shall be used to offset any increase in costs, or decrease in State and local revenue.

(ii) A school entity may implement administrative and other operating efficiencies following a suspension for economic reasons.

Section 2. Section 1125.1 of the act, amended or added November 20, 1979 (P.L.465, No.97) and July 10, 1986 (P.L.1270, No.117), is amended to read:

Section 1125.1. Persons to be Suspended.–(a) Professional employes shall be suspended under section 1124 (relating to causes for suspension) [in inverse order of seniority within the school entity of current employment. Approved leaves of absence shall not constitute a break in service for purposes of computing seniority for suspension purposes. Seniority shall continue to accrue during suspension and all approved leaves of absence.] based upon the school entity's evaluation of the following factors:

(1) the professional employe's certification;

(2) the professional employe's performance, including, but not limited to, performance under PVAAS and local school district performance criteria;

(3) qualifications established by a school entity for those professional employes to teach a particular subject or grade level not evaluated under PVAAS; and

(4) other specific qualifications established by the school entity.

(b) Where there is or has been a consolidation of schools, departments or programs, all professional employes shall retain the seniority rights they had prior to the reorganization or consolidation.

[(c) A school entity shall realign its professional staff so as to insure that more senior employes are provided with the opportunity to fill positions for which they are certificated and which are being filled by less senior employes.]

(d) (1) No suspended employe shall be prevented from engaging in another occupation during the period of suspension.

(2) Suspended professional employes or professional employes demoted for the reasons set forth in section 1124 shall be reinstated on the basis of [their seniority within the school entity. No new appointment shall be made while there is such a suspended or demoted professional employe available who is properly certificated to fill such vacancy] the school entity's evaluation of the criteria listed in subsection (a). For the purpose of this subsection, positions from which professional employes are on approved leaves of absence shall also be considered temporary vacancies.

(3) To be considered available a suspended professional employe must annually report to the governing board in writing his current address and his intent to accept the same or similar position when offered.

(4) A suspended employe enrolled in a college program during a period of suspension and who is recalled shall be given the option of delaying his return to service until the end of the current semester.

(e) Nothing contained in section 1125.1(a) through (d) shall be construed to supersede or preempt any provisions of a collective bargaining agreement negotiated by a school entity and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act"; however, no agreement shall prohibit the right of a professional employe who is not a member of a bargaining unit from retaining seniority rights under the provisions of this act.

(f) A decision to suspend in accordance with this section shall be considered an adjudication within the meaning of the "Local Agency Law."

(g) The provisions of this section shall not apply to any collective bargaining agreement negotiated on or after the effective date of this subsection.

Section 3. Section 1302-A(b) of the act is amended by adding a paragraph to read:

Amend Bill, page 2, line 2, by striking out "2" and inserting
4

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

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

Ms. HARPER. Thank you very much, Mr. Speaker.

Some years ago in July, something happened at a township meeting that I will never forget as long as I live. A lady came in and sat in the back, an older woman. She never asked any questions on the agenda items. She did not make any statements at public comment. At the end of the meeting, she was still sitting there. Mr. Speaker, I knew the regulars, the guys who come and talk about this or that. She was not a regular. I was chairing the meeting, so finally I looked down and I said to her, "Ma'am, is there something we can do for you?" She got up and began to cry. She was clutching her school tax bill, and she said, "You people are driving me out of my home." I have never been so glad in my life that I was an elected supervisor and not a school board member, Mr. Speaker. And we had to tell her that she was in the right church, wrong pew.

My amendment will allow school boards to get control over the biggest part of their budget that causes real estate taxes to rise. Two-thirds of every school budget, and sometimes as much as 85 percent of a school budget, is the cost of personnel. My amendment would allow school boards, when they find it necessary, to have economic layoffs of teachers in order to balance their budgets. If they cannot get control over more than two-thirds of their budget, they cannot get control of their budgets at all. And when they cannot control their budgets, they raise school taxes and somebody else has someone come in, sit

quietly in the back of the room, and burst into tears because of their school property tax bill.

My amendment would simply allow school boards the flexibility to use economic layoffs when they have to in order to balance the budget.

