

Bill Information

Regular Session 2007-2008 Senate Bill 1

[[Text](#)] [History](#) [[Votes](#)]

Sponsors: PILEGGI, SCARNATI, MELLOW, ORIE, KASUNIC, MUSTO, RAFFERTY, O'PAKE, TOMLINSON, M. WHITE, ERICKSON, WAUGH, FOLMER, COSTA, EARLL, VANCE, BOSCOLA, CORMAN, WONDERLING, GORDNER, RHOADES, D. WHITE, PIPPY, MADIGAN, ARMSTRONG, BAKER, C. WILLIAMS, BRUBAKER, BROWNE, REGOLA, DINNIMAN and EICHELBERGER

Printer's No.: [1763*](#), [1726](#), [1721](#), [1704](#), [1646](#), [1583](#), [1562](#), [1553](#), [1509](#), [772](#)

Short Title: An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for the Office of Open Records; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

Actions:

Referred to STATE GOVERNMENT, March 29, 2007
(Remarks see Senate Journal Page 548), May 21, 2007
Reported as amended, Oct. 29, 2007
First consideration, Oct. 29, 2007
Re-referred to APPROPRIATIONS, Oct. 30, 2007
Re-reported as amended, Nov. 14, 2007
Second consideration, with amendments, Nov. 19, 2007
Amended on third consideration, Nov. 27, 2007
(Remarks see Senate Journal Page 1375), Nov. 27, 2007
Third consideration and final passage, Nov. 28, 2007 (48-1)
(Remarks see Senate Journal Page 1405), Nov. 28, 2007
In the House
Referred to APPROPRIATIONS, Dec. 3, 2007
Reported as committed, Dec. 3, 2007
First consideration, Dec. 3, 2007
Laid on the table, Dec. 3, 2007
Removed from table, Dec. 3, 2007
(Remarks see House Journal Page 2790), Dec. 5, 2007
Second consideration, with amendments, Dec. 10, 2007

(Remarks see House Journal Page [2813](#)), Dec. 10, 2007

Third consideration and final passage, Dec. 12, 2007 ([191-0](#))

In the Senate

Referred to RULES AND EXECUTIVE NOMINATIONS, Dec. 12, 2007

Re-reported on concurrence, as amended, [Jan. 28, 2008](#)

Re-committed to RULES AND EXECUTIVE NOMINATIONS, Jan. 29, 2008

Re-reported on concurrence, as amended, [Jan. 29, 2008](#)

Senate concurred in House amendments, as amended by the Senate, Jan. 30, 2008 ([50-0](#))

(Remarks see Senate Journal Page [1557](#)), Jan. 30, 2008

Corrective Reprint, Printer's No. 1726, Feb. 1, 2008

In the House

Referred to RULES, Feb. 4, 2008

Re-reported on concurrence, as committed, [Feb. 6, 2008](#)

(Remarks see House Journal Page [351](#)), Feb. 6, 2008

Amended, [Feb. 11, 2008](#)

House concurred in Senate amendments to House amendments, as amended by the House,
Feb. 11, 2008 ([199-0](#))

(Remarks see House Journal Page [413](#)), Feb. 11, 2008

In the Senate

Referred to RULES AND EXECUTIVE NOMINATIONS, Feb. 12, 2008

Re-reported on concurrence, as committed, [Feb. 12, 2008](#)

Senate concurred in House amendments to Senate amendments, Feb. 12, 2008 ([50-0](#))

(Remarks see Senate Journal Page [1650](#)), Feb. 12, 2008

Signed in Senate, Feb. 12, 2008

Signed in House, Feb. 12, 2008

Presented to the Governor, Feb. 12, 2008

Approved by the Governor, Feb. 14, 2008

Act No. 3

* denotes Current Printer's Number

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FONTANA AMENDMENT A0754

Senator FONTANA offered the following amendment No. A0754:

Amend Title, page 1, line 1, by striking out "State" and inserting: public employee

Amend Sec. 1, page 1, line 6, by striking out "State" and inserting: Public Employee

Amend Sec. 2, page 1, lines 12 through 17; page 2, lines 1 through 5, by striking out all of said lines on said pages and inserting:

"Governmental body." Any department, authority, commission, committee, council, board, bureau, division, service, office, officer, administration, legislative body or other establishment in the executive, legislative or judicial branch of a State or a political subdivision thereof or any agency performing a governmental function. This term shall include any State-affiliated entity and any State-related institution.

"Public employee." Any individual employed by any governmental body.

"State-affiliated entity." A Commonwealth authority or a Commonwealth entity. The term includes the Pennsylvania Turnpike Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement System, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, the Pennsylvania Higher Educational Facilities Authority and the State System of Higher Education.

"State-related institution." The Pennsylvania State University, the University of Pittsburgh, Lincoln University or Temple University.

Amend Sec. 4, page 3, line 4, by striking out all of said line and inserting: the Commonwealth, whether of the Executive, Legislative or Judicial branch of the government.

Amend Bill, page 3, by inserting between lines 12 and 13: Section 5. Online posting of certain salaries.

All other governmental bodies shall post, on their own official Internet websites or make such information available electronically upon request, and update on a monthly basis, the following concerning officers and employees:

- (1) Title.
- (2) Agency, department or other institution.
- (3) Annual salary rate or other rate of compensation.
- (4) Supplemental payments other than payments for unused vacation or unused sick leave.

Amend Sec. 5, page 3, line 13, by striking out "5" and inserting: 6

Amend Sec. 6, page 3, line 17, by striking out "6" and inserting: 7

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

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Fontana.

Senator FONTANA. Madam President, this amendment removes the language that would require posting of names on the Internet. The reason for that, Madam President, is I believe it is a matter of privacy and certainly security to protect employees against the identity theft that is happening more and more each day through the Internet.

This amendment also expands the requirement of posting salaries to all governmental bodies, which is away from just the State employees, but all public employees, and that is in the spirit of fairness and openness, if we want to be open, and we should be open to all public employees, so I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, as I understand the amendment, it would remove the requirement that names be available to the public, names of public employees. That would

be a change in the existing law that allows the public to know what their taxpayer-funded employees are making as employees of government agencies, and a step backwards in our desire to bring more openness to government processes.

The second part, I was not clear on the comments, but if I understand it correctly, it would include State-related institutions under the provisions of this bill. My thoughts are not on that point but are that that issue is a substantive issue that is currently before the Supreme Court of Pennsylvania.

Although I support the extension of the Open Records Act to State-related institutions, I believe that debate should be held in the context of the expansion of the Open Records Act. I, in fact, have a bill that would do that, Senate Bill No. 1, which is currently in the Committee on State Government. My understanding is that committee will hold hearings on that bill where we can fully discuss the pros and cons of extending the Open Records Act to State-related institutions. Therefore, I do not believe that it is appropriate to try to include it in this bill at this time.

For those reasons, I recommend a "no" vote on the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Fontana.

Senator FONTANA. Madam President, just for clarification, we are not talking about a step backwards. This is obviously more information than ever before that will be on the Internet. The only thing we are removing is the name. The title, the job descriptions, the total amount of money, all that sort of thing would still be on there. What we are talking about is just one aspect of the bill, and that is the removal of the name. This is for the security of the employees the way I see it, especially with as much identity theft that is going on in this world today.

Thank you.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a legislative leave for Senator Baker.

The PRESIDENT. Senator Pileggi requests a legislative leave for Senator Baker. Without objection, the leave will be granted.

LEAVE OF ABSENCE

Senator PILEGGI asked and obtained a leave of absence for Senator SCARNATI, for today's Session, for personal reasons.

And the question recurring,
Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, if I could follow up on the last point made, I think most of the Members and members of the public are aware of the fact that publicly available news services and newspapers maintain their own websites and/or publications of what is now publicly available information of

State employee names and public employee names. I think it would be, again, a reversal if in our own effort to make public information more available we have a more restrictive presentation of public information than is available in commercial news services.

So, again, I urge a negative vote on the amendment.

And the question recurring,
Will the Senate agree to the amendment?

The yeas and nays were required by Senator FONTANA and were as follows, viz:

YEA-20

Boscola	Fumo	Logan	Stout
Costa	Hughes	Mellow	Tartaglione
Dinniman	Kasunic	Musto	Williams, Anthony H.
Ferlo	Kitchen	O'Pake	Williams, Constance
Fontana	LaValle	Stack	Wozniak

NAY-28

Armstrong	Erickson	Piccola	Robbins
Baker	Folmer	Pileggi	Tomlinson
Browne	Gordner	Pippy	Vance
Brubaker	Greenleaf	Punt	Waugh
Corman	Madigan	Rafferty	White, Donald
Earll	McIlhinney	Regola	White, Mary Jo
Eichelberger	Orie	Rhoades	Wonderling

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,
Will the Senate agree to the bill on third consideration?

BOSCOLA AMENDMENT A0731

Senator BOSCOLA offered the following amendment No. A0731:

Amend Title, page 1, line 1, by striking out "State" and inserting: governmental

Amend Sec. 1, page 1, line 6, by striking out "State" and inserting: Governmental

Amend Sec. 2, page 2, by inserting between lines 5 and 6: "Local agency." A county, township, borough, town, city, school district, local authority, commission or other similar entity performing a governmental function.

Amend Sec. 3, page 2, line 25, by striking out "A FORM AND STRUCTURE PRESCRIBED BY" and inserting: ASCII-delimited text format, Excel spreadsheet format or another format mutually agreed upon by the agency and

Amend Bill, page 3, by inserting between lines 12 and 13: Section 5. Local agencies.

(a) General rule.—All local agencies shall post on their official Internet websites, and update on a monthly basis, the following concerning officers and employees:

- (1) Name.
- (2) Title.
- (3) Agency, department or other institution.
- (4) Annual salary rate or other rate of compensation.
- (5) Supplemental compensation for the current month. For purposes of this section, supplemental compensation shall not include reimbursement payments to employees for appropriate business expenditures, or payments for unused vacation or unused

sick leave.

(b) Exception.—If the local agency does not maintain an official Internet website, the information shall be made available electronically or in writing upon request within five days.

(c) Notification.—Each local agency shall notify the State Treasurer, in a form and structure prescribed by the State Treasurer, when it has complied with this act. When applicable, the notification shall include the main Internet website page address where the data received pursuant to subsection (a) is located.

(d) Directory.—The State Treasurer shall maintain an Internet website-based directory of the local agency Internet website page addresses received pursuant to subsection (c) on the official Internet website created pursuant to subsection (a).

Amend Sec. 5, page 3, line 13, by striking out "5" and inserting: 6
Amend Sec. 6, page 3, line 17, by striking out "6" and inserting: 7

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

The PRESIDENT. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Madam President, Senate Bill No. 729 requires the posting of State salary information on the Internet, and what this amendment would do would be expanding that to include local governments, such as counties, townships, boroughs, cities, school districts, local authorities and commissions.

And the question recurring,
Will the Senate agree to the amendment?

The yeas and nays were required by Senator BOSCOLA and were as follows, viz:

YEA-48

Armstrong	Folmer	Mellow	Stack
Baker	Fontana	Musto	Stout
Boscola	Fumo	O'Pake	Tartaglione
Browne	Gordner	Orie	Tomlinson
Brubaker	Greenleaf	Piccola	Vance
Corman	Hughes	Pileggi	Waugh
Costa	Kasunic	Pippy	White, Donald
Dinniman	Kitchen	Punt	White, Mary Jo
Earll	LaValle	Rafferty	Williams, Anthony H.
Eichelberger	Logan	Regola	Williams, Constance
Erickson	Madigan	Rhoades	Wonderling
Ferlo	McIlhinney	Robbins	Wozniak

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

On the question,
Will the Senate agree to the bill on third consideration, as amended?

PILEGGI AMENDMENT A0732

Senator PILEGGI offered the following amendment No. A0732:

Amend Sec. 4, page 3, by inserting between lines 12 and 13:
(c) Redaction.—At the request of an agency, the State Treasurer

may redact the name of an individual who is regularly involved in the conduct of undercover criminal investigations if the State Treasurer determines it is necessary to protect the safety of the individual.

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

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, this is an amendment that allows for the redaction of the names of an individual who is regularly involved in the conduct of undercover criminal investigations necessary to protect the safety of the individual. I believe it is an agreed-to amendment.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I desire to interrogate the gentleman from Delaware, Senator Pileggi.

The PRESIDENT. Will the gentleman from Delaware, Senator Pileggi, permit himself to be interrogated?

Senator PILEGGI. I will, Madam President.

Senator COSTA. Madam President, in light of the fact that we previously amended this bill to include county officials and local governments as well, and the intent of this legislation is to address those individuals working, as I understand, specifically and only with the Attorney General's Office. In light of the fact that there are a number of municipal police officials who work with task forces that work side by side with some of these same individuals, will this amendment allow for that exemption for those local municipal officials, whether they be county or local government officials? Do they also have the opportunity to petition the Treasurer for exemption of their information being posted?

Senator PILEGGI. Madam President, the intent of the language is to allow any agency to request that the Treasurer redact that information. It is not limited to the Attorney General.

Senator COSTA. Madam President, just so I am clear, any municipal government that has a person assigned to a task force would be able to share the same benefit of that exclusion. Is that correct?

Senator PILEGGI. Madam President, the exact language is "at the request of an agency." It is a very broadly defined term. I believe it would include local law enforcement agencies.

Senator COSTA. Madam President, thank you. I believe my question was answered.

And the question recurring,
Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator PILEGGI.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a recess of the Senate for the purpose of a meeting of the Committee on Appropriations to be held in the Rules room.

The PRESIDENT. For the purpose of a meeting of the Committee on Appropriations, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

UNFINISHED BUSINESS BILL REPORTED FROM COMMITTEE

Senator ARMSTRONG, from the Committee on Appropriations, reported the following bill:

HB 112 (Pr. No. 1633) (Amended) (Rereported)

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, further providing for effect of act on existing laws and, in insurance holding companies, for definitions, for acquisition of control of or merger with domestic insurer and for acquisitions involving insurers not otherwise covered; establishing the Insurance Restructuring Board; providing for its powers and duties; establishing an account; providing for health care reporting; and making an inconsistent repeal.

CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Mr. and Mrs. William Polak and to Douglas Andrew Patti by Senator Boscola.

Congratulations of the Senate were extended to Ella Zellefrow by Senator Brubaker.

Congratulations of the Senate were extended to Mr. and Mrs. Hubert E. Parsons, Justin David Miller, Robert E. Kennis and to Terry Eugene Ehpruim Ritzman by Senator Corman.

Congratulations of the Senate were extended to Samantha Lynne Palser, Dr. Henry A. Jordan, Dr. Mary Ann Maggitti, Dr. Linda K. Himmelberger, Barbara McNeil Jordan, Stephen L. McFalls, Dr. Bernard S. Proctor and to Paul Joseph Hogan by Senator Dinniman.

Congratulations of the Senate were extended to Presque Isle Women's Club by Senator Earll.

Congratulations of the Senate were extended to Brad Tyler Schoener by Senator Erickson.

Congratulations of the Senate were extended to Spencer C. Huff by Senator Ferlo.

Congratulations of the Senate were extended to Sharon A. Seldomridge and to Carol Ulrich by Senator Folmer.

Congratulations of the Senate were extended to Brianne Doak and to Maryanne Diehl by Senator Gordner.

Congratulations of the Senate were extended to Thomas Frattone, Terry Flowers, Peter Reilly, Richard Bowes, Nadir Osborne, Harvey Davis, Larry Clark, Tracy Houston, Tony Panebianco, Robert Jeter, Fredrick Baker, Michael Meskill, Gordon Andrew, Benjamin Baynard, Derek Lowery, Jason Seigafuse, Marquies Newsome, Scott Holmes, Richard Milsop, Timothy O'Toole, Adam Wojinicki, Charles Tizal, Troy Truesdale, Edward Wrenn, Matthew McCrory, Joshua Flowers,

First, Madam President, let me begin with the students who reside in Senator Connie Williams' district, and they are Hyunki Joo, Samantha Ludlum, Tad Lyon, Gianni Manginelli, Nathan Master, and Peter Shevchenko; from Senator Erickson's district, David Matej and Eleanor Miller; Miss Sarah Null is from Senator Rafferty's district; Miss Julia Devine from Senator Anthony Williams' district, and finally, from my own 24th Senatorial District is Lukas Carroll.

They are here with their principal from the American Academy, Mrs. Lee Anthony, and their teacher advisor, Mrs. P.J. Chagan, and I ask for our traditional warm welcome for these wonderful students who have spent the day in our State Capitol.

The PRESIDENT. Will all the students, principal, and advisor from Senator Erickson's, Senator Rafferty's, Senator Wonderling's, and both Senator Williams' districts please rise so we can welcome you to the Pennsylvania Senate.

(Applause.)

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a recess of the Senate, first for a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room, to be followed by a meeting of the Committee on Transportation to be held in the Rules room, to be followed by a Republican caucus to be held in the Majority Caucus Room.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request that the Democrats report to our caucus room after the committee meetings.

The PRESIDENT. For purposes of a meeting of the Committee on Rules and Executive Nominations, to be followed by a meeting of the Committee on Transportation, followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Tomlinson has returned, and his legislative leave is cancelled.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request temporary Capitol leaves for Senator Piccola and Senator Mary Jo White, and a legislative leave for Senator Rhoades.

The PRESIDENT. Without objection, the leaves will be granted.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL AMENDED

SB 1 (Pr. No. 1562) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for an Open Records Clearinghouse; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

On the question,

Will the Senate agree to the bill on third consideration?

Senator PILEGGI offered the following amendment No. A4456:

Amend Sec. 102, page 4, line 28, by striking out "A statutorily established organization" and inserting:

An organization established by the Constitution of Pennsylvania, a statute or an executive order

Amend Sec. 102, page 6, by inserting between lines 24 and 25

(13) The Legislative Reapportionment Commission.

Amend Sec. 102, page 7, line 5, by inserting after "of":

, record of attendance of members at and all recorded votes taken in

Amend Sec. 102, page 7, lines 7 and 8, by striking out all of said lines and inserting:

(8) Executive nomination calendars.

Amend Sec. 102, page 7, lines 10 and 11, by striking out "committee meeting or"

Amend Sec. 102, page 7, line 26, by striking out "Marked" and inserting: Daily Legislative Session Calendars and marked

Amend Sec. 102, page 7, by inserting between lines 26 and 27:

(16) A record communicating to an agency the official appointment of a legislative appointee.

(17) A record communicating to the appointing authority the resignation of a legislative appointee.

Amend Sec. 304, page 11, line 2, by inserting after "act":

or any rule or order of court providing equal or greater access to the records

Amend Sec. 306, page 11, line 17, by striking out "statute or"

Amend Sec. 503, page 13, line 19, by striking out "an" and inserting: one or more

Amend Sec. 503, page 13, line 20, by striking out "of ficer" and inserting: officers

Amend Sec. 503, page 13, line 22, by inserting after "local": law enforcement

Amend Sec. 701, page 16, line 19, by striking out "public"

Amend Sec. 701, page 16, line 24, by striking out "public"

Amend Sec. 707, page 19, lines 18 through 22, by striking out all of said lines and inserting:

(1) Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the agency

Amend Sec. 707, page 19, by inserting between lines 24 and 25:

(2) Following an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester in accordance with the duplication rates established in section 1307(b).

Amend Sec. 708, page 22, line 1, by inserting after "other": confidential

Amend Sec. 708, page 22, line 7, by inserting after "contract": , employment-related contract

Amend Sec. 708, page 23, line 15, by striking out "or arbitration award"

Amend Sec. 708, page 23, line 16, by inserting after "parties": or to any arbitration award

Amend Sec. 708, page 26, by inserting between lines 5 and 6:

This paragraph shall not apply to information contained in a police

blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) or in a traffic report.
 Amend Sec. 708, page 29, line 20, by inserting after "information":
 protected
 Amend Sec. 708, page 29, line 22, by striking out "by" and inserting:
 under
 Amend Sec. 708, page 29, line 24, by inserting after "activity":
 protected
 Amend Sec. 1301, page 35, line 5, by striking out "1103" and inserting:
 1101(b)
 Amend Sec. 1302, page 35, line 18, by striking out "1103" and inserting:
 1101(b)
 Amend Sec. 1306, page 37, line 13, by striking out "or criminal damages or"
 Amend Sec. 1306, page 38, lines 6 and 7, by striking out ", INCLUDING GEOGRAPHIC INFORMATION SYSTEMS AND" and inserting:
 of geographic information systems or
 Amend Sec. 1306, page 38, line 8, by removing the comma after "LISTS"

On the question,
 Will the Senate agree to the amendment?
 It was agreed to.

RECONSIDERATION OF AMENDMENT A4456

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.
 Senator MELLOW. Madam President, I move to reconsider the vote by which amendment A4456 was just agreed to.
 A voice vote having been taken, the question was determined in the affirmative.

And the question recurring,
 Will the Senate agree to the amendment?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-48

Armstrong	Fontana	Musto	Stout
Baker	Fumo	Orie	Tartaglione
Boscola	Gordner	Piccola	Tomlinson
Browne	Greenleaf	Pileggi	Vance
Brubaker	Hughes	Pippy	Washington
Corman	Kasunic	Punt	Waugh
Costa	Kitchen	Rafferty	White, Donald
Dinniman	LaValle	Regola	White, Mary Jo
Earll	Logan	Rhoades	Williams, Anthony H.
Eichelberger	Madigan	Robbins	Williams, Constance
Erickson	McIlhinney	Scarnati	Wonderling
Folmer	Mellow	Stack	Wozniak

NAY-1

Ferlo
 A majority of the Senators having voted "aye," the question was determined in the affirmative.
 The PRESIDENT. The bill will go over as amended.

BILLS OVER IN ORDER

SB 317 and SB 1000 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

SB 232, HB 296 and SB 428 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

BILLS REREFERRED

SB 880 (Pr. No. 1570) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, providing for vouchers for licenses and permits.

Upon motion of Senator PILEGGI, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

HB 948 (Pr. No. 2723) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, providing for vouchers for licenses.

Upon motion of Senator PILEGGI, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 1060, SB 1125 and SB 1129 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

BILLS REREFERRED

HB 1131 (Pr. No. 1382) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 1, 1933 (PL.103, No.69), known as The Second Class Township Code, providing for the establishment of fire and emergency medical services.

Upon motion of Senator PILEGGI, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

HB 1133 (Pr. No. 1384) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 1, 1966 (1965 P .L.1656, No.581), known as The Borough Code, providing for specific powers of boroughs relating to emergency services.

Upon motion of Senator PILEGGI, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

HB 1134 (Pr. No. 1385) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 24, 1931 (P .L.1206, No.331), known as The First Class Township Code, providing for specific powers relating to emergency services.

Upon motion of Senator PILEGGI, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

people in my office, and the questioning that took place was as educational for me as it was for them.

I would like to introduce to the Senate today seven exchange students who are with the Christian School of York, which obviously is located in York County. They are a mix of sophomores, juniors, and seniors. If I may, Madam President, I will first of all introduce their teacher, Mrs. Kelly Pederson, and her husband, David, who are here along with seven students. I am using their American names, by the way, which they said was okay. Candy is from China, Sarah is from Germany, Kelly is from Taiwan, Sisi is from China, Ming is from Taiwan, Bob is from China, and Danhee is from South Korea.

I would really appreciate a warm round of applause from the Members of the Senate to welcome these young people and their chaperones today.

Thank you.

The PRESIDENT. Will Kelly and David Pederson, Candy, Sarah, Kelly, Sisi, Ming, Bob, and Danhee all please rise. Welcome to the Senate of Pennsylvania.

(Applause.)

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1 (Pr. No. 1583) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for an Open Records Clearinghouse; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I rise to ask my colleagues to support Senate Bill No. 1. Pennsylvania's current open records law was enacted in 1957. Although some improvements have been made through the years, most of the law remains the same today. During my time in the Senate, I have seen an increasing degree of cynicism and distrust of State government. Part of that has been focused on the way the State conducts its business, because it has not always been an open process that people can easily access and follow.