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

On that question, the Speaker recognizes the gentleman from Mercer County, Mr. Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the gentlelady's amendment. If this provision, if this proposal simply provided for economic furloughs, I might be able to support it, but it goes further than that: It takes away seniority as the determining factor for a certified teacher to not be the person that is furloughed, a less senior person being furloughed, and I have a problem with that, Mr. Speaker. For 15 years I served as a solicitor for a number of school districts. In two instances, I was involved with economic furloughs. That is right, they were economic, because under State law, the case law is clear: You can be motivated by economics, but you have to have another basis under School Code to furlough. In our case, it was a substantial decline in pupil enrollment, although we were motivated by economics. Furlough situations are not fun. Nobody goes into those with a desire to lay people off of employment, particularly schoolteachers, but we did it in an orderly fashion because we were guided by the current provisions of the School Code that made it clear how you conduct those furloughs. And you look at seniority, who are the most senior teachers, and of course they have to be certified in an area to fill a position, to bump another employee.

The problem is that when you stray from that, you go to subjective factors. When I look at the gentlelady's proposal, it is a relatively wide-open proposal that allows school districts to consider a number of things with a catchall, a catchall provision that allows them to come up with other bases among which to conduct furloughs. Here is unfortunately what happens, Mr. Speaker: Politics comes into play. We would like to think that school boards do not get involved in politics, but they do, and particularly when it comes to somebody losing their job. It is a high-tension area. You can bet that people will come to school board meetings and will contact school officials saying that their relative better not be the person who gets the furlough. And the person that does not have that political pull, that ability to effectuate five school board members, is going to be the person that gets furloughed, regardless of who is most qualified in the classroom. That is the reality of the situation.

I have seen it in cases similar where you are dealing with a coaching position, whether or not to renew the coach. School board members get contacted, pressure gets put on, and that is how determinations too often are made. I think that is problematic. Seniority takes that out of the picture. Seniority is an objective criterion, and it allows for an orderly process. When people contact school board members, they are told clearly there is not anything that we, we do not have discretion here. The School Code provides for an orderly process that is based upon seniority.

And the other concern that I have is what you are going to end up seeing is it is going to be awful tempting for school boards to lay off the most senior teachers because they are at the higher end of the salary schedule. So they can lay offer fewer teachers because there are bigger numbers involved in terms of salary. And I do not think that is healthy for our system because experienced teachers are critical for learning in the classroom and for mentoring other teachers. I think one of the unintended consequences that you are going to end up with is that people are going to reevaluate whether they want to go into the teaching profession. They are going to recognize that if they become a teacher and they are in a district like mine, where you are going to have layoffs from time to time, come the time when they get to be in their fifties, they are going to be facing potential layoffs. And as a result of that, they are going to be on the street and other school districts are not going to hire them because they are advanced on the salary schedule. So they are going to have to look for a new career. And I think people understand what it is like to look for a new career in your fifties; it is very difficult.

So now you are considering, do I really want to be a math teacher? Do I really want to be a biology teacher, or should I use those skills in another field? I think we are going to lose some of the best and brightest of potential teachers. So while I sympathize with the gentlelady on perhaps amending the law on economic furloughs, I think it is problematic to alter the law on using seniority as a basis on determining how to exercise those furloughs.

It is for these reasons that I ask for a "no" vote, and I encourage my fellow colleagues to give this some thoughtful consideration. Do not depart from a system that I believe has worked in an orderly fashion and has taken politics out. Thank you, Mr. Speaker.

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

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

Mr. CARROLL. Thank you, Mr. Speaker.

Mr. Speaker, after years of significant and detailed work by the Department of Education, our school districts, teachers, administrators, and the gentleman from Lancaster County, we are on the cusp of a teacher evaluation system in this State. This amendment, if adopted, in my opinion, would completely neuter that whole transaction and render it useless. The fact of the matter is, many of the points that the gentleman from Mercer County raised are on target, and instead of advancing a fair evaluation system so that we can determine which are effective teachers and which are not, we are going to embark on a process now where boards will simply let go of the highest paid teachers because economics demands it.

You know, I have great concerns that school boards, given this authority, would really have no choice but to exercise this option in light of the changes made last year in this chamber relative to Act 1. Our school boards really do have their hands tied. They are tied right now because they cannot raise taxes above the index without a referendum. There is no ability for the school boards to do anything to raise additional revenues, and they have contractual obligations and fixed costs that limit their ability to adjust their expenses. So in the end, I think school boards will have very few choices. And this option given to school boards really will have an impact on effective teachers, because I think school boards will in the end have no choice but to do a mathematical equation and simply say, we have to eliminate X number of dollars from our budget, and we can get there by one of two ways. We can let go of three or four valuable, effective teachers that have a higher salary, or we can let go of the lesser paid teachers, but we would have to let go of

a lot more of them and it would have a negative impact on the curriculum.

The fact is, Mr. Speaker, this is ill-advised. If we are going to have a discussion in this chamber about school funding, then let us have a discussion about school funding relative to sales tax and income tax, just as the gentleman from Berks County is willing to have. That is the real discussion that needs to happen in this chamber, not just to tinker on the edges and implement a program that would result in the dismissal of valuable, effective teachers who happen to have been with the school district for many, many years.

Mr. Speaker, I welcome the opportunity to have a discussion about school district funding and redirecting the way that we raise funds for the education of the students in our public school system, but this proposal, Mr. Speaker, is off target and should be rejected by the House. Thank you, Mr. Speaker.

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

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

Mr. MILLER. Thank you, Mr. Speaker.

The gentleman from Mercer County raised the subject of seniority if you are going to do economic furloughs, and in many situations, I would tend to agree with him. My major concern with the proposal of saying you have to consider seniority is what happens if your junior teachers are all your science teachers and you end up, if you have to go by pure seniority, you may end up losing your science department. This is what I have struggled with on this issue for many years. I do not think that seniority can be a driving factor in doing this because you have to be able to balance your teaching staff to meet the needs of all of your curriculum areas.

So, Mr. Speaker, I would suggest that we vote for the Harper amendment.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Cohen.

Mr. COHEN. Mr. Speaker, I think the question here is whether we want to have a viable teaching profession in Pennsylvania or not. If our goal is just to have a series, an endless series of short-term teachers who serve for a couple years and then go on to a real career, we can do that. We can make it clear that people have no guarantees of continued service in teaching and that if they are really serious about supporting themselves, they ought to find some other way to make a living. And certainly, passing the Harper amendment will send a message to every teacher in Pennsylvania that he or she, if he or she wants economic security, ought to go into something else or become a teacher in some other State.

This is a very, very serious amendment that goes to the heart of a viable teaching profession in Pennsylvania. It is an amendment that if passed will lead to massive vacancies all across the State. It is a very, very serious blow at educational professionalism in Pennsylvania. It may be the biggest blow to educational professionalism in the history of the Commonwealth of Pennsylvania. I strongly urge defeat of this amendment.

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

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Boyd.

Mr. BOYD. Thank you, Mr. Speaker.

I rise in support of amendment A12261 put forward by the gentlelady from Montgomery County. Parts of this language is language that I introduced earlier this session. It would have been HB 855. I want to commend the lady for taking what I believe are some of the best parts of HB 855 and incorporating it into this amendment as many have referred to as economic furlough. First of all, clearly, in the current environment that started last year and this year, school boards faced a daunting task of trying to balance budgets on limited funds; just like those of us who struggle with family budgets, school boards are struggling with their budgets. And this is a tool that is absolutely essential for them to in fact be able to manage their own budget, and that is to be able to furlough personnel, and it is not just teachers, it is all personnel, to furlough them based on economic reasons.

A couple of the key provisions of the language from the gentlelady is that furlough would be done not arbitrarily, as was asserted by the gentleman from Mercer County, not politically. There would be specific criteria that would be defined for furlough, and that would include the professional certification of the employee; their annual performance reviews, which in fact would include the PVAAS data that is being piloted right now and is a keystone to the gentleman from Lancaster's teacher evaluation language. So in point of fact to the points from the gentleman from Luzerne, this would not in any way neuter the language for teacher evaluation; in fact, this would be an essential component that would be used by school boards moving forward when teacher eval is in fact implemented in the State. Beyond those two performance, beyond certification and performance are qualifications, education, degree accomplishments of the educator, and also some additional criteria that would be established and published, knowledgeable by the school board that educators would know would be a part of the economic furlough processes.

So, Mr. Speaker, based on some of the things that I have heard here tonight, I want to clearly say that this is a terrific amendment. It is absolutely essential for our school boards as they continue through a second difficult budget season. It is not arbitrary. It is not political. It is in fact based on data. And one last thing, the gentlelady left language in that was from SB 612, Senator Folmer's language, that would allow the school boards to negotiate on the issue of seniority and collective bargaining. This is a very, very modest compromise on economic furlough. It is not nearly as strong a language as I had in 855.

But I want to say unequivocally, I am 100 percent supportive of this compromise language that is an essential tool for our school boards in moving forward. I want to commend the lady for the sensical way in which she has proffered this amendment. Thank you, Mr. Speaker.