Pennsylvania has implemented many important government reforms this year. For example, the State Senate now posts more information online than ever, giving the public easy access to any

roll-call votes and the full texts of our debates. The Senate also approved legislation to increase penalties for violating the Sunshine Law, to eliminate lameduck voting Sessions, and to prohibit bonuses for State employees. All of this, Madam President, was done with strong bipartisan support.

But the true foundation of government reform is a strong open records law. Today, we have the opportunity to establish that foundation. Pennsylvania needs a stronger open records law because openness builds trust in government. Transparency gives the public the ability to review government actions, to understand what government does, to see when government performs well, and when government should be held accountable.

Since its introduction in January, Senate Bill No. 1 has been amended four times, reflecting input received from a wide range of interested parties, including the Pennsylvania Newspaper Association, Common Cause, the County Commissioners Association, and other organizations representing local governments, such as law enforcement, private individuals and businesses, Members of the Senate, Members of the House, and the Governor's Office.

The current version of the bill makes many important changes to the process of obtaining public records in Pennsylvania. It creates an open records clearinghouse in the Department of Community and Economic Development to provide information, training, and advisory opinions on open records. It improves the appeals process, making it easier for a citizen to challenge an agency's decision not to release a record. It reduces the time period for response by a Commonwealth agency from 10 days to 5 days. It increases financial penalties for noncompliance. It requires the clearinghouse to establish a standard fee for photocopying records, and to create a standard form that can be used to request records. It gives the clearinghouse a real foundation of independence by requiring the Governor to appoint an executive director who serves for a term of six years.

Senate Bill No. 1 also makes dramatic changes in the records available from various government agencies. State-related universities are required to provide information from Federal Form 990, and to provide information on the highest 25 salaries of employees at the universities. Judicial agencies are required to provide financial records. Legislative agencies are required to provide 17 different categories of records.

For executive agencies and local agencies, Senate Bill No. 1 reverses the presumption of access to records and puts the burden of proof on a government agency denying access to a record. This is the one change that many advocates of open government consider the most essential. It provides a list of 28 plainly-stated exceptions for executive agencies and local agencies. These exceptions include such things as criminal investigations, Social Security numbers, personal financial information, and individual medical records. Senate Bill No. 1 also requires the posting of State contracts in a searchable online database. This will give citizens unprecedented access to the details of State spending. This provision comes from Senator Corman's Senate Bill No. 914.

By any objective measure, Senate Bill No. 1 is a vast improvement over Pennsylvania's current open records law. Despite the good that is being done, there will be critics of this legislation, as there are with almost every major bill. I would like to

briefly address a few of the criticisms. First, the legislature and judiciary are created differently than the executive agencies and local agencies. Some think that the legislature and judiciary should be treated the same. I do not agree. Each branch of government has a unique set of constitutional responsibilities, and the structure of Senate Bill No. 1 respects those differences.

Most other States give the legislature separate treatment in their open records laws. Even those States which on the surface treat the legislature the same as the other agencies often have one or more exceptions crafted to exempt a wide array of legislative records. The language in Senate Bill No. 1 dealing with the legislature is based on New York law. The University of Florida's Citizen Access Project ranks all 50 States on a wide variety of open records issues. Under this ranking of legislatures, they have three States tied for the highest rank. One of those three States is New York State. This bill would make even more legislative records available to the public than in New York, and it includes access to the legislature's financial records.

Another criticism of Senate Bill No. 1 is the fact that it removes criminal penalties which have existed since the current law was adopted. This was done because we can find no evidence of a single criminal prosecution under the 1957 law, and because the ACLU and the Attorney General of Pennsylvania agree that criminal sanctions were an inappropriate remedy. Although Senate Bill No. 1 removes the criminal penalties, it also significantly strengthens civil penalties for noncompliance and makes it easier for a plaintiff to recover attorney fees if an agency acts in bad faith. I believe these are things that will have a practical, meaningful effect on people's ability to obtain records.

Madam President, the Senate of Pennsylvania can be proud of what we are doing today. Reform may very well have been the word uttered most often in this building over the past year. There is no other reform that comes close to matching the impact of a strong open records law.

I would like to thank several Members for their efforts in improving this bill, including Senator Piccola, Senator Armstrong, Senator Anthony Williams, and Senator Mellow. I would also like to thank Kathy Eakin and Erik Arneson of my staff for the countless hours they spent working on this bill.

Madam President, I ask for an affirmative vote on Senate Bill No. 1.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Anthony Williams.

Senator A.H. WILLIAMS. Madam President, first, I rise to thank Senator Pileggi and my colleagues on the other side of the aisle for finally doing what we often talked about. This is truly a bipartisan effort. It would not have been achieved without the gracious allowances and consideration of Senator Piccola and Senator Pileggi in this process.

This is certainly not a bill that I sought to be a crafter of, but it was a moment within the Senate process of which I am now proud to be a part. When we opened this Session, there was a cry--frankly, there was a demand--for reform and change of how we operate within the Senate and certainly within the legislative process. Many of us have heard that from our constituents, and this bill, which is actually Senate Bill No. 1, represents us listening to constituents for countless numbers of hours, hearings, and Sessions. Senate Bill No. 1 represents the best efforts of our col-

lective body to reach what our government should be, and that is open and accessible to our constituents.

This is certainly not just simply an historic moment for a bill, but is an historic moment for this Senate, because it truly represents where the Senate is going and not just where it has been. We are cutting through a variety of bureaucratic tape to allow for the constituents across the Commonwealth of Pennsylvania to have access to their government, and more importantly, to have confidence in their government and confidence in those leaders, to know what they are talking about, to know why they are talking about it, and ultimately, to be confident in the decisions that we make and represent in this legislative Chamber.

I am proud to be a part of their team, and I am proud that Senator Bob Mellow entrusted in me the ability to craft this particular measure. But most importantly, I am proud of the Members, the countless Members on this floor whose names will not be hallowed in effort, but frankly, Senator Pileggi, Senator Mellow, Senator Piccola, and myself would not have this opportunity if our Members did not guide us through this process. It has been a collective input process, and every Member has stood and represented their interest. I will say quite clearly that there are some Members who do not believe that this measure goes far enough. They believe we have to go even farther, and many of us concur with that perspective, but I am glad to say that even those Members who believe that there is still much more work we need to do have been helpful and supportive in this process.

So today I stand in support of Senate Bill No. 1 and ask for an affirmative vote from all of our Members.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, just for a minute or two, I would like to mention not necessarily the fine points of Senate Bill No. 1, but I would like to congratulate Senator Pileggi, the Majority Leader, for the tremendous amount of leadership in taking up a very difficult piece of legislation, especially when, at the beginning of a Session, you designate the number of a particular proposal such as Senate Bill No. 1 that we are considering today on final passage, which was designated almost a year ago. That indicates exactly how important an open records law is and the significance that has been placed on it by the Majority Leader.

I also want to thank Senator Anthony Williams for his leadership on behalf of the Democratic Members of the Senate. We caucused on this proposal on a number of occasions. We also know that Senator Anthony Williams knew how important Senate Bill No. 1 was to the Members and how important opening government was to the people of Pennsylvania. He took a very difficult issue and corresponded with our Caucus and also with Senator Pileggi and his staff on almost a weekly basis until we were able to craft this particular compromise that has been established.

Madam President, I have long felt that openness in government is extremely important. The business we do here is, quite frankly, the people's business, and there should be very, very little withheld from the voting public, because none of us owns the government, and nobody owns 50.1 percent of the democracy that we work under, not only in this great country of ours, but more importantly, in this great State of ours. So when we are

handling the important business of the people, I think it is extremely important that the people know exactly what is taking place legislatively, how access to the wide range of governmental issues are dealt with, and what is taking place here in Harrisburg and back in our legislative offices.

I understand fully that there are certain things that have to be protected. There are issues of confidentiality when people want to come into your office and talk to you about some problems that they have within their families or with government in its own right. Some of those particular areas must be protected to protect the privacy of the constituency that we represent. But by and large, Madam President, this is the people's business. None of us owns this business in our own right, and therefore, we and the people of our constituencies have the right to know exactly what is taking place through the proper type of open records law, and I think we have taken a major step in the right direction.

Again, I want to thank both Senator Pileggi and Senator Anthony Williams for the tremendous amount of leadership and the hard work that they have done in getting us to this point today.

Thank you, Madam President. I hope we have an affirmative vote from every Member of this Senate.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Mary Jo White has returned, and her temporary Capitol leave is cancelled.

And the question recurring,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

Armstrong	Folmer	Musto	Stout
Baker	Fontana	Orie	Tartaglione
Boscola	Gordner	Piccola	Tomlinson
Browne	Greenleaf	Pileggi	Vance
Brubaker	Hughes	Pippy	Washington
Corman	Kasunic	Punt	Waugh
Costa	Kitchen	Rafferty	White, Donald
Dinniman	LaValle	Regola	White, Mary Jo
Earl	Logan	Rhoades	Williams, Anthony H.
Eichelberger	Madigan	Robbins	Williams, Constance
Erickson	McIlhinney	Scarnati	Wonderling
Ferlo	Mellow	Stack	Wozniak

NAY-1

Fumo

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

SB 317 and SB 1000 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

SECOND CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 778 and SB 838 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

BILL OVER IN ORDER

SB 232 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL ON SECOND CONSIDERATION

HB 296 (Pr. No. 2873) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for costs imposed following conviction for passing bad checks and for the offense of debt pooling.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 428 and SB 1060 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

BILL ON SECOND CONSIDERATION

SB 1114 (Pr. No. 1474) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating the scenic view on State Route 40 in Wharton Township, Fayette County, as the "Blue Star Point Lookout."

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

SB 1121 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL ON SECOND CONSIDERATION

SB 1125 (Pr. No. 1573) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, prohibiting the use of name, portrait or picture of a soldier in certain cases.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

SB 1129 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

Curry	Keller, W.	Petrarca	Vereb
Cutler	Kenney	Petri	Vitali
Daley	Kessler	Petrone	Vulakovich
Dally	Killion	Phillips	Wagner
Denlinger	King	Pickett	Walko
DePasquale	Kirkland	Preston	Wansacz
Dermody	Kortz	Pyle	Waters
DeWeese	Kotik	Quigley	Watson
DiGirolamo	Kula	Quinn	Wheatley
Donatucci	Leach	Ramaley	White
Eachus	Lentz	Rapp	Williams
Ellis	Levdansky	Readshaw	Wojnaroski
Evans, D.	Longietti	Reed	Yewcic
Evans, J.	Mackereth	Roae	Youngblood
Everett	Maher	Rock	Yudichak
Fabrizio	Mahoney	Roebuck	
Fairchild	Major	Rohrer	O'Brien, D.,
Fleck	Manderino	Ross	Speaker

NAYS—7

Gillespie	Miller	Nickol	Swanger
Metcalfe	Moul	Perry	

NOT VOTING—0

EXCUSED—6

Argall	Gerber	Raymond	Reichley
DeLuca	Hennessey		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1, PN 1583**, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for an Open Records Clearinghouse; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

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

Mr. **MAHONEY** offered the following amendment No. **A04720**:

Amend Table of Contents, page 2, line 11, by striking out "to public records"

Amend Table of Contents, page 2, by inserting between lines 23 and 24

Section 905. Administrative denial.

Section 906. Record discard.

Amend Table of Contents, page 3, line 8, by striking out "Clearinghouse" and inserting

Office of Open Records

Amend Table of Contents, page 3, by inserting between lines 18 and 19

Section 3101.1. Relation to other law or judicial actions.

Amend Sec. 102, page 4, line 20, by inserting after "The" Office of

Amend Sec. 102, page 6, by inserting between lines 15 and 16 (1.1) Political party caucuses of the Senate.

Amend Sec. 102, page 6, by inserting between lines 16 and 17 (2.1) Political party caucuses of the House of Representatives.

Amend Sec. 102, page 6, line 29, by striking out "Includes the following information" and inserting Any of the following

Amend Sec. 102, page 6, line 30, by striking out "or standing committee"

Amend Sec. 102, page 7, line 9, by inserting after "AT" a public hearing or a public committee meeting

Amend Sec. 102, page 8, by inserting between lines 7 and 8 (18) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.

Amend Sec. 102, page 9, line 12, by inserting after "notice" to a requester

Amend Sec. 102, page 9, line 23, by inserting after "includes" the Pennsylvania Gaming Control Board, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission,

Amend Sec. 102, page 9, line 24, by inserting after "Agency" and all nonprofit corporations established thereby

Amend Sec. 301, page 10, line 28, by inserting after "requester" unless otherwise provided by law

Amend Sec. 302, page 11, line 4, by inserting after "requester" unless otherwise provided by law

Amend Sec. 305, page 11, line 19, by inserting before "A" (a) General rule.—

Amend Sec. 305, page 11, by inserting between lines 25 and 26 (b) Legislative records and financial records.—A legislative record in the possession of a legislative agency and a financial record in the possession of a judicial agency shall be presumed to be available to the public unless:

- (1) the record is exempt under 708(c) or (d);
- (2) the record is protected by a privilege; or
- (3) the record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.

Amend Sec. 502, page 12, line 10, by inserting after "Representatives," or a political party caucus of the Senate or the House of Representatives

Amend Sec. 503, page 13, by inserting between lines 26 and 27 (iii) A political party caucus of the Senate or the House of Representatives.

Amend Sec. 503, page 14, line 4, by striking out "LAW ENFORCEMENT"

Amend Sec. 506, page 16, line 11, by striking out "for" and inserting on behalf of

Amend Sec. 506, page 16, line 17, by striking out "public"

Amend Sec. 506, page 16, line 18, by inserting after "the" public

Amend Sec. 506, page 16, line 21, by striking out "The" and inserting Upon a determination to grant the request, the

Amend Sec. 506, page 16, line 23, by inserting after "and" upon collection shall

Amend Sec. 701, page 17, line 2, by striking out "to public records"

Amend Sec. 701, page 17, line 6, by inserting after "record" being provided to a requester

Amend Sec. 701, page 17, line 6, by striking out "to a requester"

Amend Sec. 701, page 17, line 7, by striking out "the public record" and inserting it

Amend Sec. 701, page 17, line 13, by striking out "the computer" and inserting

any computer either

Amend Sec. 703, page 17, line 26, by striking out "in" and inserting

pursuant to

Amend Sec. 703, page 18, line 2, by inserting after "records" unless otherwise provided by law

Amend Sec. 704, page 18, lines 13 and 14, by striking out "use the electronic access" and inserting

access the record electronically

Amend Sec. 704, page 18, lines 14 and 15, by striking out "submit a written request to the agency"

Amend Sec. 704, page 18, line 16, by inserting after "notification,"

submit a written request to the agency

Amend Sec. 706, page 18, line 30, by striking out "under section 305 or 708"

Amend Sec. 708, page 20, line 16, by striking out all of said line and inserting

(a) Burden of proof.—

(1) The burden of proving that a public

Amend Sec. 708, page 20, by inserting between lines 19 and 20

(2) The burden of proving that a legislative record is exempt from public access shall be on the legislative agency receiving a request, by a preponderance of the evidence.

(3) The burden of proving that a financial record of a judicial agency is exempt from public access shall be on the judicial agency receiving a request, by a preponderance of the evidence.

Amend Sec. 708, page 21, line 7, by striking out "life,"

Amend Sec. 708, page 22, lines 16 and 17, by striking out "an individual's" and inserting

a person's

Amend Sec. 708, page 22, line 17, by inserting after "number," date of birth;

Amend Sec. 708, page 22, line 19, by striking out "home, cellular or personal"

Amend Sec. 708, page 22, line 20, by striking out "number" where it appears the first time and inserting

numbers

Amend Sec. 708, page 22, line 20, by striking out "address" and inserting

addresses

Amend Sec. 708, page 22, line 20, by striking out "number;" and inserting

numbers; or

Amend Sec. 708, page 22, line 21, by striking out "number" and inserting

numbers

Amend Sec. 708, page 22, line 24, by striking out all of said line and inserting

(ii) Nothing in this paragraph shall:

(A) Prevent an agency from providing access to the date of birth of a deceased person for genealogical purposes.

(B) Preclude the

Amend Sec. 708, page 26, line 4, by inserting after "correspondence"

, videos

Amend Sec. 708, page 27, line 28, by striking out all of said line and inserting

(18) Records or parts of records pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. However, a transcript of a recording may be released when the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

Amend Sec. 708, page 28, line 2, by inserting after "of" an autopsy report,

Amend Sec. 708, page 28, line 8, by inserting after "cause" and manner

Amend Sec. 708, page 28, line 13, by striking out "Minutes" and inserting

Draft minutes of any meeting of an agency and minutes

Amend Sec. 708, page 29, line 25, by striking out "or"

Amend Sec. 708, page 30, line 9, by removing the period after "abuse" and inserting ; or

(iii) identifying a person that requests assistance or constituent services from a member of the General Assembly.

Amend Sec. 708, page 30, line 10, by striking out "The" and inserting

With respect to financial records, the

Amend Sec. 708, page 30, lines 11 and 12, by striking out all of line 11 and "financial records protected under" in line 12

Amend Sec. 708, page 30, lines 12 through 14, by striking out "or" in line 12, all of line 13, "information PROTECTED under subsection (b)(5)" in line 14 and inserting , (4) or (5) shall apply

Amend Sec. 708, page 30, line 14, by striking out "may" and inserting

shall

Amend Sec. 708, page 30, line 21, by striking out "shall not" and inserting

(1), (2), (3), (4) or (5) shall

Amend Sec. 708, page 30, lines 22 through 23, by striking out ", except for data protected under subsection (b)(1), (2), (3) or (4)"

Amend Sec. 901, page 31, line 2, by inserting after "request."

The response shall include a notice of applicable fees.

Amend Bill, page 33, by inserting between lines 4 and 5 Section 905. Administrative denial.

The following shall apply:

(1) An agency may deny access to a public record, legislative record or financial record due to the failure of the requester to pay the applicable fee.

(2) An agency may deny access to a public record, legislative record or financial record due to the failure of the requester to pay any fee associated with a previous request made by the requester to the same agency.

Section 906. Record discard.

If an agency response to a requester provides that the requested records are available for delivery at the office of an agency and the requester fails to retrieve the records within 60 days of the agency's response, the agency shall send a written notice to the requester specifying that the requested copies will be held for an additional 30 days, within which time the requester may return to the agency to retrieve the records. Thereafter, the agency may dispose of any copies which have not been retrieved and retain any fees paid to date.

Amend Sec. 1101, page 33, line 11, by inserting after "appropriate"

legislative or judicial

Amend Sec. 1307, page 38, line 26, by striking out all of said line and inserting

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1307, page 38, by inserting between lines 28 and 29

(ii) Fees for copying data, collections of data and compiled data, including, but not limited to, geographic information systems and property lists, may be based on consideration of the reasonable market value of same or closely comparable data, collections of data or compiled data.

Amend Sec. 1307, page 39, lines 1 through 5, by striking out all of said lines

Amend Sec. 1310, page 41, line 1, by striking out "Clearinghouse" and inserting

Office of Open Records

Amend Sec. 1310, page 41, line 3, by striking out "Community and Economic Development an" and inserting

State the Office of

Amend Sec. 1310, page 41, lines 20 and 21, by striking out "provided by the clearinghouse"

Amend Sec. 1310, page 42, by inserting between lines 8 and 9

(10) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(11) Enter into an agreement with the Department of Community and Economic Development to provide the training required by paragraphs (3), (4) and (5)(i).

Amend Sec. 1701, page 45, line 4, by striking out "All parties to the contract" and inserting

The name and business address of all parties executing the contract

Amend Sec. 1701, page 45, line 7, by striking out "format" and inserting

file

Amend Sec. 1701, page 45, line 8, by striking out "format" where it appears the first time and inserting

file

Amend Sec. 1701, page 45, line 8, by striking out "format provided by" and inserting

file provided by Treasury Department

Amend Sec. 1701, page 45, line 16, by inserting after "Treasurer."

The contract provided to the Treasury Department pursuant to this chapter shall be redacted in accordance with applicable provisions of this act by the agency providing the contract to the Treasury Department.

(d) Contracts provided pursuant to The Fiscal Code.—The copy of a contract provided to the Treasury Department pursuant to section 1701 shall be in addition to any copy of the contract provided to the Treasury Department under the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Copies of contracts received by the Treasury Department, Office of Auditor General, or Department of Revenue from an agency pursuant to The Fiscal Code shall not be made available to a requester by the State Treasurer, Auditor General or the Department of Revenue.

Amend Sec. 1702, page 45, lines 18 through 23, by striking out "The Treasury Department shall make each" in line 18, all of lines 19 through 23 and inserting

Except as otherwise provided in this chapter, a request for a copy of a contract shall only be made to an agency who is a party to the contract.

Amend Sec. 1702, page 45, line 24, by inserting after "Posting.—" The Treasury Department shall make each contract filed pursuant to section 1701 available for public inspection either by posting a copy of the contract on the Treasury Department's publicly accessible Internet website or by posting a contract summary on the department's publicly accessible Internet website.

Amend Sec. 3101, page 46, lines 13 and 14, by striking out all of said lines and inserting

(1) This act shall apply to requests for information made on or after December 31, 2008.

(2) With respect to an agency as defined under section 103, this act shall apply prospectively.

(3) In addition to paragraph (2), with respect only to an agency which was an agency as defined under the former

act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, this act shall apply retroactively.

Amend Sec. 3101, page 46, line 15, by striking out "(2)" and inserting

(4)

Amend Sec. 3101, page 46, line 17, by striking out "(3)" and inserting

(5)

Amend Sec. 3101, page 46, line 18, by striking out "the effective date of this section" and inserting

June 30, 2008

Amend Sec. 3101, page 46, line 19, by striking out "(4)" and inserting

(6)

Amend Sec. 3101, page 46, line 20, by striking out "the effective date of this section" and inserting

June 30, 2008

Amend Bill, page 46, by inserting between lines 20 and 21 Section 3101.1. Relation to other law or judicial actions.

If the provisions of this act regarding access to public records conflict with any Federal or State statute, the provisions of this act shall not apply.

Amend Sec. 3103, page 47, line 8, by striking out all "in 180 days." and inserting

as follows:

(1) Sections 101, 102, 1310, 3101 and 3102(1)(i) and (ii)(B) and (2) shall take effect July 1, 2008.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect January 1, 2009.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Mahoney on the amendment.

Mr. MAHONEY. Thank you, Mr. Speaker.

Mr. Speaker, this is not politics. This issue is about people.

Mr. Speaker, may I get a little respect somewhere along the line here?

The SPEAKER. I do not know about that, but we will ask the members to please take their seats. The Sergeants at Arms will clear the aisles. Members will take their seats.

Representative Mahoney.

Mr. MAHONEY. Mr. Speaker, 11 1/2 months ago, 52 new members were sworn in here to this great hall. They came to make change, to make reform, and to try to put trust back in to this great room. This is the first step in that process.

I would like, at this time, to thank the leadership on both sides of the aisle and especially Representative Grell and Representative Shapiro for helping me put this amendment together to present to you today.

As you all are aware, I had a bite of the apple about a couple of months ago, with HB 443. It kind of got watered down. Really, it got kind of hit by a tidal wave. I know there are members that do not want change, but change is here; you have to face it. Change is here. This is our pay raise vote on this amendment and on this bill today. Putting amendment 04720 to SB 1 makes it a real open records bill. It makes the people as good as the folks.

I thank you, Mr. Speaker.

The SPEAKER. Those in favor will vote "aye"; those opposed, "no." Members will proceed to vote.

The Chair rescinds that announcement.

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

CALENDAR CONTINUED

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1, PN 1583**, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for an Open Records Clearinghouse; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

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

Mr. **MAHONEY** reoffered the following amendment No. **A04720**:

Amend Table of Contents, page 2, line 11, by striking out "to public records"

Amend Table of Contents, page 2, by inserting between lines 23 and 24

Section 905. Administrative denial.

Section 906. Record discard.

Amend Table of Contents, page 3, line 8, by striking out "Clearinghouse" and inserting

Office of Open Records

Amend Table of Contents, page 3, by inserting between lines 18 and 19

Section 3101.1. Relation to other law or judicial actions.