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

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the gentlelady's amendment, amendment A12261. Mr. Speaker, I am sympathetic to the constraints that our schools face today in trying to provide for a good education for our children with evermore limited means. But, Mr. Speaker, I think it is exactly the wrong policy to try to address that very real problem by giving schools the authority to furlough teachers for economic

reasons, because all that will do, Mr. Speaker, in the long run, is increase class sizes, which will have a direct impact on the quality of education that our children are receiving.

Mr. Speaker, when we reduce the number of teachers in the schools, the number of kids in each class goes up. It is a very simple dynamic, but that has a very real impact on the quality of education. Anyone who was ever taught – and I know we have a number of former teachers in this chamber – knows how critical the number of students in the classroom is and how much better it is for the educational environment to have a smaller classroom.

Mr. Speaker, if we really want to do something to help these school districts, we can start by doing away with the nearly $1 billion in cuts to basic education that were made in last year's budget and that are remaining in the proposals that are currently in front of this legislature. If we adequately fund education, our school districts will not be put in this situation where they have to even consider laying off teachers.

Mr. Speaker, it runs counter to the mandate in our Constitution that we provide a free and thorough education for our students. It runs counter to good policy, and ultimately, it will hurt our public school system. For that reason, I urge all the members to vote "no" on this amendment.

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

On that question, the Speaker recognizes the gentleman from Bucks County, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Harper amendment. This does have the support of the Pennsylvania superintendents association, Pennsylvania School Boards Association. Just a few brief comments, and that is in the laying off of economic furloughs, be assured that the superintendents are going to look and keep their brightest and best teachers in the classroom. If it is those who were just hired in the last few years, they are going to keep them because of the energy and of the talent they bring to the classroom. If it is a teacher who has seniority, they are going to keep that teacher. That teacher can bring the experience, the leadership that is so necessary in the classroom. Now, Mr. Speaker, why would the superintendent be influenced with the school board and want to do less, because we are in a competitive arena. There are charter schools. There are private schools, home schools. The superintendent and the board of trustees, school board members rather, want to have the very best in the classroom. They want their school to be the very best. They want it to be a showcase of academia. That is the reason they will be selective and they will be very responsible in laying off teachers due to economic furlough.

So I want to share those thoughts, and I will be a "yes" vote.

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

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

The issue that is raised by the Harper amendment is that of furloughing teachers, but indeed if you are going to furlough teachers, there ought to be criteria that is objective to do that, not subjective. Indeed under this amendment, the criteria is entirely subjective. The amendment includes as one of the factors that a school district can use in evaluating which educators to furlough, quote, "other specific qualifications established by the school…" district. This is totally subjective, and it would allow districts to furlough an employee for any reason.

Further, the amendment says that one of the criteria a school district can use in determining who to furlough can be based on teacher performance, including their students' performance under PVAAS. However, we do not currently have any kind of teacher performance evaluation system that uses student evaluation, nor do we have anything that gives us the capacity to apply PVAAS as a criteria for that evaluation. There is a current discussion to shaping a new teacher evaluation system in the Commonwealth of Pennsylvania. That discussion is not complete; it is evolving, but we are going to shortchange that process and jump to a conclusion and somehow apply a criteria that does not exist under this amendment. It is also suggested that this amendment would deal with the problem of an incompetent teacher or somehow eliminate a teacher who is incompetent, but there are in fact already in place means to do that, and those means are being used where they are necessary to remove those teachers.

So let us be clear: This amendment is not objective in applying its criteria. It does not have a teacher evaluation system upon which to make a judgment, and it does not really provide any means to eliminate incompetent teachers. What then does it do? Well, what it will do is allow us to target those teachers who cost more, the more experienced teachers, and eliminate them because you will get an economic return on that decision. That is wrong. Almost every discussion about education focuses upon the need to have highly qualified, experienced teachers in classrooms. This process shortchanges that option. It makes it easier to get rid of a teacher not because they are incompetent, not because they do not know the subject matter, not because their students do not do well, but because they might cost more. That sets our education course upon a road toward sure disaster. Let us be clear, Mr. Speaker: This proposal will not work.