Amend Sec. 102, page 4, line 20, by inserting after "The"

Office of

Amend Sec. 102, page 6, by inserting between lines 15 and 16

(1.1) Political party caucuses of the Senate.

Amend Sec. 102, page 6, by inserting between lines 16 and 17

(2.1) Political party caucuses of the House of

Representatives.

Amend Sec. 102, page 6, line 29, by striking out "Includes the following information" and inserting

Any of the following

Amend Sec. 102, page 6, line 30, by striking out "or standing committee"

Amend Sec. 102, page 7, line 9, by inserting after "AT"

a public hearing or a public committee meeting

Amend Sec. 102, page 8, by inserting between lines 7 and 8

(18) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.

Amend Sec. 102, page 9, line 12, by inserting after "notice" to a requester

Amend Sec. 102, page 9, line 23, by inserting after "includes" the Pennsylvania Gaming Control Board, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission,

Amend Sec. 102, page 9, line 24, by inserting after "Agency" and all nonprofit corporations established thereby

Amend Sec. 301, page 10, line 28, by inserting after "requester" unless otherwise provided by law

Amend Sec. 302, page 11, line 4, by inserting after "requester" unless otherwise provided by law

Amend Sec. 305, page 11, line 19, by inserting before "A"

(a) General rule.—

Amend Sec. 305, page 11, by inserting between lines 25 and 26

(b) Legislative records and financial records.—A legislative record in the possession of a legislative agency and a financial record in the possession of a judicial agency shall be presumed to be available to the public unless:

(1) the record is exempt under 708(c) or (d);

(2) the record is protected by a privilege; or

(3) the record is exempt from disclosure under any other

Federal or State law or regulation or judicial order or decree.

Amend Sec. 502, page 12, line 10, by inserting after "Representatives,"

or a political party caucus of the Senate or the House of Representatives

Amend Sec. 503, page 13, by inserting between lines 26 and 27

(iii) A political party caucus of the Senate or the House of Representatives.

Amend Sec. 503, page 14, line 4, by striking out "LAW ENFORCEMENT"

Amend Sec. 506, page 16, line 11, by striking out "for" and inserting

on behalf of

Amend Sec. 506, page 16, line 17, by striking out "public"

Amend Sec. 506, page 16, line 18, by inserting after "the"

public

Amend Sec. 506, page 16, line 21, by striking out "The" and inserting

Upon a determination to grant the request, the

Amend Sec. 506, page 16, line 23, by inserting after "and"

upon collection shall

Amend Sec. 701, page 17, line 2, by striking out "to public records"

Amend Sec. 701, page 17, line 6, by inserting after "record"

being provided to a requester

Amend Sec. 701, page 17, line 6, by striking out "to a requester"

Amend Sec. 701, page 17, line 7, by striking out "the public record" and inserting

it

Amend Sec. 701, page 17, line 13, by striking out "the computer" and inserting

any computer either

Amend Sec. 703, page 17, line 26, by striking out "in" and inserting

pursuant to

Amend Sec. 703, page 18, line 2, by inserting after "records"

unless otherwise provided by law

Amend Sec. 704, page 18, lines 13 and 14, by striking out "use the electronic access" and inserting

access the record electronically

Amend Sec. 704, page 18, lines 14 and 15, by striking out "submit a written request to the agency"

Amend Sec. 704, page 18, line 16, by inserting after "notification,"

submit a written request to the agency

Amend Sec. 706, page 18, line 30, by striking out "under section 305 or 708"

Amend Sec. 708, page 20, line 16, by striking out all of said line and inserting

(a) Burden of proof.—

(1) The burden of proving that a public

Amend Sec. 708, page 20, by inserting between lines 19 and 20

(2) The burden of proving that a legislative record is exempt from public access shall be on the legislative agency receiving a request, by a preponderance of the evidence.

(3) The burden of proving that a financial record of a judicial agency is exempt from public access shall be on the judicial agency receiving a request, by a preponderance of the evidence.

Amend Sec. 708, page 21, line 7, by striking out "life,"

Amend Sec. 708, page 22, lines 16 and 17, by striking out "an individual's" and inserting

a person's

Amend Sec. 708, page 22, line 17, by inserting after "number;"

date of birth;

Amend Sec. 708, page 22, line 19, by striking out "home, cellular or personal"

Amend Sec. 708, page 22, line 20, by striking out "number" where it appears the first time and inserting

numbers

Amend Sec. 708, page 22, line 20, by striking out "address" and inserting

addresses

Amend Sec. 708, page 22, line 20, by striking out "number;" and inserting

numbers; or

Amend Sec. 708, page 22, line 21, by striking out "number" and inserting

numbers

Amend Sec. 708, page 22, line 24, by striking out all of said line and inserting

(ii) Nothing in this paragraph shall:

(A) Prevent an agency from providing access to the date of birth of a deceased person for genealogical purposes.

(B) Preclude the

Amend Sec. 708, page 26, line 4, by inserting after "correspondence"

, videos

Amend Sec. 708, page 27, line 28, by striking out all of said line and inserting

(18) Records or parts of records pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. However, a transcript of a recording may be released when the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

Amend Sec. 708, page 28, line 2, by inserting after "of"

an autopsy report,

Amend Sec. 708, page 28, line 8, by inserting after "cause"

and manner

Amend Sec. 708, page 28, line 13, by striking out "Minutes" and inserting

Draft minutes of any meeting of an agency and minutes

Amend Sec. 708, page 29, line 25, by striking out "or"

Amend Sec. 708, page 30, line 9, by removing the period after "abuse" and inserting

; or

(iii) identifying a person that requests assistance or constituent services from a member of the General Assembly.

Amend Sec. 708, page 30, line 10, by striking out "The" and inserting

With respect to financial records, the

Amend Sec. 708, page 30, lines 11 and 12, by striking out all of line 11 and "financial records protected under" in line 12

Amend Sec. 708, page 30, lines 12 through 14, by striking out "or" in line 12, all of line 13, "information PROTECTED under subsection (b)(5)" in line 14 and inserting

, (4) or (5) shall apply

Amend Sec. 708, page 30, line 14, by striking out "may" and inserting

shall

Amend Sec. 708, page 30, line 21, by striking out "shall not" and inserting

(1), (2), (3), (4) or (5) shall

Amend Sec. 708, page 30, lines 22 through 23, by striking out ", except for data protected under subsection (b)(1), (2), (3) or (4)"

Amend Sec. 901, page 31, line 2, by inserting after "request."

The response shall include a notice of applicable fees.

Amend Bill, page 33, by inserting between lines 4 and 5

Section 905. Administrative denial.

The following shall apply:

(1) An agency may deny access to a public record, legislative record or financial record due to the failure of the requester to pay the applicable fee.

(2) An agency may deny access to a public record, legislative record or financial record due to the failure of the requester to pay any fee associated with a previous request made by the requester to the same agency.

Section 906. Record discard.

If an agency response to a requester provides that the requested records are available for delivery at the office of an agency and the requester fails to retrieve the records within 60 days of the agency's response, the agency shall send a written notice to the requester specifying that the requested copies will be held for an additional 30 days, within which time the requester may return to the agency to retrieve the records. Thereafter, the agency may dispose of any copies which have not been retrieved and retain any fees paid to date.

Amend Sec. 1101, page 33, line 11, by inserting after "appropriate"

legislative or judicial

Amend Sec. 1307, page 38, line 26, by striking out all of said line and inserting

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1307, page 38, by inserting between lines 28 and 29

(ii) Fees for copying data, collections of data and compiled data, including, but not limited to, geographic information systems and property lists, may be based on consideration of the reasonable market value of same or closely comparable data, collections of data or compiled data.

Amend Sec. 1307, page 39, lines 1 through 5, by striking out all of said lines

Amend Sec. 1310, page 41, line 1, by striking out "Clearinghouse" and inserting

Office of Open Records

Amend Sec. 1310, page 41, line 3, by striking out "Community and Economic Development an" and inserting

State the Office of

Amend Sec. 1310, page 41, lines 20 and 21, by striking out "provided by the clearinghouse"

Amend Sec. 1310, page 42, by inserting between lines 8 and 9

(10) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(11) Enter into an agreement with the Department of Community and Economic Development to provide the training required by paragraphs (3), (4) and (5)(i).

Amend Sec. 1701, page 45, line 4, by striking out "All parties to the contract" and inserting

The name and business address of all parties executing the contract

Amend Sec. 1701, page 45, line 7, by striking out "format" and inserting

file

Amend Sec. 1701, page 45, line 8, by striking out "format" where it appears the first time and inserting

file

Amend Sec. 1701, page 45, line 8, by striking out "format provided by" and inserting

file provided by Treasury Department

Amend Sec. 1701, page 45, line 16, by inserting after "Treasurer."

The contract provided to the Treasury Department pursuant to this chapter shall be redacted in accordance with applicable provisions of this act by the agency providing the contract to the Treasury Department.

(d) Contracts provided pursuant to The Fiscal Code.—The copy of a contract provided to the Treasury Department pursuant to section 1701 shall be in addition to any copy of the contract provided to the Treasury Department under the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Copies of contracts received by the Treasury Department, Office of Auditor General, or Department of Revenue from an agency pursuant to The Fiscal Code shall not be made available to a requester by the State Treasurer, Auditor General or the Department of Revenue.

Amend Sec. 1702, page 45, lines 18 through 23, by striking out "The Treasury Department shall make each" in line 18, all of lines 19 through 23 and inserting

Except as otherwise provided in this chapter, a request for a copy of a contract shall only be made to an agency who is a party to the contract.

Amend Sec. 1702, page 45, line 24, by inserting after "Posting.—" The Treasury Department shall make each contract filed pursuant to section 1701 available for public inspection either by posting a copy of the contract on the Treasury Department's publicly accessible Internet website or by posting a contract summary on the department's publicly accessible Internet website.

Amend Sec. 3101, page 46, lines 13 and 14, by striking out all of said lines and inserting

(1) This act shall apply to requests for information made on or after December 31, 2008.

(2) With respect to an agency as defined under section 103, this act shall apply prospectively.

(3) In addition to paragraph (2), with respect only to an agency which was an agency as defined under the former act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, this act shall apply retroactively.

Amend Sec. 3101, page 46, line 15, by striking out "(2)" and inserting

(4)

Amend Sec. 3101, page 46, line 17, by striking out "(3)" and inserting

(5)

Amend Sec. 3101, page 46, line 18, by striking out "the effective date of this section" and inserting

June 30, 2008

Amend Sec. 3101, page 46, line 19, by striking out "(4)" and inserting

(6)

Amend Sec. 3101, page 46, line 20, by striking out "the effective date of this section" and inserting

June 30, 2008

Amend Bill, page 46, by inserting between lines 20 and 21 Section 3101.1. Relation to other law or judicial actions.

If the provisions of this act regarding access to public records conflict with any Federal or State statute, the provisions of this act shall not apply.

Amend Sec. 3103, page 47, line 8, by striking out all "in 180 days." and inserting as follows:

(1) Sections 101, 102, 1310, 3101 and 3102(1)(i) and (ii)(B) and (2) shall take effect July 1, 2008.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect January 1, 2009.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Mahoney on the amendment.

Mr. MAHONEY. Thank you, Mr. Speaker.

I rise again one more time for open records. Mr. Speaker, this is not a political amendment. Mr. Speaker, this is a taxpayer's amendment to SB 1. Mr. Speaker, this will be the easiest vote you cast today. This is for the taxpayers of Pennsylvania, this amendment.

I urge you to support amendment 04720. Thank you, Mr. Speaker.

The SPEAKER. Representative Beyer.

Mrs. BEYER. Thank you, Mr. Speaker.

Will the maker please stand for a brief moment of interrogation?

The SPEAKER. The gentleman indicates he will. The lady is in order and may proceed with her interrogation.

Mrs. BEYER. Will you please explain your amendment?

The SPEAKER. Was that a brief interrogation?

Mr. MAHONEY. What portion would you want me to explain?

Mr. Speaker, this amendment flips the presumption on public records. That is the most important thing this amendment does. It makes everyone equal from one agency to another agency to the legislature. This amendment follows the money, where the taxpayers know where their \$27 billion – \$27 billion – is being spent every year. This amendment will show the taxpayers that there will be no more corruption, there will be no more overpaying, there will be no more BS going on in this House.

So I urge you to vote for this amendment. Thank you.

The SPEAKER. The Chair recognizes Representative Beyer for the second time.

Mrs. BEYER. I am still interrogating, Mr. Speaker. I just sat down briefly to look at the amendment. I am still on my first time.

The SPEAKER. The gentlelady is in order.

Mrs. BEYER. Can you tell me, can the maker please tell me how this amendment is different than SB 1 or how it changes it?

Mr. MAHONEY. The most important thing, it covers the legislature. It makes us equal.

Mrs. BEYER. Sorry, Mr. Speaker. I was consulting with my colleagues.

Can you then explain to me what you mean by corruption and overpayment that you believe your amendment will reveal that no one else, or no other law, has revealed before?

Mr. MAHONEY. It will open all accounts, financial accounts. It will show all the taxpayers in Pennsylvania how the money is being spent here in Harrisburg.

Mrs. BEYER. Well, to that end I agree, Mr. Speaker. But you had made the statement there was corruption and overpayment, and I would just like you to clarify the corruption and overpayment you are referring to.

Mr. MAHONEY. Have you been reading the newspapers lately? Have you been following PHEAA (Pennsylvania Higher Education Assistance Agency)? Have you been following all these agencies?

Mrs. BEYER. I have been, and I appreciate your interrogating me even though it is not my amendment.

But having said that, I would just like you to know that the newspapers have revealed corruption and overpayment as part of the current law. I am just asking you what your amendment will do to reveal additional corruption and overpayment that we do not already know.

Mr. MAHONEY. I thought we were going to speak on my amendment. Mr. Speaker, can we stick to the amendment?

Mrs. BEYER. Mr. Speaker, I am simply asking for an answer to my direct question regarding corruption and overpayment, which the speaker had given in his previous comments; just clarification, Mr. Speaker.

Mr. MAHONEY. This amendment opens all the financial records. That is all the taxpayers of Pennsylvania want to know.

Mrs. BEYER. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Clymer.

Mr. CLYMER. Mr. Speaker, thank you very much.

The SPEAKER. May we have some order in the House, please. Members will take their seats.

Mr. CLYMER. Mr. Speaker, thank you very much.

May I interrogate the maker of the amendment?

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

Mr. CLYMER. Mr. Speaker, I have been to caucus, I have listened to the differences in the bill itself and in this amendment, and I just want to make certain I have one portion clear, and that deals with the Pennsylvania Gaming Control Board. We certainly want to make sure that their records are available for public scrutiny. And as the gentleman had mentioned, the news media has brought out the fact that it is very difficult to get some of this information from the Pennsylvania Gaming Control Board. As a matter of fact, Mr. Speaker, when the Republican Policy Committee wanted to interview the members of the Pennsylvania Gaming Control Board on how they determined who would get the license – what were the criteria – they never showed up. They canceled a very important meeting.

So I just want to be absolutely certain that in this amendment the ability of the public to scrutinize the records of the Pennsylvania Gaming Control Board are available. That is my question.

Mr. MAHONEY. Mr. Speaker, the presumption of openness will apply to the Gaming Board.

Mr. CLYMER. Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Mr. Speaker, if I could interrogate the maker of the amendment?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

This is an extensive amendment, and I want to ensure that I understand its full ramifications. Did I understand that this amendment intends to largely gut and replace the existing bill by inserting language drawn from HB 443?

Mr. MAHONEY. No, that is not correct.

Mr. MAHER. So your amendment does not serve that purpose?

Mr. MAHONEY. That is correct. That it does not.

Mr. MAHER. Fascinating.

Mr. MAHONEY. It is.

Mr. MAHER. Help me understand. Under your amendment, you say you flipped the presumption on what records would be available to the public, and as I understand it, except for some limited exceptions under your amendment, records in the possession of the executive branch would be presumed to be public records. Is that correct?

Mr. MAHONEY. That is in SB 1; yes.

Mr. MAHER. And under your amendment, would that presumption remain intact or do you override that presumption?

Mr. MAHONEY. Most definitely intact.

Mr. MAHER. So, for instance, if someone has a barber's license and in order to receive their barber's license they needed to submit their school transcripts. Those transcripts are records held by the Department of State. Would those school transcripts be available for anyone to look at, under your amendment?

Mr. MAHONEY. They would be presumed open unless they were subject to one of those exceptions.

Mr. MAHER. And do you believe that they are subject to any of the exceptions as contemplated by your amendment?

Mr. MAHONEY. The amendment does not change that. The substance is in the bill, SB 1.

Mr. MAHER. So given consideration to your amendment, if someone were a registered nurse and their neighbor was interested in what their college grades looked like, the neighbor would be able to call the Department of State and for 10 cents for a photocopy, and perhaps the cost of postage, be able to have a full display of the nurse's school records at their whim. Is that correct?

Mr. MAHONEY. I believe under the law personal information would be subject to redaction.

Mr. MAHER. Can you point to me the exception language you are contemplating, because I do not find it.

Mr. MAHONEY. It is in SB 1, and it is not in my amendment.

Mr. MAHER. So with your amendment, if we adopt your amendment, if an individual wanted to learn— If a parent wanted to find out what the college grades were for their child's elementary school teacher, they would be able to call the Department of State and, for 10 cents, get the teacher's transcript and decide whether they think that teacher really ought to be teaching their child. That would be allowed under this bill with your amendment?

Mr. MAHONEY. My amendment does not speak to that at all.

Mr. MAHER. Well, your amendment is fairly comprehensive. I am just trying to understand how the bill would be given effect to your amendment. I mean, we would have preferred— Well, maybe that would be digressing at a conversation, not a question. Let us do move to the Department of Labor and Industry. Are you familiar with UC-2 forms?

Mr. MAHONEY. Yes.

Mr. MAHER. And then you are aware that every quarter every employer in Pennsylvania files a form that lists every individual who is employed in Pennsylvania, what their position is, and what their pay is?

Mr. MAHONEY. I believe so.

Mr. MAHER. It seems to me that the actual amount of their pay may be protected in this bill after giving consideration to your amendment, but if one company wanted to learn the names and job titles of everyone employed at their competitor, under this bill with your amendment, for 10 cents, would that competitor be able to get a photocopy of the UC-2 form that would list everyone who is employed by their competitor and what their job positions are?

Mr. MAHONEY. Sir, my amendment does not speak to that.

Mr. MAHER. So your amendment, if this bill were to move forward with your amendment, is it correct that that information would be available to the public?

It is interesting, a vote is being recorded, Mr. Speaker.

Mr. Speaker, do you intend for a vote being registered on the board?

The SPEAKER. That is a technical error.

Mr. MAHER. All right. We will brace ourselves for what may lay ahead.

Thank you, Mr. Speaker.

Mr. MAHONEY. Sir, I believe that is the decision of the open records officer for the Labor and Industry Department.

Mr. MAHER. Well, in this bill with your amendment, is there an exception that— You know, again, every single employer, every single company in this State files these reports quarterly. So it has a fairly broad ramification; it is not some narrow question. Are you saying that the legislation is silent on this point or that it is a jump ball? I am not sure I understand what you believe the bill amended by your amendment would provide.

Mr. MAHONEY. Sir, my amendment does not speak to that, and— Mr. Speaker?

The SPEAKER. The House will come to order. Members will take their seats. Conversations in the side aisles, the center aisles, and the well of the House will break up immediately. Members will take their seats. The Sergeants at Arms will clear the aisles.

The gentleman is in order and may proceed.

Mr. MAHONEY. Mr. Speaker, can we just address the amendment that I have in front of you?

The SPEAKER. The only issue before the House is the Mahoney amendment.

Mr. MAHER. Thank you, Mr. Speaker.

And again, because it is an amendment which, as the maker of the amendment boldly announced, has a huge effect on this legislation, I am trying to gain an understanding of how he believes this legislation would stand if his amendment were adopted. I think I am very much on point.

Let us move to the Department of Transportation, Mr. Speaker. When individuals get their driver's licenses initially, they take a test, and certain individuals who are moving into our State take a test as an adult years. Others, for a variety of reasons, may need to take a test. Would the results of those tests be available for anybody who is just curious in how the folks living down their street might have done on a driver's test? Is that public record under this legislation, after giving consideration to your amendment?

Mr. MAHONEY. Again, Mr. Speaker, my amendment does not address that, but if it comes under a State or a Federal law, they would address that— prohibit that.

Mr. MAHER. So do you not have an opinion on what this legislation would hold after your amendment, on that point?

Mr. MAHONEY. Mr. Speaker, my amendment does not address that.

Mr. MAHER. All right. Well, I can see we are not elucidating much illumination through this, but let me ask you a follow-up on something that you proffered in introducing this amendment.

The gentelady preceding me asked, in reference to your advertisements, that with your amendment you would be revealing corruption and overpayments that have never been seen before. And I ask, what corruption and overpayments do you have in mind that are not revealed now that you have reason to believe would be revealed with your amendment? What is it that you are talking about when you say that you will be revealing corruption and overpayments that are not visible under today's law? What is that? Because I am sure that every member of this chamber would want that information, and if you have such information, Mr. Speaker, I think you need not wait for this bill to become a law to reveal it. What corruption and overpayments do you believe exist that are not visible under current law that you think will be provided for under this law? If you know any, sir, I think you owe it to this chamber to enunciate them.

Mr. MAHONEY. Mr. Speaker, all this amendment does is open financial records that have not been opened for the last 55 years that we need to address to be open. We are accountable for \$27 billion. We need to have transparency in this State. That is what this amendment addresses.

Mr. MAHER. Again I am asking, which records do you believe will be open to the public that are not currently open? What are the financial records—

Mr. MAHONEY. All financial records, Mr. Speaker.

Mr. MAHER. And, sir, you know, with all fairness, I know you are earnest in your undertaking. Are you familiar with the open records law of 2002?

Mr. MAHONEY. Mr. Speaker, somewhat.

Mr. MAHER. That is the law as it currently exists, Mr. Speaker. Can you tell me what financial records would be made available under your amendment that are not currently available to the public under the open records act of 2002?

Mr. MAHONEY. Mr. Speaker, I think we are trying to speak on the amendment before us. I think we would like to try to do that.

Mr. MAHER. That is my question, sir. You said, again, you keep asserting that you are making financial records available in your amendment—

The SPEAKER. The Chair will instruct the members not to interrupt each other. The process is that a question is asked and the responder answers the question.

Mr. MAHONEY. This amendment will open transparency in both the judiciary and the legislature—

Mr. MAHER. And so—

Mr. MAHONEY. —that had never been subject to openness before.

Mr. MAHER. So would it be fair to say that on the legislative side, your amendment would translate into statute the practice that already exists as part of the House rules adopted earlier this year?

Mr. MAHONEY. I believe so. The bill would, sir, Mr. Speaker.

Mr. MAHER. So in terms of making more records available than are available today about the House of Representatives, are there financial records that are available under our rules – excuse me; that our rules make available – does your amendment go beyond what our rules provide will be available to the public?

Mr. MAHONEY. I added the word "presumption." That would be added.

Mr. MAHER. So the rules say these records are public; your amendment will say you are presuming they are public. Is that correct? That is the great breakthrough we are talking about?

Mr. MAHONEY. Correct, sir.

Mr. MAHER. All right, Mr. Speaker. That concludes my interrogation on the amendment, and if you do not mind, Mr. Speaker, I am going to offer a few remarks.

The SPEAKER. The gentleman is in order and may proceed.

Mr. MAHER. I certainly share the point of view, as I suspect most in this chamber do, that the progress in making financial records of the legislature easily available to the public, already accomplished with our rules, is a good thing, and to convert that into statute seems to be a good thing as well.

I do get concerned, though, when very, very serious allegations are launched. I am reminded of the McCarthy hearings, when someone stands up and announces that they know – that they know – of evil. Now, the maker of the amendment has indicted public officials far and wide, because he has said that he knows of corruption and overpayments that are not visible under current law. As you heard, he refuses to specify what it is that he knows, and I would suggest that if the gentleman has such knowledge, he needs to put it on the public record. The public has a right to know, sir, and for you to launch such allegations in connection with an open records bill and then conceal what you claim to know is an outrage.

Taking potshots at other public officials is not the way to advance the public good. If you know of corruption and overpayments, Mr. Speaker, reveal them. If not, stop claiming that you have something to reveal.

Mr. DeWEESE. Mr. Speaker? Mr. Speaker? Mr. Speaker?

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Just one polite and momentary intercession, that I would request that the speaker earnestly attempt to focus all of the remarks on the amendment itself. My dear friend from Upper St. Clair would never participate in anything ad hominem, and I mean that, but God bless America, let us just keep this on the amendment. Thank you.

Thank you, Mr. Speaker.

Mr. MAHER. Mr. Speaker, I do share that point of view, which is why I needed to raise my great concern that such allegations were tossed around with such cavalier rhetoric and to suggest to the gentleman that if he knows of such things, he needs to enunciate them; if he does not know of such things, he owes a whole lot of people an apology for alleging them.

I am very concerned as well that in a whole number of areas where the general public interacts with government, that it sounds to me as though protecting the privacy of Pennsylvanians has been disregarded in this amendment. It sounds to me as though protecting fundamental facts that most Pennsylvanians would consider private and that could make them susceptible to identity theft, if not just the discomfort of

their lives being the business of their neighbors, has not been attended to in this amendment. And it may be that before we are completed, there will be other amendments that will solve those troubles, but if not, I am afraid we are going to wind up with a bill that is still going to need some work, so I am going to be wide open with my ears. I had hoped that the advertisement for the Mahoney amendment being comprehensive was going to be bona fide, but when anybody's college transcript who has gotten a license from the State, anyone's trade school transcripts who has gotten a license from the State, when your own driver's test, when everybody's job title and employer in the State of Pennsylvania, and on and on and on, is suddenly converted from being someone's individual, private information to being available for 10 cents to their neighbors and their competitors, I do find that this is going to be a product that seems to need some more attention.

On the other hand, having been one of those who led the battle for the great advances in open records that happened in 2002, I am certainly encouraged by the momentum that seems to be with us today, that we will have more progress. So as disappointing and insufficient as this amendment appears to be, it does have some good in it, but I do not think it is as advertised.

Thank you.

The SPEAKER. Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

I wonder if the gentleman will stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. GABIG. Thank you, Mr. Speaker.

My colleague, Karen Beyer from Allentown, asked the gentleman a question about what is the difference between his amendment, I believe, and the SB 1. And the gentleman – in what seemed to be somewhat of an emotional, oratorical flair and did not seem to be something that he was reading, just sort of off the top of his head – made some statements, and I just wondered if the gentleman, having had some time to reflect upon those statements and consider those statements, would like to amend that statement regarding corruption in this institution or in the government of Pennsylvania, generally. Do you think maybe it was just a little hyperbole or oratorical excess? I think maybe that concerned some people, and I just wondered if the gentleman wanted to take an opportunity to, perhaps, withdraw those comments.

Mr. MAHONEY. Mr. Speaker, I am here just trying to do the right thing for the people in Pennsylvania. For 11 1/2 months I have been trying to push open records to the forefront, because I think everyone in Pennsylvania deserves it and I think everyone in this room deserves it.

I might have misquoted the corruption part of it, but I was thinking what the newspapers were all saying in their news articles for the last 5 to 6 years, what was going on up here. That is why we have 52 new members in this House, is because of that. I truly believe to my heart, and I mean to my heart, that we need a more open State government in the State of Pennsylvania.

Thank you, Mr. Speaker.

Mr. GABIG. Yes; I would thank the gentleman for those clarifications, and I think all of us understand, especially as a freshman, when you get up and you sort of get your emotions going, that you can sometimes—

Mr. MAHONEY. Mr. Speaker, you know I get nervous when I am up here.

Mr. GABIG. That is right, and I was just trying to give the gentleman an opportunity to make the statement that he did, which I think certainly was not intended to impede or impugn the integrity of this House or the members of this House or institution generally or the government in Pennsylvania, and so I thank the gentleman for his comments, just generally, on that. But I do have a couple of specific questions.

One of the things that I had noticed in reviewing the amendment was, in terms of the difference between your amendment and SB 1, is that you change the effective date of the legislation, and I wonder if you could just comment upon that and give us the reasons for changing the effective date.

If I could lay it out so that— I know the gentleman, again, there is a lot to this. If I can specifically— I saw that under the Senate bill it is 180 days – 6 months from the effective date – which is fairly typical around here in terms of legislation, and you changed some of it to be a year from January '09, a year from this coming January; some would take effect immediately. There is a bifurcation there, and I just wondered why there is the bifurcation? Just as a matter of policy, if you could explain that to the House, I would appreciate it, Mr. Speaker.

Mr. MAHONEY. Mr. Speaker, we push off the fiscal impact to the next fiscal year, and then we give 6 months for the Office of Open Records to get up and running.

Mr. GABIG. So the reason to push it off for a year is so that we can stand up this office of information, or whatever the term is going to be, Office of Open Records. But what I thought I saw is there were two effective dates. One was immediately and then one was in a year, approximately a year, say we pass this soon. Why the two different dates? What information, what part of the bill, is taking effect immediately and what is not? You know, this is not a— I am just trying to understand that part of it.

Mr. MAHONEY. Mr. Speaker, it gives agencies to be able to start developing their policies for every individual office.

Mr. GABIG. Okay. So some of the agencies that already have that; that might take place immediately. But say the local governments that do not have such a process, it gives them time? Is that the general idea?

Mr. MAHONEY. Yeah, and us, too, sir, Mr. Speaker.

Mr. GABIG. The legislature. All right.

Just to clarify again on the legislature, SB 1 included the legislature, but as I understood your amendment, you are trying to clarify that on the presumption, to make sure that the presumption is included with the legislature. Is that right?

Mr. MAHONEY. Yes.

Mr. GABIG. One other thing that I noticed was that there was a retroactivity clause in there, that some of the bill was going to be retroactive – that is, go back; somebody could request older records – and some of the bill said that it was not going to be retroactive; it was going to be prospective. And I was trying to get a handle on, Mr. Speaker, what part is going to be retroactive and what part is going to not be retroactive?

Mr. MAHONEY. Mr. Speaker, it starts fresh on some of us, because some of us have been under the immunity clause, and we need to start this day forward, Mr. Speaker.

Mr. GABIG. All right. So I understand that some of it is going to be retroactive – that is, people will go back and get older records – and some of it is not going to start until the bill is passed, and I am just trying to understand, what part are

people going to be able to go back to, and what part is going to start from when the bill is passed?

Mr. MAHONEY. Mr. Speaker, for organizations that were under the law for the first time, it will not go backwards.

Mr. GABIG. Okay. So that would include the legislature?

Mr. MAHONEY. Yes, and the judiciary.

Mr. GABIG. The judiciary, and I guess some local governments?

Mr. MAHONEY. Some local governments, maybe; community colleges, maybe.

Mr. GABIG. Okay. All right, e-mails. The last time, your bill, I think it was – what was it? 443 that we debated for a long time? – the Vitali amendment in committee excluded all e-mails. Remember, we had a big debate about that; there was a lot of talk about that after we left the House. How does your amendment affect this e-mail issue?

Mr. MAHONEY. Mr. Speaker, this amendment, or bill, has no e-mail exclusions.

Mr. GABIG. So if I understand it then, people could get e-mails. There is not a broad exclusion like there was in the Vitali amendment, but it would have to be the subject matter would not be exempted. If the subject matter is exempt, then that is an exemption whether it is in an e-mail format, a paper format, or whatever. It is going to be the subject, not the form of the communication. Is that correct?

Mr. MAHONEY. That is correct, Mr. Speaker.

Mr. GABIG. All right. That would conclude my— If I could have a minute, Mr. Speaker.

All right, Mr. Speaker. There is one more question that somebody brought up to me, if the gentleman would stand for that. I appreciate the patience of the gentleman, again. I hope my interrogation has been a little less aggressive than the others, but I am trying to get this information.

All right. On the e-mail issue again, the Senate bill, our 443 after the committee amendment had that Vitali exclusion of all our e-mails – right? – what did the Senate bill, did yours change that or not? Did they have an e-mail exclusion? Did yours change that or does yours not speak to that at all? This current amendment here.

Mr. MAHONEY. To the best of my knowledge, Mr. Speaker, the Senate bill never had an exclusion, and the amendment does not change that.

Mr. GABIG. Okay. So they did not have a Vitali-type exclusion for all e-mails from the Senate, and your amendment really does not address that issue because their bill was different than our bill that was on the floor here, with the Vitali amendment. Is that correct?

Mr. MAHONEY. Correct, Mr. Speaker.

Mr. GABIG. Okay. So some e-mails are going to be subjected to your amendment, or to SB 1 as amended by your amendment; some e-mails will be open to the public, depending on what their subject matter is; and some will not be, if it is exempted under the subject matter. Are we getting that straight?

Mr. MAHONEY. Correct, Mr. Speaker.

Mr. GABIG. All right. Thank you very much for your time—

Mr. MAHONEY. I thank you, Mr. Speaker.

Mr. GABIG. —and, Mr. Speaker, if I could just make some brief comments.

The SPEAKER. The gentleman is in order and may proceed.

Mr. GABIG. I understand, Mr. Speaker, that this is the first in a series of amendments. I know the gentleman has worked

hard on the issue, and without making any ad hominem attacks, I think he might have gotten carried away a little bit with his initial excitement, perhaps, as he indicated to us. We are moving forward on a bipartisan basis with this, and I hope we can consider some of the other amendments which will open records to the public. It is very important for them to know what is going on up here, and there are some other good amendments that I hope we can consider. So thank you very much, Mr. Speaker.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the gentleman, the prime sponsor of the amendment, stand for brief – hopefully brief – interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

I just ask in an offhand way, because it did not appear in our summary of the amendment, but is there a fiscal note which has accompanied this amendment?

Mr. MAHONEY. Mr. Speaker, yes, but it does not change.

Mr. REICHLEY. I am sorry, Mr. Speaker. What do you mean "it does not change"?

Mr. MAHONEY. It does not change anything to SB 1, as far as our fiscal note.

Mr. REICHLEY. And the fiscal note that we have which accompanied our summary of all these, roughly about \$1.1 or \$1.2 million? Is that correct, Mr. Speaker?

Mr. MAHONEY. Mr. Speaker, I have the fiscal note in my possession here. It was dated December 5, and the amendment does not change SB 1 as amended.

Mr. REICHLEY. And I appreciate that, Mr. Speaker, and I do not have a copy of the fiscal note prepared on December 5. I have the one that was provided by the House Committee on Appropriations regarding SB 1, and it identifies the roughly \$1.2 million you have identified, Mr. Speaker, as the cost for establishing the Open Records Clearinghouse.

Just following up on the questions from the gentleman from Cumberland regarding e-mails, and I would like to get a little bit more into that, but has there been any calculation of the cost of storage of the materials, including electronic materials, that would now be required of State agencies, the legislature, and, beyond that, by local governmental agencies?

Do you want me to repeat the question, Mr. Speaker?

Mr. MAHONEY. Can you repeat it, Mr. Speaker?

Mr. REICHLEY. Sure, and if you want to ask the Speaker to gavel it so you can hear better, I have no problem with that, too.

The SPEAKER. The gentleman is correct. Members will please take their seats. Conversations will cease. If there are discussions that are necessary, they will adjourn to the anteroom. Members will take their seats.

The Chair thanks the gentleman. You may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

For the gentleman's benefit, the previous question was, the fiscal note prepared by the Democratic Committee on Appropriations' staff from December 1, I believe it was, cited the \$1.2 million you have mentioned in terms of the cost of establishing the Open Records Clearinghouse in the Department of Community and Economic Development. My question is, has there been any calculation of the cost to State agencies, to the legislature, and more importantly, to local governmental agencies, for the storage of all the documentation which would

be covered by your amendment, which would include electronic documentation, based upon your answer about e-mails?

Mr. MAHONEY. Mr. Speaker, it is impossible for us to determine the fiscal impact of any local agency, because we have no data to determine that.

Mr. REICHLEY. Has there been any attempt to compare what was the experience in other States then that moved toward an expansion of the retention of electronic mail, in particular, because I think the capacity required for the continued storage of electronic mail that the legislature receives could be quite substantial.

Mr. MAHONEY. Mr. Speaker, at this time we have no direct knowledge of other States with the recordkeeping, as far as how they do it.

Mr. REICHLEY. Is it possible then, Mr. Speaker – and this, again, is not a reason to oppose your amendment, certainly – but is there the possibility that there would be an increased cost to State agencies and local agencies, therefore requiring a tax increase to pay for the storage costs associated with the retention of these records?

Mr. MAHONEY. Mr. Speaker, we are treading in new water here. This is a new open records law. We are treading into the unknown. I believe that the local agencies, they are keeping their records the way they keep them, and I do not think anything will change what they do, to impact any financial records.

Mr. REICHLEY. All right, Mr. Speaker, and I appreciate the gentleman from Philadelphia, the chairman of the Appropriations Committee, who expressed last week his conservative viewpoint toward State expenditures, of offering you that advice about the limitation of costs.

Just while we are on the subject of the e-mails, Mr. Speaker, I was a little confused in your responses to the gentleman from Cumberland. Can you explain to me, under your amendment, what kinds of e-mails to a legislator would be required to be retained for publication purposes and what would not.

Mr. MAHONEY. Mr. Speaker, at this time, there is no policy for records retention, but if it is on the list of legislative records and it is in e-mail form, it could be accessed.

Mr. REICHLEY. Well, I guess that prompts my question, Mr. Speaker, because again, in our summary of your particular amendment, it reads that the requirements for retention of records, or excuse me, the access to records – let me just page over to that; excuse me – it said this amendment applies provisions of SB 1 retroactively to agencies under the 1957 Right-to-Know Law, which is not the legislature and judiciary, and prospectively to the legislature. So I am curious, Mr. Speaker, as to how you are differentiating between records which must be retained prospectively by the legislature and why it is a prospective requirement.

Mr. MAHONEY. Mr. Speaker, as I said before, we are treading in new waters. In 1957, e-mails were just an imagination.

Mr. REICHLEY. Well, let me try to clarify it this way, Mr. Speaker: In your opening comments, which you exhorted us to pass this on a number of grounds including the ending of corruption, I guess I am curious that, under the same reference to the newspaper articles you mentioned, it would seem to me from your amendment that nothing that existed between communications between legislators and staffers or legislators and legislators would be available to the public, because it is all prospective. Is that correct, Mr. Speaker?

Mr. MAHONEY. Mr. Speaker, if the record is in legislative form as a legislative record and it is an e-mail, it is accessible.

Mr. REICHLEY. On a prospective basis? On a forward-looking basis?

Mr. MAHONEY. Yes.

Mr. REICHLEY. And I apologize for not knowing this, but just for the benefit of the general public, can you define for me what a "legislative record" is? Is it an e-mail between you and myself? Is that a legislative record?

Mr. MAHONEY. It is defined in SB 1, section 102.

Mr. REICHLEY. You know, that has not really helped me though, Mr. Speaker. Again, I am just trying to ask, if you sent me an e-mail asking for me to vote for the Mahoney amendment, is that a legislative record?

Mr. MAHONEY. No, Mr. Speaker.

Mr. REICHLEY. If you sent an e-mail to the staff for the Democratic Caucus asking them to distribute materials in support of the Mahoney amendment to the members on the floor, is that a legislative record?

Mr. MAHONEY. Mr. Speaker, you can look on pages 7 and 8 in SB 1 to find all of the exclusions. All the list, I am sorry.

Mr. REICHLEY. But your amendment does not affect that definition at all?

Mr. MAHONEY. Mr. Speaker, the only way my amendment affects e-mails is the presumption that everything is open.

Mr. REICHLEY. Yes, Mr. Speaker, but you just told me it is not open. You said that everything is open, and yet you have just told me that an e-mail, even to the Democratic staff asking them to distribute something to the members on the floor, that is not an open record. So how can, you know, how can a dog not be a dog? What is the real definition here?

Mr. MAHONEY. Mr. Speaker, legislative records as in the bill are open.

Mr. REICHLEY. This is not to beg the question, Mr. Speaker, and I apologize to you, but you are the main architect of this. You have been the architect of this for months now—

Mr. MAHONEY. 11 1/2 months, sir.

Mr. REICHLEY. —and can you not explain to the members, to the press, and to the general public what is a legislative record and why the e-mails between you and me, between you and the staff, between myself and my staff, why that would not be a legislative record?

Mr. MAHONEY. Mr. Speaker, as I said, it is defined in SB 1, what is a legislative record.

Mr. REICHLEY. So I guess you are not going to give me an answer?

I will withdraw that last question as being rhetorical.

Let me ask in another matter which the Representative from Bucks County, Mr. Clymer, mentioned. As the gentleman has probably seen, to some degree, there have been newspaper reports in the last couple of months about activities regarding the applications that were submitted by various gaming entities. Under your amendment, would information regarding background investigations be made available to the public for any gaming entity?

Mr. MAHONEY. Mr. Speaker, it would have to be determined by the open records officer for the Gaming Commission.

Mr. REICHLEY. If there is a dispute with the open records officer for the Gaming Commission, what is the provision for, for instance, the newspaper in Fayette County to appeal that?

Mr. MAHONEY. If they are denied, they will appeal it to the Open Records Clearinghouse.

Mr. REICHLEY. Under the Department of Community and Economic Development, under your amendment?

Mr. MAHONEY. Yes.

Mr. REICHLEY. And with regard to the financial suitability determination of an applicant, including the potential that that person has an exorbitant amount of personal debt related to gambling, would that be something which could be disclosed under your amendment?

Mr. MAHONEY. Again, Mr. Speaker, the open records officer will have to make that determination.

Mr. REICHLEY. Mr. Speaker, this sort of begs the question as to the knowledge the gentleman has, really, about the amendment. Consistently referring me to some decision which has not yet even been articulated by a future official really deprives us from the ability of knowing whether your amendment is as extensive as some of us would wish. All I am asking is a simple question: Is the background information regarding a gaming applicant going to be made available to the general public for inspection, under your amendment?

Mr. MAHONEY. Mr. Speaker, if it is shielded by a more specific law, that will be the governance, but the open records law officer has to make that determination to go any further.

Mr. REICHLEY. Well, Mr. Speaker, as the previous sponsor, both of the bill on this issue, previous amendments on this issue, and the current amendment on this issue, what is your intent? So that we are establishing a legislative record here for reference by any court in a future decision about this, what is your intention regarding the disclosure of background information by gaming applicants?

Mr. MAHONEY. Mr. Speaker, my intent all along was to open more records so that it is more fair for every agency in the State to be under openness and transparency.

Mr. REICHLEY. I appreciate that, Mr. Speaker, and that is a helpful answer but does not quite, again, get to the question. Is it your intention, as the prime sponsor, that applicant information for slot licenses be made available to the general public?

Mr. MAHONEY. Mr. Speaker, once again, it is my intention to make the Gaming Board more attentive to people that are requesting records. That is my intention, Mr. Speaker.

Mr. REICHLEY. So I take it by the language of your amendment, you are intending that financial background information of licensed applicants before the Gaming Board be made available?

Mr. MAHONEY. Mr. Speaker, I intend for that open records officer to act accordingly.

Mr. REICHLEY. And that would be a retroactive application as well, because that is an executive agency. Is that correct, Mr. Speaker?

Mr. MAHONEY. Yes, Mr. Speaker.

Mr. REICHLEY. So that the financial background information, Mr. Speaker, for any applicant of a license which is already granted, under your intention, would be made available by the open records officer for the Gaming Board?

Mr. MAHONEY. Again, Mr. Speaker, the open records officer has to make that determination.

Mr. REICHLEY. And that open records officer, Mr. Speaker, is going to look at the debate on the floor and attempt to glean what the intention was of the legislature for guidance in making that decision. That is why, I am not trying

to be difficult here, but I am being persistent because this is a matter of great import. If we are to have complete disclosure of agencies which have great impact upon the Commonwealth, particularly in the area of property tax rebates, as I think you have mentioned, it is your intention that the open records officer for the Gaming Board review financial background information and all background information of current licensees in the most open way possible. Is that correct?

Mr. MAHONEY. Again, Mr. Speaker, we are in unchartered waters here.

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Pallone, rise?

Mr. PALLONE. Thank you, Mr. Speaker.

I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. PALLONE. I believe the gentleman, on interrogation, had made reference to the purpose of interrogation was to establish a record for legislative intent. I need an issue of clarification, because I believe under the prior Speaker's administration, I tried to utilize interrogation for legislative intent and it was ruled out of order. I need a clarification as to that is what one of the purposes of interrogation actually is. I believe it was on advice from the Parliamentarian.

The SPEAKER. The Statutory Construction Act is the vehicle they use to determine the legislative intent. The Journal is also something that can be included in that process.

Mr. PALLONE. Sir, is it your parliamentary ruling then that interrogation can be used to establish legislative intent?

The SPEAKER. There is no prohibition to interrogation.

Mr. PALLONE. Thank you, Mr. Speaker, and I appreciate your clarification on that. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair returns to Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker, and if I could just resume for one final aspect, and then seeing the gentleman, Mr. Pallone, I want to ask a question about something of his. Just, telling me simply, what is your intention regarding the Gaming Board records and their approach to this issue?

Mr. MAHONEY. Mr. Speaker, as I said before, we are in unchartered waters. I want the records officer to be able to go to other States and find out how they are handling their casinos in other States and come back with the best possible solution that we can come up with on that issue.

Mr. REICHLEY. Fair enough, Mr. Speaker, but I gather then that you would feel that there is not an explicit direction within the amendment to the way the Gaming Board should review those records.

Mr. MAHONEY. That is correct.

Mr. REICHLEY. Okay. Now, having seen the gentleman from Westmoreland, Mr. Pallone, rise, it reminded me of another area I was going to ask you about. Do you believe that— I think one or two of his amendments would have a retroactive application for the disclosure of legislative records.

Mr. MAHONEY. Mr. Speaker, you will have to ask Representative Pallone when his amendment comes up.

Mr. REICHLEY. Well, I appreciate that, Mr. Speaker, but you have been cited as sort of the person who is our go-to on this individual, and I am just curious whether you can give us an appraisal as we vote on your amendment, whether the Pallone amendment would, in fact, be necessary.

Mr. MAHONEY. Mr. Speaker—

Mr. REICHLEY. I will try to find the number of the amendment for you.

Mr. MAHONEY. He is entitled to his own amendment, if he wants to offer it. But as far as I am concerned, Mr. Speaker, we need to consider this as— We need to go forward. It is a new day in Pennsylvania, and we need to let the light shine in.

Mr. REICHLEY. I guess it would be amendment 4680, Mr. Speaker, which has been described as clarifying the provisions that "...apply to records in existence prior...and...subsequent to the effective date...."

Mr. MAHONEY. Mr. Speaker, I cannot speak to Mr. Pallone's intention.

Mr. REICHLEY. But your amendment, as it is right now, does not provide a retroactive effect for legislative records.

The SPEAKER. For what purpose does the gentleman, Representative Pallone, rise?

Mr. PALLONE. Mr. Speaker, with all due respect, if my amendment should ever— If we ever get that far tonight, I would be glad to discuss my amendment when it comes up, but I believe we are to limit debate on amendment 04720, not other amendments that are not before the body.

The SPEAKER. The Chair will remind the members the issue before the House is the Mahoney amendment.

Mr. REICHLEY. Thank you, Mr. Speaker.

I appreciate the gentleman from Westmoreland's concern to have his amendment addressed on its own, and I will not pursue that any further.

Those are all the questions I have, Mr. Speaker. Thank you very much.

The SPEAKER. Representative Steil.

Mr. STEIL. Thank you, Mr. Speaker.

Brief interrogation.

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. STEIL. I believe that, in my opinion, probably the most important section of the bill is section 708, which relates to exceptions to public records. In your amendment, Mr. Speaker, you amend section 708 by removing the protection that is provided under "aggregated data," and I am trying to understand why you did that, because there is a definition for "aggregated data," and aggregated data is the kind of things that companies report to the State for various purposes — unemployment compensation, workers' comp coverage, and those sorts of things. That aggregated data is very, very important, and yet you remove that from the exceptions in section 708, and I am wondering why.