Now, I am intrigued also, Mr. Speaker, about this idea that what is at the heart of this is the idea of seniority, that somehow seniority ought to be waived aside in order to improve education. Well, Mr. Speaker, why do we here in this chamber not do that? Why do we here in the legislature waive aside seniority? We do not do that. We do not say we are going to get rid of seniority in our system. Indeed our entire system is based upon seniority. No one comes into this chamber and in their first year becomes a committee chair. No one comes into this chamber and gets stature without service in this body. Why then if we do that for ourselves are we going to say it is wrong when someone else uses our model and uses it as an example for the way which they judge their employees?

Mr. Speaker, let us be clear. I assume that anyone who votes for this will in fact be at the same time be saying that they would gladly waive the system under which this House of Representatives operates by doing that. Mr. Speaker, I urge us to reject the Harper amendment. Thank you.

GERMANENESS QUESTIONED

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

On that question, the Speaker recognizes the gentleman from Monroe County, Mr. Scavello.

Mr. SCAVELLO. Mr. Speaker, I am looking at the legislation in front of us and it deals with a completely different issue than this amendment. I do not believe that this amendment is germane to this bill, and I would call for a germaneness vote.

The SPEAKER. The gentleman from Monroe County, Mr. Scavello, has raised the question of whether amendment A12261 is germane. Under House rule 27, questions involving whether an amendment is germane to the subject shall be decided by the House.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Monroe County, Mr. Scavello.

The gentleman from Monroe will please suspend one minute.

QUESTION OF GERMANENESS WITHDRAWN

The SPEAKER. For what purpose does the gentleman, Mr. Scavello, seek recognition?

Mr. SCAVELLO. I would like to withdraw the germaneness; however, I would like to—

The SPEAKER. The House will come to order.

Mr. SCAVELLO. I would like to withdraw the germaneness motion, but I also would like to speak on this amendment. I personally still think and believe that it is—

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Scavello, withdraws the motion on germaneness.

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

The SPEAKER. On the amendment, the gentleman from Monroe County is in order.

Mr. SCAVELLO. Mr. Speaker, I have 2 school districts that in the last 2 years have laid off over 400 employees. A bill like this would be picking and choosing on favorites, and just like we have heard earlier here today, it would politicize the process, and I feel it is the wrong thing to do. We are in the process of putting a teacher evaluation in that will decide once and for all. We will have an evaluation that everyone could live with. To vote for this amendment would be the wrong thing to do. It is the wrong time, the wrong place, especially when we are putting together an evaluation.

After seeing what has happened in my school districts with the layoffs, I would not want to be party to some bill that is going to get rid of seniority and have you actually picking and choosing who you are going to lay off. It is the wrong thing. I ask the members to vote "no." Thank you.

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the minority whip, who requests a leave of absence for the lady, Miss MANN, from Lehigh County for the remainder of the day. Without objection, the leave will be granted.

The House will come to order.

CONSIDERATION OF HB 1078 CONTINUED

BILL PASSED OVER TEMPORARILY

The SPEAKER. HB 1078 will be over temporarily.

SUPPLEMENTAL CALENDAR C

BILLS ON THIRD CONSIDERATION

The House proceeded to third 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 third consideration?
Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS–194

Adolph	DiGirolamo	Keller, W.	Quigley
Aument	Donatucci	Killion	Quinn
Baker	Dunbar	Kirkland	Rapp
Barbin	Ellis	Knowles	Ravenstahl
Barrar	Emrick	Kortz	Readshaw
Bear	Evankovich	Kotik	Reed
Benninghoff	Evans, D.	Krieger	Reese
Bishop	Evans, J.	Kula	Roae
Bloom	Everett	Lawrence	Rock
Boback	Fabrizio	Longietti	Roebuck
Boyd	Farry	Mackenzie	Ross
Boyle, B.	Frankel	Maher	Sabatina
Boyle, K.	Freeman	Mahoney	Saccone
Bradford	Gabler	Major	Sainato
Brennan	Galloway	Maloney	Samuelson
Briggs	Geist	Markosek	Santarsiero