Mr. MAHONEY. Can you give us a page number and a line number?

Mr. STEIL. Yes. Well, the page is— It is page 31 of the bill, which refers to it, and it is your amendment to page 30, lines 22 through 30, amending section 708. That is from your amendment.

Mr. MAHONEY. Mr. Speaker, there is no change in the intent. It is a technical amendment. It was written in the negative, and we stated it in the positive.

Mr. STEIL. Thank you, Mr. Speaker. I have my answer.

The SPEAKER. Representative Kauffman.

Mr. KAUFFMAN. Mr. Speaker, would the gentleman rise for brief interrogation?

The SPEAKER. The gentleman indicates that he will, and the gentleman is in order and may proceed.

Mr. KAUFFMAN. Thank you, and this is intended to be very friendly. I just want to attempt to establish something.

As you probably have reviewed the list of amendments that we will be discussing after yours and— First of all, I want to compliment you. I believe your intent is truly genuine, and I appreciate what you have attempted to encompass in this amendment. As I have an amendment later today which is to address the disclosure of publicly funded legislative polling within our building here in the Capitol, I wanted to make sure that I understand your amendment and what it would encompass. And I want to make sure that— My understanding is that this changes the presumption for most agencies in the Commonwealth and the executive, the presumption being that it is open now; the records are open. I believe that is correct, and I just want to make sure that if an executive agency or a Commonwealth agency was doing some kind of polling, for whatever reason, in the Commonwealth, under your amendment, would the presumption be that that polling, the results of that polling, anything associated with that polling of that executive or Commonwealth agency, would be open to the public? Or would there be any wiggle room, anything that would allow the Commonwealth to wiggle out of disclosing that polling information?

Mr. MAHONEY. Mr. Speaker, the presumption of openness is there, unless they can point to an exemption that it is not for another law. The burden of proof is still flipped on the State to prove that it is not there.

Mr. KAUFFMAN. Would you, as the author of this amendment, was your intent to give that legislative agency or Commonwealth – not legislative but Commonwealth or executive agency – was your intent to give them wiggle room to get out of releasing polling information to the people of Pennsylvania?

Mr. MAHONEY. Mr. Speaker, positively no. It is up to the recordkeeping officer to make that decision.

Mr. KAUFFMAN. Okay. So you, as the author of this amendment, intended for the executive agencies to be subject to polling information being subject to the open records law. I appreciate that. That is what I am hearing from the gentleman, Mr. Mahoney. Is that correct?

Mr. MAHONEY. Can you repeat that, sir?

Mr. KAUFFMAN. I just want to make sure that I understand fully what you are saying, that you as the author— I think I understand what you are saying, that you as the author of this amendment intended for any polling information from an executive agency to be fully disclosable under this amendment. You did not intend to give them room to exclude themselves from availing this information to the public.

Mr. MAHONEY. Not specifically, but it is a legitimate inquiry.

Mr. KAUFFMAN. So do you have a section which you think they may try to wiggle out of this?

Mr. MAHONEY. My amendment does not address that, Mr. Speaker.

Mr. KAUFFMAN. Okay. I thank the speaker. That ends my interrogation.

On the amendment. Just brief comments, Mr. Speaker.

The SPEAKER. The gentleman is in order and may proceed.

Mr. KAUFFMAN. I thank the maker of this amendment and his intention to fully include everything in disclosure from the executive branch, including polling and all of the associated information around polling by the executive branch, because we know they do quite a bit of it over there, and we surely do not want the people of Pennsylvania to be left out of public disclosure by this or any other future administration or agency.

Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes Representative Maher for the second time.

Mr. MAHER. Thank you, Mr. Speaker.

If the maker of the amendment could help me with a few more questions?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

Looking at page 7 of the amendment, beginning on line 14, section 906, "record discard" provides if an agency provides requested records, are available for delivery, and whoever requests them fails to retrieve the records, it provides that any copies can be discarded. Is that correct? This talks about discarding records.

Mr. MAHONEY. Mr. Speaker, after a reasonable time that they have been available for pickup.

Mr. MAHER. But you agree this talks about discarding records?

Mr. MAHONEY. Yes, after they have been reviewed.

Mr. MAHER. So if some agency had a record that they did not desire for the sake of posterity, should continue to have availability, if someone were to request that record and then not collect that record, under the provision as written, that agency could discard the record?

Mr. MAHONEY. Mr. Speaker, just the copies, and that is only after 90 days, if they were not picked up.

Mr. MAHER. Well, then why does it talk about discarding records if you meant discarding copies of records? Why do you suppose you wrote about discarding records?

Mr. MAHONEY. Mr. Speaker, the intent is to dispose of records that are not picked up after 90 days.

Mr. MAHER. That is what I thought you were saying.

Thank you, sir.

On page 8, line 12, it says that this office of public record "...may not reveal any information relating to the identity of the persons who made the previous requests" for records. Why should these particular records be sealed? I am thinking, for instance, of the schoolteacher whose college transcripts will now become public information to the parents of her third grade class, but that teacher is not going to be allowed to know who it was who requested the records? Why is that secrecy being commanded here?

Mr. MAHONEY. Mr. Speaker, we are just trying to protect general personal information.

Mr. MAHER. Well, you acknowledged earlier that all sorts of very, very personal information were going to be available for a dime and the cost of a stamp. Why should the knowledge of who it was who was collecting all this very private, personal information – that I believe invades the privacy of so many million Pennsylvanians – why should that be sacrosanct?

Mr. MAHONEY. Mr. Speaker, this is a two-part answer. We want to make examples of good people that make good

requests. And number two, and it does not matter who makes the request. We just want to have good examples, Mr. Speaker.

Mr. MAHER. I do not think that answers my question. Let me ask you this question: Are requests for records themselves public records?

Mr. MAHONEY. Yes.

Mr. MAHER. Then why are you saying that, in this case, they will not be public records?

Mr. MAHONEY. Mr. Speaker, this is just a public service.

Mr. MAHER. Well, I would hope that everything our government does is actually a public service, sir, and we know that is not always accomplished but should always be the goal. But that does not respond to the question: Why are you shielding in secrecy this record when, otherwise, the records would be public records?

Mr. MAHONEY. Mr. Speaker, we just want to make examples of good requests, no matter who makes them.

Mr. MAHER. And so if somebody does something you consider good, you believe that that should not be revealed to the public? Is that the standard that is being applied here? What is the standard?

Mr. MAHONEY. Mr. Speaker, the standard here is trying to get the best open records law possible and trying to work with the public the best way we can.

Mr. MAHER. So by casting into the darkness this information, you do that in the name of openness. Is that your answer?

Mr. MAHONEY. No, sir.

Mr. MAHER. Well, let us move on. Later on that same page, you talk about that the Treasurer's Office now, instead of getting one copy of every document, every contract, will have to get two copies of every contract. Is that right?

Mr. MAHONEY. Yes, Mr. Speaker.

Mr. MAHER. And if I understood your fiscal note, you believe that every entity, every contract in the entire State, the process of redaction and duplication will have absolutely no cost. Is that correct?

Mr. MAHONEY. Mr. Speaker, I did not prepare the fiscal note.

Mr. MAHER. But I think you were saying you thought the fiscal note was accurate. Are you saying you believe the fiscal note is inaccurate?

Mr. MAHONEY. No, Mr. Speaker.

Mr. MAHER. Well, then, Mr. Speaker, do you believe that having every contract in the entire State of Pennsylvania needing to be scoured by attorneys to be redacted in accordance with this law entails no cost? Do you believe this is happening already?

Mr. MAHONEY. Mr. Speaker, I do not know how the Appropriations Committee came to their analysis, but I trust their analysis.

Mr. MAHER. Well, I am glad you trust their analysis; I am asking you a question. Do you believe this is the process which is already in place?

Mr. MAHONEY. Mr. Speaker, I gave you my answer.

Mr. MAHER. I am sorry; I do not think I understood what you just said.

Mr. MAHONEY. Let me clarify it, Mr. Speaker. Mr. Speaker, I gave you my answer.

Thank you.

Mr. MAHER. I still did not hear your answer, but I will move on.

On page 4, line 23, provides "The burden of proving..." judicial records are "...exempt from public access shall be on the judicial agency receiving a request, by a preponderance of the evidence." Can you help me understand how this is consistent with the constitutional explicit reservation of judicial administration to the courts? Do we have some legal authority you are relying on that we can command how the courts administer their processes, even their administrative ones?

Mr. MAHONEY. Mr. Speaker, I believe it is constitutional.

Mr. MAHER. And are you familiar with the judicial administration provisions of the Constitution?

Mr. MAHONEY. Mr. Speaker, you have my answer on the constitutionality.

Mr. MAHER. So you do not have any legal opinion out there?

Mr. MAHONEY. Mr. Speaker, I do not claim to be an attorney, nor do I want to be an attorney.

Mr. MAHER. And finally, Mr. Speaker, in terms of my questions, after amendment, is your bill— Are provisions severable so that if some are found to be unconstitutional, the bill will otherwise stand?

Mr. MAHONEY. Mr. Speaker, my amendment does not address that. The bill addresses that.

Mr. MAHER. And after giving effect to your amendment then, are these provisions severable or not severable?

Mr. MAHONEY. Mr. Speaker, there is no severability clause, but a court can render a decision on that.

Mr. MAHER. Thank you, Mr. Speaker. Mr. Speaker, that concludes my interrogation.

I do have some observations on the bill, and then I think I have got a few motions.

The SPEAKER. The gentleman is in order and may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

You know, I thought this was supposed to be about opening up records, not shutting down access to records. This amendment you just heard would allow agencies throughout this State to destroy any record simply by requesting it from themselves and not picking it up. After 30 days, they could then legally discard the record. How odd is that?

The maker of the amendment would also have us believe that elves will arrive and elves will do all the work that is necessary because he believes, apparently, there is no cost. And simply the notion of having to hire attorneys to review every single contract in this entire State to go through a redaction process, whether or not anybody ever asks to see the contract, is going to create a vast patronage pit for otherwise limited-skilled attorneys who can sit around and do redactions for their entire career. That is going to cost a lot of money – a lot of money that is not necessary in order to ensure the public has access to records. But you and I do not know how much that will cost because we have a fiscal note that pretends it costs nothing.

This amendment contains a provision which is a large land mine, the unconstitutional commandment of our Supreme Court as to how they handle their administrative proceedings. This legislature knows well from past experience that the court views its prerogatives under the Constitution as a very bright line. And I have no doubt that the court will find the provision contained in this amendment to be unconstitutional. And based upon what has been described to me by the maker of the amendment, that defect would serve to render the entire bill – could render the entire bill – into the trash heap. Then what has been accomplished, really, for the people of Pennsylvania,

to pass an amendment that contains a land mine that could ensure that the entire open records bill dies before it ever reaches its effective date? The effective date, as the gentleman from Cumberland County so ably educated us, under this amendment is also delayed and delayed and delayed. Instead of revealing to the public, the gentleman from Uniontown is aiming to ensure that the public will not have information for years.

PARLIAMENTARY INQUIRY

AMENDMENT DIVIDED

Mr. MAHER. And, Mr. Speaker, I have a few questions on this line, but I would like to draw your particular attention to the question: Can this amendment be divided between, on page 9, between lines 22 and 23?

The SPEAKER. Yes, it can be divided.

Mr. MAHER. This amendment can be divided on page 9, between lines 22 and 23. That is good. Hold that thought.

Can this amendment be amended on page 2, between lines 21 and 22, and concluding on page 3 between—

The SPEAKER. If the gentleman will cease for one moment. Did the gentleman ask if this amendment can be amended or further divided?

Mr. MAHER. Divided; further divided, sir.

The SPEAKER. The Chair understands. Thank you.

Mr. MAHER. The further division I am inquiring about would be beginning on page 2, between lines 21 and 22, and concluding on page 3, between lines 5 and 6.

The SPEAKER. The amendment is further divisible.

Mr. MAHER. Thank you, Mr. Speaker.

And one other inquiry: On page 6, is this amendment divisible commencing between lines 6 and 7 and concluding between lines 12 and 13?

The SPEAKER. Does the gentleman want to inform the Chair where he expects to end that division?

Mr. MAHER. I am sorry. On this very same page between lines 12 and 13. It commences between lines 6 and 7, concludes between lines 12 and 13.

The SPEAKER. Yes, it is further divisible.

Mr. MAHER. Thank you, Mr. Speaker.

I am not sure exactly what the procedure is for requesting multiple divisions and how we would label these things, and I am open to suggestions from the Chair. Do we approach each division with the divided part or do you want me to cause this to be cut into, I guess we are looking at one, two, three, four, five, six, seven parts? What is the Chair's pleasure?

The SPEAKER. If the gentleman will approach the rostrum, we will have further direction for the Representative.

Mr. MAHER. It would be my pleasure, Mr. Speaker.

(Conference held at Speaker's podium.)

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does Representative Tangretti rise?

Mr. TANGRETTI. Parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. TANGRETTI. If the gentleman from Allegheny County succeeds in his division requests, my suspicion is, and I am asking the Chair, then all the amendments that have been filed that are affected by those divisions, it seems to me, may or may not be in order. Is that correct? If you have an amendment that is filed to more than one section that he is dividing, it would be ruled out of order. Is that correct?

The SPEAKER. As is true with any other amendment, after the Mahoney amendment passes or fails, in whole or in part, the Chair will make the determination as to the relevant impact it will have on the other amendments.

Mr. TANGRETTI. As the amendments are called?

The SPEAKER. As the amendments are called.

Mr. TANGRETTI. Thank you, Mr. Speaker.

STATEMENT BY MR. PETRONE

The SPEAKER. For what purpose does the gentleman, Representative Petrone, rise?

Mr. PETRONE. Thank you, Mr. Speaker.

Mr. Speaker, a point of personal privilege. I really am not concerned about the amendments and how they can be divided or subdivided. My concern is the gentleman's remark about the elves not coming, and I hope he is not getting on next to start talking about Santa Claus, because if he does, we all should walk out.

Thank you.

GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize, as the guests of Representative Fred McIlhattan, two of our finest from the Tionesta Barracks, Trooper First Class Tom Shawley and Trooper First Class Vince White. They are seated to the left of the Speaker. Would you please rise and be recognized, and thank you for your honorable service.

The House will stand at ease.

CONSIDERATION OF SB 1 CONTINUED

The SPEAKER. The Chair recognizes Representative Maher. Mr. MAHER. Thank you, Mr. Speaker.

Thanks to you, your Parliamentarians, and the wisdom offered to me by leaders on both sides of the aisle. And in consideration of all that wisdom, instead of dividing this bill into seven different questions – this amendment – Mr. Speaker, I am going to limit the division to a single division on page 9, between lines 22 and 23, concluding at the end of the original amendment. And I would ask if you would be able to announce – I would suggest that we call the tail on the dog, maybe deal with that issue.

The SPEAKER. If the gentleman will permit the Speaker: The amendment is divisible from pages 1 through 9 and on page 9 from 1 through lines 22. That will be referred to as amendment A. Amendment B will proceed from line 23 through page 10 till the end of the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

And in terms of the procedure for—

The SPEAKER. The Chair will vote amendment A and then proceed to vote amendment B.

Mr. MAHER. Mr. Speaker? In terms of the debate on A and B now, essentially we have amendment A and amendment B, but how does the process now go forward? Remarks yet to come on amendment A and then we will vote A, and then we would take up B?

The SPEAKER. The amendment and the debate will be limited to part A as the Speaker delineated that. That would be pages 1 through 9 through lines 1 through 22 on page 9. We will dispose with that, and then we will move to part B, which will include the gentleman's request that the amendment be divided.

Mr. MAHER. Thank you. So when we get to—

The SPEAKER. Members will limit their debate to amendment A.

Mr. MAHER. So once we have disposed of A, then we will take up B as a freestanding question and vote on B as a freestanding amendment? Is that correct, sir?

The SPEAKER. The gentleman is correct.

Mr. MAHER. Thank you, Mr. Speaker.

On the question,

Will the House agree to part A of the amendment?

The SPEAKER. Will the House agree to amendment A04720-A?

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. Representative Evans.

Mr. D. EVANS. Yes, Mr. Speaker. Repeat specifically, Mr. Speaker, exactly what members are doing so they can understand what the implications of their votes are.

The SPEAKER. The Chair has ruled that the amendment A04720 is divisible. The amendment is divisible on page 9 between the lines of 22 and 23. The issue before the House is amendment A04720 from pages 1 through 9 and on page 9 from lines 1 through 22, inclusive. The remainder will be amendment A04720-B. So the only issue before the House is the section of the amendment, pages 1 through 9, and on 9, lines 1 through 22.

For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. Mr. Speaker, in terms of all of our conversations, I am afraid I may have misidentified the point of division, where the final outcome, and I—

The SPEAKER. Will the gentleman clarify his point of division.

Mr. MAHER. And this is a question: Is the bill divisible on page 10, between lines 12 and 13?

The SPEAKER. The amendment is divisible. Is that the area that the gentleman wishes—

Mr. MAHER. I believe so, Mr. Speaker, but if you will bear with me just one moment so we do not have any further—Bear with me, please.

The SPEAKER. The Chair recognizes Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker. And thank you for your indulgence while we confirmed that we would not further confuse things.

The point of division that I seek is on page 10, between lines 12 and 13.

The SPEAKER. The Chair thanks the gentleman.

Mr. MAHER. Thank you, sir.

The SPEAKER. The issue before the House is amendment A04720-A. That amendment reflects the language from pages 1

through 10, and on page 10 it is inclusive of lines 1 through 12, and is divided between the lines 12 and 13. The lines 13 through the end of the amendment on page 10 will be referred to as amendment A04720-B and will be voted subsequent to part A, which is before the House.

Will the House agree to the amendment?

Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the maker of the motion be eligible for brief interrogation, Mr. Speaker?

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

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. MAHER. This should be fun.

Mr. REICHLEY. In all this division of lines, can you explain, Mr. Speaker, just what the impact of this will be? What will be in A04720-A, so the members have a clearer understanding of what provisions of the Mahoney amendment we are being requested to vote upon at this point?

Mr. MAHER. Thank you, Mr. Speaker.

The residue of the division is to focus the entire divide on the question of how quickly Pennsylvania will progress towards having greater public access to government documents, and the divide, divides out into B—

The SPEAKER. If the gentleman will suspend.

I believe there is an issue, a technical issue, with the way the gentleman requested the amendment be divided. If he will approach the rostrum.

(Conference held at Speaker's podium.)

The SPEAKER. The amendment before the House is as the Speaker previously described it. Representative Reichley may proceed with his interrogation, and the Chair reminds the gentleman he is being recognized for the second time.

The gentleman, Representative Reichley, may continue with his interrogation.

Mr. REICHLEY. Thank you, Mr. Speaker.

I believe my question for the gentleman from Allegheny, Mr. Maher, was to describe for the members so we could adequately try to understand the impact of the division as to what is within the language of A04720-A of the Mahoney amendment, per his motion.

Mr. MAHER. Thank you, Mr. Speaker.

The easiest way to probably answer that is to say what will now be in B. All that will be in the B question is the language concerning delaying the effective date. All other aspects of the Mahoney amendment, however troubling they may be, remain together in A. And in candor, we could probably slice A up in about 9 or 10 or 15 pieces until we just picked out the good parts and put the not-so-good parts aside, but I do not know that that would really be reflective of the will of the body. I do believe there are a lot of people here that are interested in actually accomplishing reform, sooner rather than later, and that is why dividing the amendment into an A or a B part allows people to deal with some of the substantive issues in A and deal with when it is effective in B.

Mr. REICHLEY. I take it then, Mr. Speaker, that your previous references to constitutionality and division of or separation of powers regarding the judicial branch, that is not addressed by the division of the amendment as you requested it. Is that correct?

Mr. MAHER. No, sir. In fact, that one aspect, in conference with the Speaker and the Parliamentarian, could not be divided because the part that dealt with that procedural provision was part of a section, and to carve out the part that deals with the courts – however unconstitutional it may be – we could not divide that question because it would not have the framing required of an amendment in order to stand on its own. It would not speak to insert on page XY.

Mr. REICHLEY. Okay. Is there any deletion created by your division?

Mr. MAHER. No, there is not. But you know, now as I answer your prior interrogatory, it does occur to me that there is a provision for division where you can, in fact, sort of throw the table scraps out. And you divide an amendment so that the other piece is just gone. Now, Mason's Manual provides for that sort of division, but I do not know if that has been practiced in this House in recent years, and I am sort of looking at our Parliamentarians for some sort of guidance as to whether or not that table-scrap approach might enable us to solve the constitutionality problem that would remain in A.

I am not sure what the right procedural thing is, but maybe there is a parliamentary inquiry you might want to place to the rostrum as to whether or not A could be further divided so that the section on page 4, lines 23 to 26, would simply be discarded, and that would solve the constitutional concern. But since I am standing in response to your interrogatories, I do not know that I have the floor, and I am unable to present that question directly to the rostrum.

PARLIAMENTARY INQUIRY

Mr. REICHLEY. Well, I guess I will pose that question to the Chair, that subsequent to the vote on A04720-A, is that portion of the amendment, referred to as such, further divisible—

Mr. MAHER. It would be before.

Mr. REICHLEY. — to enable a deletion of certain parts? Would that have to be done before or after this vote, Mr. Speaker?

Mr. McCALL. Mr. Speaker?

The SPEAKER. For the information of the gentleman, Representative Reichley, that division would have to take place before amendment A04720 is adopted.

Mr. McCALL. Mr. Speaker?

Mr. REICHLEY. Mr. Speaker, could we approach the rostrum on that issue?

The SPEAKER. The gentlemen may approach the rostrum.

(Conference held at Speaker's podium.)

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative McCall, rise?

Mr. McCALL. It is a point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. McCALL. Mr. Speaker, the previous gentlemen are talking about deletion of items from the Mahoney amendment. I think the only person that has the ability to make that decision

is the maker of the amendment, not the two gentlemen debating it on the floor of this House.

The SPEAKER. The gentleman is correct.

Has the gentleman, Representative Reichley, finished his interrogation?

Mr. REICHLEY. Thank you, Mr. Speaker.

I think the summary of the conversation at the desk was that a deletion cannot take place, that every portion of the amendment has to be voted on today. And I gather that the only real distinction created by this division is that the effective date of the amendment will be placed into the B portion of the amendment. Is that correct then, Mr. Speaker?

The SPEAKER. The Chair cannot stand for interrogation. That interrogation would be directed to Representative Maher.

Mr. REICHLEY. Well, I did not know if that was a point of parliamentary inquiry that the Parliamentarian would be able to refer to, but you would prefer it to go to Mr. Maher? Okay.

The SPEAKER. The answer is yes, but Representative Maher will give you that answer.

Mr. MAHER. Mr. Reichley, you are correct. And my original response that the aspect of 4720-A which I view as a constitutional problem is not divisible, unfortunately, it has been confirmed by the rostrum in our conversations, and it is unfortunate that we have this choice, but it is the only choice that is possible in terms of the way the division can be accomplished today.

Mr. REICHLEY. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to part A of the amendment?

The following roll call was recorded:

YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Bianucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shinkus
Boback	Haluska	Milne	Siptroth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causser	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True

Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longietti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnaroski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D.,
Freeman	Mantz	Roebuck	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question,

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

The SPEAKER. The question before the House is, will the House agree to amendment A04720-B?

On the question,

Will the House agree to part B of the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. The Chair amends.

For what purpose does the gentleman, Representative Maher, rise? He has already been recognized twice on the amendment.

Mr. MAHER. Well, Mr. Speaker, before we actually accomplished the division, I did inquire as to whether or not taking up 4720-B would be as taking up a fresh amendment, and the response was yes. I consequently think this is my first time being recognized on 4720-B.

The SPEAKER. That question was never raised before the Speaker or—

Mr. MAHER. I asked that question. Yes; I did, sir. And if this is a genuine point of confusion, and I will accept that it is—

The SPEAKER. The Chair has no recollection. If that was said, the Chair said that in error. The Chair apologizes. The gentleman has already spoken twice on the issue, as the Chair reminded Representative Reichley that it was his second time to speak.