Brooks	George	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	Miccarelli	Sonney
Causer	Grell	Micozzie	Staback
Christiana	Grove	Millard	Stephens
Clymer	Hackett	Miller	Stern
Cohen	Hahn	Milne	Stevenson
Conklin	Haluska	Mirabito	Sturla
Costa, D.	Hanna	Moul	Swanger
Costa, P.	Harhai	Mullery	Tallman
Cox	Harhart	Mundy	Taylor
Creighton	Harkins	Murt	Thomas
Cruz	Harper	Mustio	Tobash
Culver	Harris	Myers	Toepel
Curry	Heffley	Neilson	Toohil
Cutler	Helm	Neuman	Truitt
Daley	Hennessey	O'Neill	Turzai
Davidson	Hess	Oberlander	Vereb
Davis	Hickernell	Parker	Vitali
Day	Hornaman	Pashinski	Vulakovich
Dean	Hutchinson	Payne	Waters
Deasy	James	Payton	Watson
DeLissio	Josephs	Peifer	White
Delozier	Kampf	Perry	Williams
DeLuca	Kauffman	Petrarca	Youngblood
Denlinger	Kavulich	Petri	
DePasquale	Keller, F.	Pickett	Smith, S.,
Dermody	Keller, M.K.	Pyle	Speaker

NAYS–0

NOT VOTING–0

EXCUSED–7

Fleck	Mann	O'Brien, M.	Wheatley
Gerber	Murphy	Preston	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

* * *

The House proceeded to third consideration of **HB 1718, PN 3804,** 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 third consideration?

Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS–192

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

NAYS–2

Santarsiero	Watson

NOT VOTING–0

EXCUSED–7

Fleck	Mann	O'Brien, M.	Wheatley
Gerber	Murphy	Preston	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

* * *

The House proceeded to third consideration of **HB 1719, PN 3805,** 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 third consideration?
Bill was agreed to.

(Bill analysis was read.)

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.
The question is, shall the bill pass finally?
Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS–192

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

NAYS–2

Santarsiero Watson

NOT VOTING–0

EXCUSED–7

Fleck	Mann	O'Brien, M.	Wheatley
Gerber	Murphy	Preston	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.
Ordered, That the clerk present the same to the Senate for concurrence.

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

LOCAL GOVERNMENT COMMITTEE MEETING

The SPEAKER. For what purpose does the gentleman from Lancaster County, Mr. Creighton, rise?
Mr. CREIGHTON. To announce a committee meeting for Local Government that will be held at 9:30 tomorrow morning – not tonight; 9:30 tomorrow morning in G-50, G-50.
Thank you, Mr. Speaker.
The SPEAKER. The Speaker thanks the gentleman.
There will be a Local Government Committee meeting at 9:30 a.m. tomorrow in G-50.

BILLS RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 2460;
SB 8;
SB 351;
SB 367;
SB 707;
SB 866;
SB 1122;
SB 1123;
SB 1124;
SB 1125;
SB 1126;
SB 1263; and
SB 1386.

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

BILLS REMOVED FROM TABLE

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

HB 173;
HB 305;
HB 508;
HB 1537;
HB 1775;
HB 2189;
HB 2325; and
HB 2391.

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

BILLS TABLED

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

HB 173;
HB 305;
HB 508;
HB 1537;
HB 1775;
HB 2189;
HB 2325; and
HB 2391.

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

CALENDAR CONTINUED

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2203, PN 3582,** entitled:

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, in primary and election expenses, further providing for place of filing; and providing for electronic filing of reports and for inability to file reports or statements by deadline.

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

BILL TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 2203 be removed from the active calendar and placed on the tabled calendar.

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

BILL REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 2203 be removed from the tabled calendar and placed on the active calendar.

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

* * *

The House proceeded to second consideration of **SB 1296, PN 2178,** entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in district superintendents and assistant district superintendents, further providing for eligibility, for manner of election or approval; providing for performance review; and further providing for election of assistant district superintendents, for term and salary of assistants and for removal; in school districts of the first class, further providing for superintendents of schools or buildings and of supplies; and making an editorial change.

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

BILL TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that SB 1296 be removed from the active calendar and placed on the tabled calendar.

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

BILL REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that SB 1296 be removed from the tabled calendar and placed on the active calendar.

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

RESOLUTION

Mr. TURZAI called up **HR 462, PN 2577,** entitled:

A Resolution honoring the life and legacy of Mr. Joseph Anthony Vento and extending condolences to his family and friends.

On the question,
Will the House adopt the resolution?

RESOLUTION TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that HR 462 be removed from the active calendar and placed on the tabled calendar.

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

RESOLUTION REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that HR 462 be removed from the tabled calendar and placed on the active calendar.

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

BILLS AND RESOLUTIONS PASSED OVER

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

ADJOURNMENT

The SPEAKER. Seeing no further business before the House, the Speaker recognizes the gentleman, Mr. Dunbar, from Westmoreland County, who moves that this House do adjourn until Tuesday, June 26, 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 8:29 p.m., e.d.t., the House adjourned.