The Chair recognizes Representative Gabig for the second time.

Mr. GABIG. Thank you, Mr. Speaker.

I wonder if the gentleman from Allegheny County who made this division would stand for interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. GABIG. Mr. Speaker, I was interested— I brought up during my interrogation with the maker of the bill the policy reason for having two different effective dates as I read them in the bill, and I think the way you divided this, Mr. Mahoney's amendment, was so now that we are specifically and exclusively on this issue, whether we should extend the effective date for some of the bill for an entire year versus the 180 days that the Senate had. Do I understand the purpose of your amendment and the effect of your amendment, and if not, could you please explain?

Mr. MAHER. Thank you, Mr. Speaker.

That is largely correct. The purpose of this division was to provide all of those who assert that they wish to advance open records now the opportunity to put their vote where their mouth is. The way— If this amendment passes, then instead, the bill without this amendment would be effective, fully effective, during this fiscal year. Without this amendment, the effective date will not be accomplished, once and for all, until 2009, not until the day before your successors will be sworn in, in this House of Representatives.

If you want to be able to approach your constituents next year and say you have voted to accomplish openness in government, effective in the term you are now in, you have got to vote against Mahoney amendment B. Mahoney amendment B postpones effective date until after you have completed this term. So if you are honest about advancing reform, oppose Mahoney amendment B because it postpones the full effectiveness of this until 2009. If you want things now, vote "no."

Thank you, Mr. Speaker.

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. The Chair recognizes Representative Evans.

Mr. D. EVANS. I rise to support the Mahoney amendment, and the reason I rise to support the Mahoney amendment is, it is a fiscal issue. One of the things that we do when we negotiate the budget is we try to keep the budget balanced during the current year. If you should have immediate implication, the question is, where will the money come from? So the reason that the date is moved back is on the basis of showing that the dollars are available.

So I stand here, Mr. Speaker, asking you to support the Mahoney amendment and be fiscally responsible. I ask for a "yes" on this amendment. Thank you.

On the question recurring,

Will the House agree to part B of the amendment?

The following roll call was recorded:

YEAS—109

Adolph	Gerber	McCall	Shimkus
Belfanti	Gergely	McGeehan	Sipthoth
Bennington	Gibbons	McI. Smith	Smith, K.
Bianucci	Goodman	Melio	Smith, M.
Bishop	Grell	Micozzie	Smith, S.
Blackwell	Grucela	Milne	Solobay
Brennan	Haluska	Mundy	Staback

Buxton	Hanna	Myers	Sturla
Caltagirone	Harhai	O'Brien, M.	Surra
Carrroll	Harkins	Oliver	Tangretti
Casorio	Hornaman	Parker	Taylor, R.
Cohen	James	Pashinski	Thomas
Conklin	Josephs	Payton	Vitali
Costa	Keller, W.	Petrarca	Wagner
Cruz	Kessler	Petrone	Walko
Curry	King	Preston	Wansacz
Daley	Kirkland	Ramaley	Waters
DePasquale	Kortz	Readshaw	Wheatley
Dermody	Kotik	Roebuck	White
DeWeese	Kula	Ross	Williams
Donatucci	Leach	Rublely	Wojnaroski
Eachus	Lentz	Sabatina	Yewcic
Evans, D.	Levdansky	Sainato	Youngblood
Fabrizio	Longietti	Samuelson	Yudichak
Frankel	Mahoney	Santoni	
Freeman	Manderino	Schroder	O'Brien, D., Speaker
Galloway	Mann	Seip	
George	Markosek	Shapiro	

NAYS—93

Argall	Fleck	Marshall	Quigley
Baker	Gabig	Marsico	Quinn
Barrar	Geist	McIlhattan	Rapp
Bastian	Gillespie	Mensch	Raymond
Bear	Gingrich	Metcalfe	Reed
Benninghoff	Godshall	Millard	Reichley
Beyer	Harhart	Miller	Roeae
Boback	Harper	Moul	Rock
Boyd	Harris	Moyer	Rohrer
Brooks	Helm	Murt	Saylor
Cappelli	Hennessey	Mustio	Scavello
Causer	Hershey	Nailor	Sonney
Civera	Hess	Nickol	Stairs
Clymer	Hickernell	O'Neill	Steil
Cox	Hutchinson	Pallone	Stern
Creighton	Kauffman	Payne	Stevenson
Cutler	Keller, M.	Peifer	Swanger
Dally	Kenney	Perry	Taylor, J.
Denlinger	Killion	Perzel	True
DiGirolamo	Mackereth	Petri	Turzai
Ellis	Maher	Phillips	Vereb
Evans, J.	Major	Pickett	Vulakovich
Everett	Mantz	Pyle	Watson
Fairchild			

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

Mr. **PALLONE** offered the following amendment No. **A04680**:

Amend Sec. 3101, page 46, by inserting between lines 12 and 13
(1) This act shall apply to records in existence prior to as well as subsequent to the effective date of this act.

Amend Sec. 3101, page 46, line 13, by striking out "(1)" and inserting

(2)

Amend Sec. 3101, page 46, line 15, by striking out "(2)" and inserting

(3)

Amend Sec. 3101, page 46, line 17, by striking out "(3)" and inserting

(4)

Amend Sec. 3101, page 46, line 19, by striking out "(4)" and inserting

(5)

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

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Pallone on the amendment.

Mr. **PALLONE**. Thank you, Mr. Speaker.

In conference with counsel, apparently there are provisions contained within the act as it is being presented, both through the Mahoney amendment as well as the bill in chief under SB 1, that generally address the issues of the Freedom of Information and open records acts that will address the issues that I am raising in this particular amendment. And therefore, I would respectfully withdraw the amendment as presented.

The **SPEAKER**. The Chairs thanks the gentleman.

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

Mr. **REICHLEY** offered the following amendment No. **A04694**:

Amend Sec. 701, page 17, by inserting between lines 11 and 12
(a.1) Gaming Control Board policies.—All information related to the development of Gaming Control Board policies, regulations, procedures or any other recommendations regarding implementation of 4 Pa.C.S. § 1212 (relating to diversity goals of board) or 1325 (relating to license or permit issuance), including, but not limited to, any documents or other materials prepared for the use of the board, its employees or independent contractors, shall be considered a public record and subject to disclosure.

Amend Sec. 3102, page 47, by inserting between lines 6 and 7
(3) (i) The General Assembly declares that the repeal under subparagraph (ii) is necessary to effectuate the provisions of section 701(a.1).
(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

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

The **SPEAKER**. The Chair recognizes Representative Reichley on the amendment.

Mr. **REICHLEY**. Mr. Speaker, thank you.

Is this amendment still in order based upon the passage of the Mahoney amendment? There were other amendments that we had drafted to the bill—

The SPEAKER. The amendment is in order. But if the gentleman had it redrafted in another fashion, the Chair understands. He can offer it either now or later.

Mr. REICHLEY. Did you say an hour later or—

The SPEAKER. Now or later.

Mr. REICHLEY. Now or later. Sorry about that.

Is it possible just to go over this amendment briefly, just for me to check back on the other amendments I had?

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. Do you want me to go over this temporarily?

Mr. REICHLEY. If you would, please, Mr. Speaker.

The SPEAKER. Would you like me to go over your other amendment, A04695, until you reconcile that? I will come back to both amendments?

Mr. REICHLEY. Yes, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. KORTZ offered the following amendment No. **A04697**:

Amend Sec. 1307, page 40, line 19, by inserting after "\$100."

The agency may require a certified check, money order or other form of verified payment of funds when requiring open records request fees to be prepaid.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Kortz on the amendment.

Mr. KORTZ. Thank you, Mr. Speaker.

Amendment A4697 basically states that if it will cost over \$100, the agency may require a certified check, money order, or other form of verified payment of funds when requiring open records request fees to be prepaid. The reason for this, Mr. Speaker, is to protect agencies against financial loss due to large records requests and subsequent nonpayments, for whatever the reasons. Mr. Speaker, amendment 4697 was formerly amendment 3759; it was considered with HB 443 and passed on October 30. And I would ask all my colleagues for an affirmative vote.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson

Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Bianucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Milne	Siptroth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causar	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longiotti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnaroski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D., Speaker
Freeman	Mantz	Roebuck	

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

Mr. PERRY offered the following amendment No. **A04705**:

Amend Sec. 102, page 4, by inserting between lines 6 and 7 "Account." Includes any record evidencing the receipt or disbursement of funds by an agency, including a receipt, invoice and other billing information related to the receipt or disbursement of such funds.

Amend Sec. 102, page 9, line 30, by striking out "and" and inserting a comma

Amend Sec. 102, page 10, line 1, by inserting after "Authority" and the Commonwealth Financing Agency

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

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. The Chair recognizes Representative Perry.

Mr. PERRY. Mr. Speaker, can I ask you to go over this temporarily until I figure out where it is in all the five that I have got available?

The SPEAKER. This amendment will go over temporarily.

Would you like to go over all the amendments and come back to the gentleman?

On the question recurring,

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

Mr. SAINATO offered the following amendment No. **A04714:**

Amend Bill, page 30, by inserting between lines 23 and 24 Section 709. Internet access.

The Department of Community and Economic Development shall post on its Internet website a list of community revitalization grants by legislative and senatorial districts.

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

The SPEAKER. The Chair recognizes Representative Sainato on the amendment.

Mr. SAINATO. Thank you, Mr. Speaker.

This amendment is a very brief amendment. It pretty much directs DCED (Department of Community and Economic Development) to list the appropriation and grants by legislative and senatorial districts. It just sheds a little light on where the money has been going around the State. So I consider this just a technical amendment. Thank you.

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

The following roll call was recorded:

YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Biancucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Milne	Siptroth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.

Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causar	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Petzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longietti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnarowski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D., Speaker
Freeman	Mantz	Roebuck	

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

The SPEAKER. The Chair recognizes the gentleman from Lehigh County, Representative Reichley. Would the gentleman inform the Chair what the amendment number is he wishes to offer?

Mr. REICHLEY. Thank you, Mr. Speaker.
I would like to proceed with amendment A04804.

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

Mr. REICHLEY offered the following amendment No. **A04804:**

Amend Sec. 701, page 3, by inserting between lines 27 and 28 (A04720)

Amend Sec. 701, page 17, by inserting between lines 11 and 12

(a.1) Gaming Control Board policies.—All information related to the development of Gaming Control Board policies, regulations, procedures or any other recommendations regarding implementation of 4 Pa.C.S. § 1212 (relating to diversity goals of board) or 1325 (relating to license or permit issuance), including, but not limited to, any documents or other materials prepared for the use of the board, its employees or independent contractors, shall be considered a public record and subject to disclosure.

Amend Sec. 3102, page 10, by inserting between lines 12 and 13 (A04720)

Amend Sec. 3102, page 47, by inserting between lines 6 and 7

(3) (i) The General Assembly declares that the repeal under subparagraph (ii) is necessary to effectuate the provisions of section 701(a.1).

(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

On the question,

Will the House agree to the amendment?

PARLIAMENTARY INQUIRY

AMENDMENT DIVIDED

The SPEAKER. The Chair recognizes the gentleman, Representative Reichley, on the amendment.

Mr. REICHLEY. Mr. Speaker, a point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. REICHLEY. Mr. Speaker, is this amendment divisible between lines 12 and 13?

The SPEAKER. Yes, it is.

Mr. REICHLEY. All right. Mr. Speaker, I would so request, or so move, to divide the amendment between lines 12 and 13.

The SPEAKER. Does the gentleman wish to proceed on both sections of the amendment or just on one?

Mr. REICHLEY. I would like to proceed on A04804-A, or the top portion of that amendment, from lines 1 through 12.

The SPEAKER. The Chair thanks the gentleman.

The issue before the House is, will the House agree to amendment— The amendment is divided. The issue before the House is amendment A04804-A.

On the question,

Will the House agree to part A of the amendment?

The SPEAKER. The gentleman is recognized on that amendment.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, the purpose of this amendment, there have been a number of conversations regarding the degree of disclosure by Commonwealth agencies. Most recently it came up that the Gaming Board had had private sessions in which they had discussed various parameters on hiring practices to be emphasized with licensee applicants, and actually all vendors, under the Gaming Act, and yet, this had not been within the public session or recorded in the minutes.

So the purpose of this amendment is to ensure that the Gaming Board policies, regulations, procedures, along with any recommendations regarding implementation of the Gaming Act,

be made available – excuse me – be considered a public record and subject to disclosure.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you very much.

Just a quick interrogation of the honorable gentleman.

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. DeWEESE. Question number one: Would this deal with records from the day that it becomes law forward, or would this deal with records retroactively in the Gaming Commission?

Mr. REICHLEY. Mr. Speaker, in picking up with some of the answers provided by the gentleman, Mr. Mahoney, it would reflect to all records that are produced by the Gaming Board. It does not have a distinction as to whether it is a retroactive or prospective effect. We believe that the executive branch and quasi-executive branch agencies, such as the Gaming Board, should be under the same regulations as all the other strict Cabinet departments. So I do not think the amendment speaks specifically to which records it would be. Frankly, based upon the answers provided by Mr. Mahoney, that would be something to be decided by the open records officer of the Gaming Board.

Mr. DeWEESE. So the honorable gentleman is attempting to take the Gaming Board into a latitude that PENNDOT would not be under, or that Corrections or Health or Agriculture would not be under. Is that correct?

Mr. REICHLEY. Well, Mr. Speaker, I would ask for further clarification from the gentleman. I do not believe that somehow any of the regulations or policies regarding the implementation of the legislative authority created for PENNDOT or for the Agriculture Department or for any other agency would be different than what this amendment would impact upon the Gaming Board. We would only hold the Gaming Board in exactly the same position as any other executive branch agency. It has come to light that they have been engaging in a discussion of policies and procedures, separate and apart from their public meetings, and wish to emphasize that the Gaming Board is not to be held at any different status than any other executive agency.

Mr. DeWEESE. Last question. The diversity dynamics in the Gaming Board have been discussed with the executive branch and in our legislative debates, and our records are quite clear. Could the gentleman indicate what his language would do relative to diversity and the inclusion of a diverse segment of Pennsylvanians in the Gaming Board setting?

Mr. REICHLEY. Thank you, Mr. Speaker.

The effect of the amendment would not have any impact at all upon the diversity qualifications, hiring practices, or what the parameters under employment would be. I think the need of the amendment was underscored by the fact that, separate and apart from any other executive branch agency, the Gaming Board, as reported recently, had consultations about what the scope of diversity would mean for the Gaming Board – which is all well and good, and I applaud the Gaming Board for having what may be, perhaps, an expansive view of what diversity might be – but I think, at the very least, those policies and procedures need to be an open record so that there can be no question and it would not have to be some sort of latter-day disclosure which comes about. But the impact of the amendment is merely to enhance public disclosure – what the

Gaming Board has articulated as its definition of "diversity employment practices –" not meant to actually impact what those practices are.

Mr. DeWEESE. No further questions, Mr. Speaker.

The SPEAKER. Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

If the maker of the amendment would rise for brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. VEREB. Thank you, Mr. Speaker.

Mr. Speaker, the first question: Is this amendment intended to cover all types of communications that occur, even whether they are legally advertised – or in some cases maybe not legally advertised – executive sessions that might take place by the board?

Mr. REICHLEY. Mr. Speaker, it is to ensure that the items which are truly to be made available for public disclosure are, in fact – that that is done so. There are obviously some issues that, under the gaming law, may be appropriately considered in executive session. The concern has been that, based upon recent disclosures and a review of the minutes from the Gaming Board, that has not always been the practice. And it is my intent to ensure that the Gaming Board fully understands that the requirements for public notification as to subjects that may be discussed in executive session, a summary of what was discussed without getting into the details, and then an availability to the general public to have access to documentation regarding nonconfidential matters, is complied with by the Gaming Board.

Mr. VEREB. Thank you, Mr. Speaker.

Is there any current law, whether it is directly affecting the casino law or any other law, that would supersede your amendment in terms of protecting documentation from the intent of your amendment? So is there anything in the Gaming Act that would prohibit what this amendment is trying to accomplish?

Mr. REICHLEY. No, Mr. Speaker. And I appreciate the question that this would not require the divulgence or disclosure of information which is protected under the Criminal History Record Information Act, for instance. It would not require the disclosure of information which is a trade secret. It would not require the disclosure of information which is confidential proprietary information on behalf of a gaming applicant, or any applicant, for a license under the Gaming Board. It would though, I think – and the gentleman from Greene County raised diversity training, this amendment goes beyond merely that, because there has been some question raised as to whether the Gaming Board has been in full compliance with the provisions of the Gaming Act, which require a public statement when the board is going to be going into executive session, that they are actually in public session before they go into executive session, and that there is a disclosure of the potential items that were either discussed subsequently or that will be discussed going into executive session.

So we are merely trying to ensure that the Gaming Board is acting under the same provisions as every other State agency which has the benefit of consultations in executive session.

Mr. VEREB. Thank you, Mr. Speaker.

If I may comment on the amendment, please.

The SPEAKER. The gentleman is in order and may proceed.

Mr. VEREB. Mr. Speaker, I thank you for the opportunity.

I certainly rise in support of this amendment and certainly, contrasted to earlier comments of PENNDOT and other departments, obviously, this is a unique situation. The Gaming Board has control of a lot of revenue that comes into our casinos. We certainly hope that full disclosure by the board makes for better trust in our Commonwealth.

Thank you, Mr. Speaker.

The SPEAKER. Representative Mundy, on the amendment.

Ms. MUNDY. Thank you, Mr. Speaker.

May I interrogate the gentleman?

The SPEAKER. The gentleman indicates he will stand for interrogation. The lady is in order and may proceed.

Ms. MUNDY. I have tried to follow the debate and the questioning so far, but I need to be clear: Can you tell me, yes or no, whether documentation filed, applications filed for a gaming license, would those applications be subject to the open records law as a result of your amendment? Yes or no?

Mr. REICHLEY. Mr. Speaker, with all due respect to the gentlelady, I believe the focus of her question, the impact of her question, would be targeted at A04804-B, not subsection (a). I am looking at the first 12 lines of the amendment which are directed at the Gaming Board, ensuring that their procedures and policies are disclosed to the general public. This is not getting into the applicant licensing information. This more goes to the board itself, under this amendment from lines 1 through 12.

Ms. MUNDY. However, Mr. Speaker, I am looking at language that says, "...including, but not limited to, any documents or other materials prepared for the use of the board, its employees or independent contractors,..."

Now, again, I need to be clear: Are we making retroactive applications filed under existing law with the Gaming Board to be considered for licensure?

Mr. REICHLEY. Again, Mr. Speaker, I believe the lady's comments may be more pertinent to the lower portion of the amendment. As you will read, the last two lines of the amendment would potentially contemplate a repealer of Title 4, section 1206(f), which provides extensive confidentiality to applicant information. We are not dealing with that portion, and because we are not dealing with that portion, the confidentiality provisions of the gaming law remain intact. So some of the information you are referring to within your question, Mr. Speaker, would still retain that aura of confidentiality.

The first 12 lines of the amendment that I am requesting consideration of the House are focused to the board itself, and understanding the line she has referred to, that is overcome, or superseded, by the current provisions of the Gaming Act, which still provide the confidentiality regarding that information under current law.

Ms. MUNDY. Mr. Speaker, I have concluded my interrogation. May I comment on the amendment?

The SPEAKER. The lady is in order on the amendment and may proceed.

Ms. MUNDY. Thank you, Mr. Speaker.

I can only read what is in the language of the amendment and what is before me, and I believe that if what the gentleman is saying is his interpretation, that is certainly an ambiguity in the language that he has put before us.

I cannot support an amendment that perhaps puts in jeopardy proprietary information that was filed in good faith with the

Gaming Board under current law and now risks that proprietary information and that business information being made public. If you want to make all of these documents public prospectively, I can certainly support that, but these documents were filed under the gaming law as it existed then, and it should not be subject to disclosure at this point in time.

So, Mr. Speaker, I would ask that we defeat this section of the Reichley amendment.

The SPEAKER. Is there anyone seeking recognition before the Chair recognizes the prime sponsor of the amendment for the second time?

Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

With all due respect to the gentledady who just spoke, I would refer her and the staff to section 1206, subsection (f), of the Gaming Act, which states, "All information...submitted by an applicant pursuant to section 1310(a) (relating to slot machine...application character requirements)...or obtained by the board...as part of a background investigation from any source shall be considered confidential." It goes exactly to the point she was just raising, and amendment A04804-A does not impact this one bit. It does not repeal 1206(f). They are two separate and apart matters. The lady's comments would be more accurately on point if we were considering the second half of this amendment from lines 13 to 20, but we are not. We are getting to the actions of the Gaming Board.

Most recently we heard information from the Gaming Board which revolved around private conversations over matters which should have been a matter of public disclosure. These go towards the diversity hiring requirements the Gaming Board was emphasizing, which go, naturally, to the issues of race, gender, also sexual orientation, health status, marital status, and that is all well and good. The amendment does not affect what the Gaming Board is identifying as diversity characteristics. It is just saying, just tell us what they are and make sure it is a matter of public record. They are fully empowered to determine what those diversity characteristics are. Again, just tell us what they are.

There is nothing within this portion of the amendment – and I do not intend to go towards the second part of the amendment – but there is nothing in this part of the amendment which will impact the nature of the information submitted by the gaming license applicants. So I would ask the members of the Assembly, please, do not get caught up in the emotion. I understand that there are times when we all get into the, as the gentleman from Greene says, the "hurly-burly," and we regard ourselves as somewhat like the British parliamentary system, but if you take a look at the plain language of the first 12 lines of this amendment, it does not even get close to what the gentledady just implied it does.

I would ask the members to act with due discretion and make sure the Gaming Board is treated under this open records act like every other State agency. Please vote "yes" on this amendment A04804-A.

Thank you.

On the question recurring,

Will the House agree to part A of the amendment?

The following roll call was recorded:

YEAS—186

Adolph	Frankel	Manderino	Reed
Argall	Freeman	Mann	Reichley
Baker	Gabig	Mantz	Roae
Barrar	Galloway	Markosek	Rock
Bastian	Geist	Marshall	Roebuck
Bear	Gerber	Marsico	Rohrer
Belfanti	Gergely	McCall	Ross
Benninghoff	Gibbons	McGeehan	Rubley
Bennington	Gillespie	McI. Smith	Sabatina
Beyer	Gingrich	McIlhattan	Samuelson
Biancucci	Godshall	Melio	Saylor
Bishop	Goodman	Mensch	Scavello
Blackwell	Grell	Metcalfe	Schroder
Boback	Grucela	Micozzie	Seip
Boyd	Haluska	Millard	Shapiro
Brennan	Hanna	Miller	Sipthro
Brooks	Harhai	Milne	Smith, M.
Buxton	Harhart	Moul	Smith, S.
Caltagirone	Harkins	Moyer	Sonney
Cappelli	Harper	Murt	Stairs
Carroll	Harris	Mustio	Steil
Casorio	Helm	Myers	Stern
Causer	Hennessey	Nailor	Stevenson
Civera	Hershey	Nickol	Sturla
Clymer	Hess	O'Brien, M.	Surra
Cohen	Hickernell	O'Neill	Swanger
Conklin	Hornaman	Oliver	Tangretti
Costa	Hutchinson	Pallone	Taylor, J.
Cox	James	Parker	Taylor, R.
Creighton	Josephs	Payne	Thomas
Cruz	Kauffman	Payton	True
Cutler	Keller, M.	Peifer	Turzai
Daley	Keller, W.	Perry	Vereb
Dally	Kenney	Perzel	Vitali
Denlinger	Kessler	Petrarca	Vulakovich
DePasquale	Killion	Petri	Wagner
Dermody	King	Petrone	Walko
DeWeese	Kirkland	Phillips	Waters
DiGirolo	Kortz	Pickett	Watson
Donatucci	Kotik	Preston	Wheatley
Ellis	Kula	Pyle	Williams
Evans, D.	Lentz	Quigley	Wojnaroski
Evans, J.	Longietti	Quinn	Yewcic
Everett	Mackereth	Ramaley	Youngblood
Fabrizio	Maher	Rapp	
Fairchild	Mahoney	Raymond	O'Brien, D.,
Fleck	Major	Readshaw	Speaker

NAYS—16

Curry	Levdansky	Santoni	Staback
Eachus	Mundy	Shimkus	Wansacz
George	Pashinski	Smith, K.	White
Leach	Sainato	Solobay	Yudichak

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

PART B OF AMENDMENT WITHDRAWN

The SPEAKER. Does the gentleman, Representative Reichley, wish to offer any other amendments?

Mr. REICHLEY. I would like to withdraw 4804-B, the second half of what the previous amendment had been, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Does the gentleman have any other amendments he wishes to offer?

Mr. REICHLEY. No, Mr. Speaker. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. TURZAI offered the following amendment No. **A04717**:

Amend Bill, page 46, by inserting between lines 8 and 9

CHAPTER 19

PUBLIC OFFICIALS

Section 1901. Disclosure of affiliation.

(a) Scope.—This section applies to:

(1) an individual who is elected or appointed to an office of the Commonwealth; and

(2) the spouse of an individual under paragraph (1).

(b) Requirement.—Annually, each individual subject to subsection (a) shall submit to the clearinghouse for Internet website publication under section 1310(a)(7) disclosure as to a business relationship between a Commonwealth agency and:

(1) the individual;

(2) a partnership in which the individual is a partner;

(3) an association in which the individual is an officer or a director;

(4) a corporation in which the individual is an officer or a director; or

(5) a corporation in which the individual has an equity interest of at least 5%.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Turzai on the amendment.

Mr. TURZAI. Thank you, Mr. Speaker.

I do apologize. I have a bit of a scratchy voice today.

Amendment 4717 requires notice with respect to contractual relationships between elected or appointed officials and their spouses and the State.

As for the record, 4718 will be withdrawn, which would have provided a prohibition to that effect, and we will only be running 4717, which requires notice.

Thank you very much.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Biancucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shinkus
Boback	Haluska	Milne	Siptroth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causer	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longietti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnaroski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D., Speaker
Freeman	Mantz	Roebuck	

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

Mr. **MAHER** offered the following amendment No. **A04724**:

Amend Sec. 1302, page 36, line 17, by inserting after "located" or may bring an action in the local magisterial district

Amend Sec. 1302, page 36, line 18, by striking out "the court" and inserting
a court of common pleas

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

The **SPEAKER**. The Chair recognizes Representative Maher on the amendment.

Mr. **MAHER**. Thank you, Mr. Speaker.

This amendment replicates one that was embraced with an overwhelming majority in our prior open records bill to allow individuals the ease of access for appeals to their local magisterial courts.

The **SPEAKER**. For what purpose does the gentleman, Representative Maher, rise?

Mr. **MAHER**. Thank you, Mr. Speaker.

In terms of the order of consideration, I understood that we would be considering amendment 4730 prior to this one.

The **SPEAKER**. The Chair is taking the amendments in the order that they are listed unless it is requested otherwise.

AMENDMENT PASSED OVER TEMPORARILY

Mr. **MAHER**. May I ask that this amendment be temporarily over so that we can consider A4730, and hopefully then just have one amendment rather than two?

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

Mr. **MAHER** offered the following amendment No. **A04730**:

Amend Sec. 1101, page 33, line 9, by striking out "If" and inserting

Except as provided under subsection (a.1), if

Amend Sec. 1101, page 33, line 19, by inserting after "agency" where it appears the second time

under subsection (a.1)

Amend Sec. 1101, page 33, by inserting between lines 20 and 21

(a.1) Appeal.—If a written request for access to a public record of a local agency is denied or deemed denied, the requester may file an appeal with the clearinghouse, as provided under subsection (a), or file a petition for review or other document as required by rule of court with the court of common pleas for the county where the local agency is located or bring an action in the local magisterial district.

Amend Sec. 1303, page 36, line 27, by inserting after "1302"

, or actions commenced in the court of common pleas in accordance with section 1101(a.1),

Amend Sec. 1303, page 37, lines 1 through 3, by striking out "the appeal filed" in line 1, and all of lines 2 and 3 and inserting
and, if an appeal was filed under section 1101(a),
the appeal, the hearing transcript, if any, and the final written determination of the appeals officer.

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

The **SPEAKER**. The Chair recognizes Representative Maher on the amendment.

Mr. **MAHER**. Thank you, Mr. Speaker.

This amendment is slightly divergent from the other in that it allows individuals who are not happy with the local government response to a request for open records to choose which path of appeal is most convenient and affordable to them, whether it be through this clearinghouse, through their local magistrate, or through the local common pleas court. So this empowers individuals and is very much in accord with what was adopted by this House just weeks ago.

The **SPEAKER**. The Chair recognizes Representative Vitali on the amendment. The gentleman waives off.

Representative Shapiro, on the amendment.

Mr. **SHAPIRO**. Thank you, Mr. Speaker.

I rise to oppose this amendment.

This amendment is not an empowering amendment, as the previous speaker said. This House voted in a very close vote. There were many members to oppose this amendment when we considered HB 443. And in sum, I cited during my comments on the floor when a similar amendment was considered on the last bill at least two State Supreme Court cases – and there were other cases as well – that made it clear that the Supreme Court did not want open records disputes being settled by these magisterial district judges.

So I would ask the members to vote against this amendment. I do not think it accomplishes the goal of empowering individuals, and it is clearly a step in the direction away from where the Pennsylvania Supreme Court would like us to go as it relates to the Right-to-Know Law.

Thank you, Mr. Speaker.

The **SPEAKER**. Representative Kula.

Mrs. **KULA**. Mr. Speaker, as a former district judge, I would ask for a vote against this amendment.

I believe the district judges had the authority at one time to do that, to handle open record issues, and then it was looked at and decided, because of the complexity at times, that it was not that the district judges could not handle those situations, but there just needed to be more training and more documentation needed for them to be able to do opinions and orders. And this is something that was decided, and I think that is in the best interest, to not have district judges hear these types of cases.

Thank you, Mr. Speaker.

The **SPEAKER**. Will the House agree to the amendment?

Is there any member seeking recognition before the Chair recognizes the maker of the amendment for the second time?

Representative Maher.

Mr. **MAHER**. Thank you, Mr. Speaker.

And I thank the gentleman from Montgomery for refreshing our collective memory that the Supreme Court did, in fact, object to our existing laws provision that magisterial judges could decide cases and would require a written reasoned opinion. The court observed that only the court can establish procedures, and because we were commanding a written opinion, that we had overstepped our authority as a legislature, much as was just done in the Mahoney amendment with respect to how the courts will administer appeals dealing with the courts. What the court did not do is the court did not object to the magistrates hearing these cases per se.

Now, we have often heard and read, over the last 6 months or so, a reference to a study that purported to show that Pennsylvania's open records law was 48th in the nation. Now, I have a copy of that study in my hand and every one of you can call it up on the Internet, and the reason I am referring to it now is because one of the key factors for that evaluation, and it provides you a scoring matrix – and by the way, I will back up and mention that the 48 score for Pennsylvania came before our current law came into effect. Using these same criteria with our current law, we would be in the top 10 in the nation. But the key questions – yes, I do not know why that has not really hit Mr. Mahoney's talking points until now – but some of the key issues are response time, multiple avenues of appeal, expedited processes, and the attorney's fees and costs associated with accomplishing a request or an appeal.

Now, the current law provides common pleas court and administrative appeals. This amendment restores the ability for an individual to seek those avenues. If you are for allowing folks to deal with local questions locally and are using the people's court, and I have to believe – I have got great faith in our magistrate judges – I believe magistrates are smart enough to sort out if something is a public record or not, and I believe that that is a very, very straightforward, zero-cost, except for a filing fee, avenue for individuals to follow.

Now, on the other hand, you might decide you want to put everybody in the pipeline of this new bureaucracy to be created here in Harrisburg, and I suggest to you that the average person will find the notion that they have got to stand in line and put their requests in one end of a funnel to fill out all the appropriate forms and sooner or later appear for a hearing – it is not being very friendly to our constituents.

The SPEAKER. Will the House agree to the amendment?

Mr. MAHER. Excuse me, Mr. Speaker. I was just recovering my voice.

So again, I would say vote in favor of your constituents. Let them have the easy, inexpensive avenues to justice, and support the amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I rise and urge a "no" vote on the amendment.

As an attorney who has litigated a number of open records cases, this would be, I think, the only case where a local agency decision could be appealed to a district justice, as opposed to the court of common pleas. District justice offices are good places to appeal certain things like a traffic ticket or a small claim, but I think in the case of open records, the issue has become very complex. They require a great deal of evidence, at times, and testimony, and we are liable to get a hodgepodge of decisions, as opposed to uniformity, by offering this additional forum for people to appeal. So I think this would be the only case where a local agency decision would go to a district justice, and I think it is a bad idea, and I would ask my colleagues to vote "no" on this amendment.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Readshaw
Barrar	Gillespie	Metcalfe	Reed
Bastian	Gingrich	Micozzie	Reichley
Bear	Godshall	Millard	Roae
Benninghoff	Harhart	Miller	Rock
Beyer	Harper	Milne	Rohrer
Boback	Harris	Moul	Ross
Boyd	Helm	Moyer	Rublely
Brooks	Hennessey	Murt	Saylor
Cappelli	Hershey	Mustio	Scavello
Carroll	Hess	Nailor	Schroder
Causar	Hickernell	Nickol	Smith, S.
Civera	Hutchinson	O'Neill	Sonney
Cox	Kauffman	Payne	Stairs
Creighton	Keller, M.	Peifer	Stern
Cutler	Kenney	Perry	Stevenson
Dally	Killion	Petzel	Swanger
Denlinger	Kotik	Petri	Tangretti
DiGirolamo	Mackereth	Petrone	Taylor, J.
Ellis	Maher	Phillips	True
Evans, J.	Major	Pickett	Turzai
Everett	Mantz	Pyle	Vereb
Fairchild	Marshall	Quigley	Vulakovich

NAYS—102

Belfanti	George	Mann	Siptroth
Bennington	Gerber	Markosek	Smith, K.
Biancucci	Gergely	McCall	Smith, M.
Bishop	Gibbons	McGeehan	Solobay
Blackwell	Goodman	McI. Smith	Staback
Brennan	Grell	Melio	Steil
Buxton	Grucela	Mundy	Sturla
Caltagirone	Haluska	Myers	Surra
Casorio	Hanna	O'Brien, M.	Taylor, R.
Clymer	Harhai	Oliver	Thomas
Cohen	Harkins	Pallone	Vitali
Conklin	Hornaman	Parker	Wagner
Costa	James	Pashinski	Walko
Cruz	Josephs	Payton	Wansacz
Curry	Keller, W.	Petrarca	Waters
Daley	Kessler	Preston	Watson
DePasquale	King	Quinn	Wheatley
Dermody	Kirkland	Ramaley	White
DeWeese	Kortz	Roebuck	Williams
Donatucci	Kula	Sabatina	Wojnaroski
Eachus	Leach	Sainato	Yewcic
Evans, D.	Lentz	Samuelson	Youngblood
Fabrizio	Levdansky	Santoni	Yudichak
Frankel	Longietti	Seip	
Freeman	Mahoney	Shapiro	O'Brien, D., Speaker
Galloway	Manderino	Shimkus	

NOT VOTING—0

EXCUSED—1

DeLuca

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. Does the gentleman wish to offer any other amendments? Does the gentleman, Representative Maher, wish to offer any other amendments?

Mr. MAHER. Thank you, Mr. Speaker.

There are a couple other amendments, and I suppose we could start with amendment 4727.

On the question recurring,

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

Mr. MAHER offered the following amendment No. A04727:

Amend Sec. 102, page 9, line 3, by inserting after "a" legal

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. I am not actually seeking recognition, Mr. Speaker, but if you would like me to offer a brief explanation, I would be happy to do so.

The SPEAKER. The Chair would ask the gentleman to offer that brief explanation.

Mr. MAHER. Thank you, Mr. Speaker.

The bill as it currently stands says a requester could be any resident of the United States. This simply provides that a requester, who will be seeking any remedies, would need to be a legal resident of the United States.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

The SPEAKER. For what purpose does the gentleman, Representative Wheatley, rise?

Mr. WHEATLEY. I want to go "yea" on this one.

The SPEAKER. The gentleman's remark will be spread upon the record.

The gentleman's switch is operable.

The following roll call was recorded:

YEAS—202

Table listing names of members who voted 'yea': Adolph, Argall, Baker, Barrar, Bastian, Bear, Belfanti, Benninghoff, Bennington, Beyer, Bianucci, Bishop, Blackwell, Boback, Boyd, Gabig, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Goodman, Grell, Grucela, Haluska, Hanna, Markosek, Marshall, Marsico, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Mensch, Metcalfe, Micozzie, Millard, Miller, Milne, Moul, Rohrer, Ross, Rubley, Sabatina, Sainato, Samuelson, Santoni, Saylor, Scavello, Schroder, Seip, Shapiro, Shimkus, Siptroth, Smith, K.

Table listing names of members who did not vote or were excused: Brennan, Brooks, Buxton, Caltagirone, Cappelli, Carroll, Casorio, Causer, Civera, Clymer, Cohen, Conklin, Costa, Cox, Creighton, Cruz, Curry, Cutler, Daley, Dally, Denlinger, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Evans, J., Everett, Fabrizio, Fairchild, Fleck, Frankel, Freeman, Harhai, Harhart, Harkins, Harper, Harris, Helm, Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, James, Josephs, Kauffman, Keller, M., Keller, W., Kenney, Kessler, Killion, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longiotti, Mackereth, Maher, Mahoney, Major, Manderino, Mann, Mantz, Moyer, Mundy, Murt, Mustio, Myers, Nailor, Nickol, O'Brien, M., O'Neill, Oliver, Pallone, Parker, Pashinski, Payne, Payton, Peifer, Perry, Perzel, Petrarca, Petri, Petrone, Phillips, Pickett, Preston, Pyle, Quigley, Quinn, Ramaley, Rapp, Raymond, Readshaw, Reed, Reichley, Roae, Rock, Roebuck, Smith, M., Smith, S., Solobay, Sonney, Staback, Stairs, Steil, Stern, Stevenson, Sturla, Surra, Swanger, Tangretti, Taylor, J., Taylor, R., Thomas, True, Turzai, Vereb, Vitali, Vulakovich, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, White, Williams, Wojnaroski, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

The SPEAKER. Does Representative Maher wish to offer an additional amendment?

Mr. MAHER. Yes, Mr. Speaker.

I would like to offer amendment A4725; excuse me, A4726; I am sorry.

On the question recurring,

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

Mr. MAHER offered the following amendment No. A04726:

Amend Sec. 102, page 9, line 9, by inserting after "a" legal

Amend Sec. 102, page 9, line 10, by inserting after "States" or a legal entity

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

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

This is virtually a technical amendment that recognizes that many requests for records are not on behalf of an individual, but on behalf of an entity such as a newspaper, a television station, television news, et cetera, et cetera, et cetera, and permits requests from legal entities.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I am looking at the amendment on the computer screen, and it does not seem to match up with the bill. Can you direct us to which section of the bill you are amending? Page 9, line 9, is about a different subject.

The SPEAKER. Would the gentleman, Representative Maher, clarify. The Chair understood he was offering amendment A04726. He started to say 725, but the Chair understood he wanted to offer 726. Is that correct?

AMENDMENT PASSED OVER TEMPORARILY

Mr. MAHER. That is correct, Mr. Speaker, and I am afraid I misunderstood the question.

This essentially would amend by— Perhaps it would be simpler if I went over 726 and we went with 725; maybe that would be easier to understand. Could we do that, Mr. Speaker? Could we go over 726—

On the question recurring,

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

Mr. MAHER offered the following amendment No. **A04725**:

Amend Sec. 102, page 9, line 10, by inserting after "States" or a legal entity

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

The SPEAKER. The Chair recognizes Representative Maher for a brief explanation.

Mr. MAHER. Thank you, Mr. Speaker.

This amends the definition of who can request a record to provide that legal entities, such as newspapers, television news stations, et cetera, et cetera, can make a request. It does not need to be an individual. It does not need to be a resident per se. It can be a legal entity.

The SPEAKER. Does Representative Samuelson seek recognition?

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

The following roll call was recorded:

YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Biancucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Milne	Sipthoth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causer	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longiatti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnaroski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D., Speaker
Freeman	Mantz	Roebuck	

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

The SPEAKER. Does the gentleman, Mr. Maher, have another amendment he wishes to offer?

Mr. MAHER. Yes, Mr. Speaker. Amendment A4728.

On the question recurring,

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

Mr. MAHER offered the following amendment No. **A04728:**

Amend Sec. 506, page 15, lines 7 through 14, by striking out all of lines 7 through 13, "(b)" in line 14 and inserting

(a)

Amend Sec. 506, page 15, line 26, by striking out "(c)" and inserting

(b)

Amend Sec. 506, page 16, line 8, by striking out "(d)" and inserting

(c)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Maher for an explanation on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

For an explanation of the bill, this simply eliminates the provision of the bill which would allow an agency to deny a request based upon the requester making repeated requests and the notion of it being an unreasonable burden on the agency. So it would eliminate that provision.

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. MAHER. I thought you would never ask.

Mr. VITALI. I am just wondering if any of the associations – the county, anyone – has weighed in on this; the county council, supervisors, any groups who might be affected by this, have expressed an opinion one way or the other?

Mr. MAHER. Mr. Speaker, I am working from recollection of the earlier evolutions of this legislation. I do not know of any group that has expressed an opinion on this amendment per se, but similar amendments, in earlier versions, have been supported, as I understand it, by Common Cause, by the Newspaper Association, but as to whether or not this one, specifically, has been addressed by anyone, I do not know.

Mr. VITALI. You see, I am concerned not so much about Common Cause but more the groups who would actually have to be providing, who would have to deal with these so-called unreasonable or burdensome requests, the county commissioners or groups like that. Do you know if they have weighed in on this particular amendment or any other similar language along the way?

Mr. MAHER. I do not know if such groups have; I do know that, in my mind, paying 10 cents or 25 cents a page for most folks in my legislative district, if they wanted to place an undue burden on a government asking for 100,000 pages or something or another, that it gets to be a pretty expensive proposition, even

at those modest costs. So my mind is that the checks and balances here are that the reasonable costs of providing the records serves very much as a balance against completely absurd requests, and that we need not allow for arbitrary decisions about what is a burden.

Mr. VITALI. Could you, again, I am just— A lot of amendments here, and your amendment really deletes language, so it is not obvious from when you just read it what specific language is being deleted. Could you just spell out the exact words that are being deleted here?

Mr. MAHER. I would require a couple minutes to go obtain a copy of the bill from my desk and find the appropriate page number and so forth, but, you know, certainly you could do it in the same time as I can do it. The gist of it, though, without giving the exact words, is the words that are being deleted are the words which provide that an agency can deny a requester access to a record if the requester has made repeated requests and the requests have created an unreasonable burden on the agency.

Mr. VITALI. Okay.

Mr. MAHER. And it strikes me that it is just too easy that if somebody says, gee, I would like to look at January's expenses and then they come and they say I want to look at February's expenses and then they come in and they go, I want to look at March's expenses, it would be too easy, the way this is written, for someone to say, you know what? You asked for these sorts of things repeatedly, and it is an unreasonable burden; go away. I do not want to provide that limitation on access. I think most people who would make it a hobby to just be a pest would discover that over time that, if they want to spend their hard-earned money on photocopies at local governments, that that is a hobby that can get relatively expensive relatively quickly, and that that provides a sufficient safeguard to the public good.

Mr. VITALI. Thank you.

That concludes my interrogation, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the members oppose the amendment.

And in reading the language that the gentleman is trying to strike – the gentleman, Mr. Vitali, asked for the language, and I will read it into the record – and this is under "disruptive requests": "An agency may deny a requester access to a record if the requester has made repeated..." and I will repeat that, "...repeated requests for that same record" – repeated requests for that same record – "which requests have placed an unreasonable burden on the agency.

"A denial under this subsection shall not restrict the ability to request a different record."

Mr. Speaker, I think the language in the bill is reasonable language. It is a useful tool in the open records act, and I think we should be protecting local governments as well as other State agencies and government agencies, for repeated requests for the same record.

This language certainly adds balance in the law. It can be very costly for the same record to be requested over and over and over again. And finally, we allow for arbitration; if the person feels aggrieved after he has repeatedly requested the same record, he can go to an arbitrator and let the arbitrator decide it.

I think this is a very poor amendment, and I would ask that we defeat it.

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

The following roll call was recorded:

YEAS—97

Adolph	Fleck	Marshall	Rapp
Argall	Gabig	Marsico	Raymond
Baker	Geist	McIlhattan	Reed
Barrar	Gillespie	Mensch	Reichley
Bastian	Gingrich	Metcalfe	Roae
Bear	Godshall	Micozzie	Rock
Benninghoff	Grell	Millard	Rohrer
Beyer	Harhart	Miller	Ross
Boback	Harper	Milne	Rubley
Boyd	Harris	Moul	Saylor
Brooks	Helm	Moyer	Scavello
Cappelli	Hennessey	Murt	Schroder
Causar	Hershey	Mustio	Smith, S.
Civera	Hess	Nailor	Sonney
Clymer	Hickernell	Nickol	Stairs
Cox	Hutchinson	Payne	Stern
Creighton	Kauffman	Peifer	Stevenson
Cutler	Keller, M.	Perry	Swanger
Dally	Kenney	Perzel	Taylor, J.
Denlinger	Killion	Petri	True
DiGirolamo	Mackereth	Phillips	Turzai
Ellis	Maher	Pickett	Verab
Evans, J.	Major	Pyle	Vulakovich
Everett	Mantz	Quigley	Watson
Fairchild			

NAYS—105

Belfanti	Gerber	McCall	Siptroth
Bennington	Gergely	McGeehan	Smith, K.
Bianucci	Gibbons	McI. Smith	Smith, M.
Bishop	Goodman	Melio	Solobay
Blackwell	Grucela	Mundy	Staback
Brennan	Haluska	Myers	Steil
Buxton	Hanna	O'Brien, M.	Sturla
Caltagirone	Harhai	O'Neill	Surra
Carroll	Harkins	Oliver	Tangretti
Casorio	Hornaman	Pallone	Taylor, R.
Cohen	James	Parker	Thomas
Conklin	Josephs	Pashinski	Vitali
Costa	Keller, W.	Payton	Wagner
Cruz	Kessler	Petrarca	Walko
Curry	King	Petrone	Wansacz
Daley	Kirkland	Preston	Waters
DePasquale	Kortz	Quinn	Wheatley
Dermody	Kotik	Ramaley	White
DeWeese	Kula	Readshaw	Williams
Donatucci	Leach	Roebuck	Wojnaroski
Eachus	Lentz	Sabatina	Yewcic
Evans, D.	Levdansky	Sainato	Youngblood
Fabrizio	Longietti	Samuelson	Yudichak
Frankel	Mahoney	Santoni	
Freeman	Manderino	Seip	O'Brien, D., Speaker
Galloway	Mann	Shapiro	
George	Markosek	Shimkus	

NOT VOTING—0

EXCUSED—1

DeLuca

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. Does Representative Maher have any other amendments?

Mr. MAHER. Mr. Speaker, I would like to ask that we be temporarily over A4729 in anticipation of the gentelady, Ms. Pickett's amendment A04742. I am not suggesting you skip ahead in the order, but I would like to be over my amendment, assuming that hers will be embraced.

AMENDMENT A04724 WITHDRAWN

The SPEAKER. Is the gentleman withdrawing A04724? I believe that is the only other outstanding amendment the gentleman has?

Mr. MAHER. That is correct, sir.

The SPEAKER. You are withdrawing that?

Mr. MAHER. Yes.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. ROAE offered the following amendment No. A04731:

Amend Sec. 708, page 29, line 7, by striking out all of said line and inserting

(26) (i) A proposal pertaining to agency procurement or

Amend Sec. 708, page 29, by inserting between lines 15 and 16

(ii) (A) This paragraph does not apply to records or other information created or provided by a consultant or other person under contract with an agency and received or retained by the agency or any other person.

(B) If a requester submits a request for a public record, legislative record or financial record relating to information created or provided by a consultant or other person under contract with an agency, and no public record, legislative record or financial record of the information exists, the agency shall create a record by obtaining testimony under oath from the consultant or other person and creating a transcript therefrom.

(C) The testimony shall include information regarding the nature of the work performed under the contract, the specific tasks required by the agency under the contract, the specific tasks performed by the consultant or other person under the contract, any research or findings conducted or issued by the consultant or other person and any recommendations made by the consultant or other person to the agency.

(D) The length or time for the consultant's or other person's testimony shall be based on the value of the contract, at a ratio of 25 minutes of oral testimony for each \$25,000 increment of the contract value.

(E) The transcript shall be considered a public record, legislative record or financial record of the agency and shall be provided to the requester, in accordance with this act, and retained by the agency, in accordance with applicable record retention schedules.

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

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Roae on the amendment.

Mr. ROAE. Thank you, Mr. Speaker.

I stand to offer amendment A4731. My amendment would ensure that consulting work is public record. However, I have a better amendment, which is number 4732. With your permission, Mr. Speaker, I would like to withdraw 4731 and run 4732.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. ROAE offered the following amendment No. **A04732**:

Amend Sec. 708, page 29, line 7, by striking out all of said line and inserting

(26) (i) A proposal pertaining to agency procurement or

Amend Sec. 708, page 29, by inserting between lines 15 and 16

(ii) (A) This paragraph does not apply to records or other information created or provided by a consultant or other person under contract with an agency and received or retained by the agency or any other person.

(B) If a requester submits a request for a public record, legislative record or financial record relating to information created or provided by a consultant or other person under contract with an agency, and no public record, legislative record or financial record of the information exists, the agency shall create a record by obtaining testimony under oath from the consultant or other person and creating a transcript therefrom.

(C) The testimony shall include information in ample detail, which is proportional to the total cost of the contract, regarding the nature of the work performed under the contract, the specific tasks required by the agency under the contract, the specific tasks performed by the consultant or other person under the contract, any research or findings conducted or issued by the consultant or other person and any recommendations made by the consultant or other person to the agency.

(D) The transcript shall be considered a public record, legislative record or financial record of the agency and shall be provided to the requester, in accordance with this act, and retained by the agency, in accordance with applicable record retention schedules.

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

The SPEAKER. The Chair recognizes the gentleman for a brief explanation on the amendment.

Mr. ROAE. Thank you, Mr. Speaker.

My amendment is rather simple. My amendment just ensures that when public tax money is used to pay for consulting work that the government is engaged in, that the public has the right to know what is in the consulting work. If taxpayers are paying for it, we should be able to see it. Sometimes what happens is a consultant report is done orally. There is nothing in writing, nothing in e-mail, no type of document. My amendment would require that if there is consulting work done and there is no written documentation, that the consultant would have to give a statement under oath to satisfy a public record request so that the taxpayer can know how the tax money is being spent.

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will go over temporarily.

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

Mr. MANTZ offered the following amendment No. **A04735**:

Amend Sec. 708, page 30, by inserting between lines 9 and 10
(29) Draft minutes of any meeting of an agency.

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

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Mantz on the amendment.

Mr. MANTZ. Thank you, Mr. Speaker.

Mr. Speaker, inasmuch as my colleague, Representative Mahoney, has incorporated my amendment into his bill, I withdraw that particular amendment.

The SPEAKER. The Chair thanks the gentleman.

Amendment A04735 is withdrawn.

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

The SPEAKER. Does the gentleman wish to offer amendment A04736?

Mr. MANTZ. I was speaking, Mr. Speaker, with respect to 4735. Amendment 4736, I believe, is Representative Benninghoff's amendment.

The SPEAKER. I have it listed under your name.

Does the gentleman have another amendment?

Mr. MANTZ. Yes, Mr. Speaker. That was put accidentally in my name, Mr. Speaker.

The SPEAKER. Does the gentleman have another amendment he wishes to offer?

Mr. MANTZ. Yes. I had 4735, which I likewise withdraw inasmuch as Representative Mahoney has incorporated that in his amendment as well.

The SPEAKER. How about 4734?

Mr. MANTZ. I spoke to that originally, Mr. Speaker. I withdraw that amendment also because it has been incorporated in the Mahoney amendment.

The SPEAKER. The Chair thanks the gentleman.

Does Representative Benninghoff wish to offer amendment A04736? The gentleman withdraws that.

Does the gentleman wish to offer amendment A04737? The gentleman withdraws that.

On the question recurring,

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

Ms. **HARPER** offered the following amendment No. **A04738**:

Amend Sec. 502, page 13, lines 4 through 8, by striking out all of said lines

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes the lady, Representative Harper, on the amendment.

Ms. HARPER. Thank you, Mr. Speaker.

If you could just give me a second to take a look at 4738, I believe I am going to withdraw that one because I think—

The SPEAKER. The Chair would be most happy to take a moment.

Ms. HARPER. I think it was handled in the Mahoney amendment; just a second.

All right. Thank you, Mr. Speaker. I can withdraw 4738. It is no longer necessary.

On the question recurring,

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

The SPEAKER. Does the lady wish to offer amendment A04739?

Ms. HARPER. I do, Mr. Speaker.

On the question recurring,

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

Ms. **HARPER** offered the following amendment No. **A04739**:

Amend Sec. 708, page 25, line 3, by inserting after "body"
at a meeting subject to 65 Pa.C.S. Ch. 7 (relating to open meetings)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Harper on the amendment.

Ms. HARPER. Thank you very much, Mr. Speaker.

Amendment 4739 is in the nature of a technical amendment to bring the records requests in line with the sunshine law. It has been requested by the county commissioners, the township supervisors, and the School Boards Association to make it easier to administer the law at the local level.

I would ask my colleagues to please support the amendment.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Bianucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Milne	Siproth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causar	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longiotti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnaroski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D.,
Freeman	Mantz	Roebuck	Speaker

NAYS—0

NOT VOTING-0

EXCUSED-1

DeLuca

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. PICKETT offered the following amendment No. A04742:

Amend Sec. 1307, page 38, line 23, by striking out "and local agencies"

Amend Sec. 1307, page 38, line 24, by striking out "and"

Amend Sec. 1307, page 38, line 25, by removing the period after "agency" and inserting ; and

(iv) by each local agency.

Amend Sec. 1307, page 38, line 30, by removing the period after "differences" and inserting

and shall be subject to review by the clearinghouse as provided in section 1310(a)(8).

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Pickett on the amendment.

Ms. PICKETT. Thank you, Mr. Speaker.

Amendment 4742 would allow the local agencies to retain their authority, the authority that they now have under the current Right-to-Know Law, to determine the fees they charge for duplication, printing, mailing, and certifying public records.

Under SB 1 as it is currently written, the clearinghouse in Harrisburg would set all of the fees for all local agencies, those agencies from Philadelphia to Forest County to Sullivan County.

Local agencies have set their own public record fees, historically, with virtually no dispute over the rates they charge or the reasonableness of the fee structure.

Under my amendment, fees would continue to be set locally, but they would remain subject to the limitations of the statute and would be periodically reviewed by the clearinghouse for conformity with the statute. I believe that this arrangement would encourage local entities to be diligent in the development of their fee structures, while providing some checks and balances when they are not.

This amendment is supported by the County Commissioners Association, the Pennsylvania State Association of Township Supervisors, and the Pennsylvania School Boards Association.

I urge a "yes" vote on this amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Bianucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Milne	Sipthoth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causer	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longietti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnaroski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D.,
Freeman	Mantz	Roebuck	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-1

DeLuca

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

On the question recurring,

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

Mr. **GABIG** offered the following amendment No. **A04743**:

Amend Sec. 708, page 24, line 7, by removing the period after "AWARD" and inserting
or any written, recorded or other memorialized offers or proposed terms of contract settlements during the period of formal negotiation prior to the expiration of an existing contract to which a public school district is a party and which are in the possession of the public school district for more than 14 calendar days.

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

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Gabig on the amendment.

Mr. **GABIG**. Mr. Speaker, I have another amendment, and so I would like to withdraw this one, and I do not know if I have to wait or if I can go to 4934, 4934.

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

Mr. **GABIG** offered the following amendment No. **A04934**:

Amend Sec. 708, page 24, by inserting between lines 7 and 8
(iii) This paragraph does not apply to any written, recorded or other memorialized offers or proposed terms of contract settlements during the period of formal negotiation prior to the expiration of an existing contract to which a public school district is a party and which are in the possession of the public school district for more than 14 calendar days, unless the board of school directors of the school district, by a majority vote of the members at an open meeting under 65 Pa.C.S. Ch. 7 (relating to open meetings), adopts a resolution to prohibit public access to the records described in this subparagraph. Nothing in this subparagraph shall be construed to require collective bargaining between a public school district and its employees to be conducted at an open meeting under 65 Pa.C.S. Ch. 7.

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

The **SPEAKER**. The Chair recognizes Representative Gabig on the amendment.

Mr. **GABIG**. Thank you, Mr. Speaker.

I would ask my colleagues to support me in this amendment.

The prior amendment was one I had on HB 443. It was more controversial and was opposed by some people. I have responded to their concerns, and what is left here is a local option. So I have watered it down to all that is left here is a local option, and that was the main concern. So it gives you open records but with a local option. So I would ask my colleagues to support this. It is not opposed by the maker of the bill; my prior amendment was, and I withdrew it to be nice. I hope everybody can support this.

Thanks.

The **SPEAKER**. Was the gentleman's amendment A04934 or 4734?

Mr. **GABIG**. My prior amendment that I withdrew was 4743—

The **SPEAKER**. No; the amendment that the gentleman wishes to offer.

Mr. **GABIG**. The number I have is 4934, which is, I think, what is up on the board. That is what I have.

Mr. **DeWEESE**. Mr. Speaker?

The **SPEAKER**. For what purpose does the gentleman, Representative DeWeese, rise?

Mr. **DeWEESE**. To make a comment on the proposal.

The **SPEAKER**. The gentleman is in order and may proceed.

Mr. **DeWEESE**. By virtue of the fact that staff informs me that this amendment would interfere with collective bargaining and collective-bargaining agreements, I would ask for a negative vote on the Gabig amendment.

The **SPEAKER**. Representative Vitali.

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

Will the maker of the amendment stand for brief interrogation?

The **SPEAKER**. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. **VITALI**. I did not quite get a handle on the amendment based on what you said so far. Could you kind of lay it out and talk about the option, who has the option. Just basically lay out what this does from the outset.

Mr. **GABIG**. Yes, as the gentleman might recall, Mr. Speaker, my prior amendment, which he interrogated me on, opened up certain records at school boards, and the complaint from many people – that went down – was this is a local school board, and I think that is what the gentleman, Mr. DeWeese, just said, local issue. So I redrafted it. I do not agree with that. I think open records should be open records, but, you know, I am only 1 of 203 here. And so in deference to the majority will, I redrafted this, which is now 4934, so that the school board would make the decision. So it is a local decision now. It is up to the school board. They can release these records or not, depending on their decision, the local school board.

Mr. **VITALI**. So in the course of negotiating a contract with teachers unions, the school board would have the option to release offers it has made to teachers unions? Is that it?

Mr. **GABIG**. That is not quite accurate. It is during a limited period of time, what is called the formal negotiation period. During the informal negotiation period, the early-bird period, there can be as many discussions or not, as many offers or not, as many public records or not, and those are still exempted under the law, and then after formal negotiation, there is what is called fact-finding, and fact-finding would still be exempted under the law. So this only applies to that period of time which is called formal negotiation, and any of those documents, those public documents which are in the possession of the local school board, it would be up to their option whether or not they wanted to release this to their public in their school district, and they would make that decision under the current version. I do not know if that responds to the gentleman's question, Mr. Speaker.

Mr. **VITALI**. Someone just came up to me in the course of your speaking— They would, in other words, they would have to, as I think I understood, vote not to release it, this information, or it otherwise, by inaction, would be released? Is that how your amendment would make it work?

Mr. **GABIG**. It is the school board, each local school board would make that decision. It would be up to each school board.

So some school boards would make that decision and others would not, depending on local control. So this combines local control of the local school boards with what is the intent of the overall SB 1 and the Mahoney amendment and the other amendments, which is to have the public have access to these documents—

Mr. VITALI. No, no, no; I just want to keep you on track here. I just want to focus in on how the option is exercised, and if you would keep your answer just to that point. Am I correct in saying that the school board's offer during this time period you described would become a matter of public record unless they, by the appropriate votes, said it would not? Just deal with that issue, if you could.

Mr. GABIG. That is correct.

Mr. VITALI. Okay. Has the School Boards Association or any groups representing school boards taken a position on this?

Mr. GABIG. Well, as I honestly and openly said before, since my amendment was defeated – they opposed my prior amendment – and the reason that they did it, and you can check your e-mail, is because they think this should be in the control of the local school board. That was their main objection. This is a local issue, and so that is what this amendment does. I personally do not agree with it; I think it should be open. That is why I had my prior amendment, but—

Mr. VITALI. Again, in all due respect, I am asking really about this amendment, whether they have taken a position on this amendment.

The SPEAKER. The Chair will ask the gentlemen to remember to ask a question and wait for the responder to answer the question and not speak over each other.

Mr. GABIG. Not that I am aware of, and in fact, I think I have responded directly to their concern, and I would also say that I have spoken to the maker of our amendment, Mr. Mahoney, who has no opposition to this very, quite frankly, watered-down version of my original one. This will give access, open records, to people if their school board votes on it. So I would hope the gentleman, who I know has always been for open records—

POINT OF ORDER

Mr. VITALI. Point of order. Point of order. I do not know what to do here, Mr. Speaker. Point of order.

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

Mr. VITALI. I think I am asking a very narrow question and then it goes in directions not asked, but I am just wondering how I deal with that situation.

The SPEAKER. Well, the gentleman stands for interrogation, and that is voluntary. The gentleman can answer the question whatever way he chooses.

Mr. VITALI. Okay. That concludes my interrogation.

Mr. GABIG. Well, just to respond, I do not mean to be unresponsive, which is, I think, what the gentleman thinks.

Mr. VITALI. I have concluded my interrogation.

Mr. GABIG. Thanks.

The SPEAKER. Does the gentleman wish to be recognized on the amendment?

Mr. VITALI. No, I do not.

The SPEAKER. The Chair thanks the gentleman.

Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that we vote against the Gabig amendment.

Mr. Speaker, we considered a like amendment to HB 443, and it was defeated 47 to 149. And I sympathize with the gentleman, Mr. Gabig, because I think most of us do understand why he is offering this amendment, to really try to move the collective-bargaining process forward, and to be quite candid with you, Mr. Speaker, I think it would have the opposite effect, and that is a matter of my opinion and I think the opinion of 149 other members when they considered this amendment before.

And the question you have to ask is, will it improve negotiations or will they make the negotiations worse, and in fact, will it encourage or discourage the collective-bargaining agreements or the discussion as the way we know it, and I firmly believe that it will have a very chilling effect on collective bargaining. And if it was really such good public policy, we should not just be doing it with school districts; we should be doing the same thing with State government and we should be doing the same thing with local governments, and the reason why he is not – because it is not good public policy. The fact of the matter is that information that is being actively negotiated would become a matter of public record in 14 days, whether or not it becomes the agreement of the negotiating teams. The reality is, whatever is agreed to in those negotiation processes, they become public record.

I do not think we should hamper or discourage collective bargaining. It is always done behind closed doors so they can extract the best deal on both sides, and I do not think we should play around with that process, and I would ask that we vote against the amendment.

The SPEAKER. Representative Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker. Just to clarify.

There was some confusion about the position of the Pennsylvania School Boards Association, and in the interim, someone handed me a document by them basically stating that they oppose amendment A4934.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes— Is there any other member seeking recognition on the amendment before the Chair recognizes the prime sponsor?

Representative Gabig, for the second time.

Mr. GABIG. Thank you, Mr. Speaker.

I have not seen that document that was referred to by the prior speaker, so there was not any confusion on my part; I had not seen it. I checked my e-mail right before I stood up, and I do not know if we all have that or not.

I do have to respond to my very good friend from Carbon County, though. This is not the same amendment that was voted before, and I know we are all, some people are getting some chow at their desk here and maybe there is some confusion about that. This is a new amendment, and the reason that it was opposed was because my prior amendment did not have local control, that the school boards could not decide what was best for them, and so I rewrote the amendment, which says nothing in this amendment will require public negotiation, number one. That was a concern. So it is specifically, expressly stated in there, nothing requires these doors to be open. They can still have the closed doors. You can be behind those closed doors and make all the negotiation you want.

I have been behind closed doors and negotiated a lot of things, but when you make a formal, written— I was. I was in the D.A.'s office for a long time. You close those doors, you sit down and hammer out something, then you come back up. But when you come up with a negotiated agreement that you put in writing, that is a public record; that is a public record. You go in court and you put that in there and the court wants to know what it is. They say, are there any sub rosa agreements, things behind the door where skulduggery could be taking place, for all we know? So this opens this up, and when you have a formal agreement that the public is interested in – the public; this is the public school board – that should be open to the public, and they should decide during that formal negotiation what they like and what they do not like and they should have some input into that.

So I have made a huge concession on this. It is now at the local school board level to release this information to the public or not, and when I hear about how important the accountability at the school board level is, I do have to say this about, for example, it is in my district. The school board, they just had an election, as we all know, this past year. It is done by sections or regions for the one school district in my area. Nobody ran for that school director, school board member. There were three write-in votes, three different names. They went to the sheriff's office, the county sheriff's office, to pull a straw to see who those three were going to be. The one straw, the person's name was John Smith. It turned out it was some kind of fictitious name, so I know what they are doing now is a coin flip to decide.

So, you know, this is the open records law, the open records law. We want the public to know. There is no reason why they cannot know this. Why can they not know it? What is the big problem with it? I do not get it now. I have conceded that it is going to be the local school district's option. So if your school districts are different than mine, I know my school district loved transparency and openness, yours might be different. They might like to do things the old way, under the old law, behind closed doors. Well, they are going to be permitted to do that here.

So I honestly do not see what the bugaboo is in this amendment, what the fear is. You know, change – sometimes people are afraid of change, and we have seen that here. But I would ask the other side, do not be afraid of change; embrace change. I ask my friend from Delaware County, embrace that change, open these doors, let the light in. It is still a local option. Let the people see what their government is doing, the documents in their control. They have a right to see that.

I would ask for support of this very watered-down version of my amendment. Thank you.

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

The following roll call was recorded:

YEAS-65

Adolph	Ellis	Mackereth	Quinn
Baker	Everett	Maher	Rapp
Barrar	Fairchild	Major	Raymond
Bastian	Gabig	Mantz	Reichley
Bear	Gingrich	Marsico	Roae
Benninghoff	Harhart	Mensch	Rock

Boback	Harris	Metcalfe	Rohrer
Boyd	Helm	Micozzie	Rubley
Brooks	Hennessey	Millard	Schroder
Cappelli	Hershey	Moul	Smith, S.
Causar	Hickernell	Mustio	Sonney
Civera	Hutchinson	Perry	Steil
Clymer	Kauffman	Petri	Stevenson
Cox	Keller, M.	Phillips	True
Creighton	Kessler	Pickett	Turzai
Cutler	Killion	Quigley	Watson
Denlinger			

NAYS-137

Argall	Gergely	McIlhattan	Seip
Belfanti	Gibbons	Melio	Shapiro
Bennington	Gillespie	Miller	Shimkus
Beyer	Godshall	Milne	Sipthoth
Bianucci	Goodman	Moyer	Smith, K.
Bishop	Grell	Mundy	Smith, M.
Blackwell	Grucela	Murt	Solobay
Brennan	Haluska	Myers	Staback
Buxton	Hanna	Nailor	Stairs
Caltagirone	Harhai	Nickol	Stern
Carroll	Harkins	O'Brien, M.	Sturla
Casorio	Harper	O'Neill	Surra
Cohen	Hess	Oliver	Swanger
Conklin	Hornaman	Pallone	Tangretti
Costa	James	Parker	Taylor, J.
Cruz	Josephs	Pashinski	Taylor, R.
Curry	Keller, W.	Payne	Thomas
Daley	Kenney	Payton	Vereb
Dally	King	Peifer	Vitali
DePasquale	Kirkland	Perzel	Vulakovich
Dermody	Kortz	Petrarca	Wagner
DeWeese	Kotik	Petrone	Walko
DiGirolamo	Kula	Preston	Wansacz
Donatucci	Leach	Pyle	Waters
Eachus	Lentz	Ramaley	Wheatley
Evans, D.	Levdansky	Readshaw	White
Evans, J.	Longietti	Reed	Williams
Fabrizio	Mahoney	Roebuck	Wojnaroski
Fleck	Manderino	Ross	Yewcic
Frankel	Mann	Sabatina	Youngblood
Freeman	Markosek	Sainato	Yudichak
Galloway	Marshall	Samuelson	
Geist	McCall	Santoni	O'Brien, D., Speaker
George	McGeehan	Saylor	
Gerber	McI. Smith	Scavello	

NOT VOTING-0

EXCUSED-1

DeLuca

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

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

Ms. **HARPER** offered the following amendment No. **A04745**:

Amend Sec. 708, page 25, line 1, by inserting after "agency" at a meeting subject to 65 Pa.C.S. Ch. 7 (relating to open meetings)

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

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Harper on the amendment.

Ms. HARPER. Thank you, Mr. Speaker.

I rise to withdraw this amendment, because it is essentially the same as the one we already passed. So thank you very much, but we do not need this one.

The SPEAKER. The Chair thanks the lady very much.

On the question recurring,

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

The SPEAKER. The Chair recognizes the gentleman from York County, Representative DePasquale, who offers— The gentleman indicates he is withdrawing the amendment. The Chair thanks the gentleman.

The Chair recognizes the gentelady from Montgomery County, Representative Harper, who offers amendment A04748, which the clerk will read. Withdrawn? The Chair thanks the lady.

On the question recurring,

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

Mr. VEREB offered the following amendment No. A04752:

Amend Sec. 1304, page 37, line 4, by striking out "and attorney fees" and inserting

, attorney fees and effect of violations

Amend Sec. 1304, page 37, line 23, by striking out all of said line and inserting

(c) Effect of violations by public employee or public official.—

(1) Three violations of this act by a public employee shall be considered grounds for dismissal. The violations must be based on findings by the clearinghouse or a court.

(2) Three violations of this act by a public official shall be considered grounds for forfeiture of office. The violations must be based on findings by the clearinghouse or a court.

(d) Construction.—Nothing in this act shall be construed to prohibit a

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Vereb for an explanation.

Mr. VEREB. Thank you, Mr. Speaker.

Mr. Speaker, I introduce this amendment to provide penalties for public officials and employees who violate the provisions of this proposed act.

The SPEAKER. The Chair recognizes Representative Vitali on the amendment.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. VITALI. I understand, generally, that if there are three violations, an employee will be discharged, but could you kind of thresh that out? What world of employees are we talking about? What constitutes the violation? How is that determined? Just kind of thresh out what your amendment does.

Mr. VEREB. The hope of the amendment is to hold the person responsible that has caused the failure of release of these records, not necessarily the person who makes that decision within a department, the employee that makes that decision within a department, to not allow or to be in direct violation of the act.

Mr. VITALI. So it is the clerk? Or is it the head of the depart— Would it be, let us say, the director of an election bureau or would it be the clerk who says no?

Mr. VEREB. Well, if the clerk is ordered by the director not to release the records, one would assume it would be the director. It is the person that is ultimately accountable or has ownership of the documents that need to be released.

Mr. VITALI. And who makes the determination that a given strike occurs in this sort of three-strike scenario you are creating?

Mr. VEREB. The provision in the amendment is the findings must— Thank you, Mr. Speaker.

The person in the department that would sign off, either to acknowledge that the documents are a public record and would be released, that would be the person, certainly, who would be held responsible. But ultimately, the finding would be by the clearinghouse that I believe is established by this act or by the court. Thank you, Mr. Speaker.

Mr. VITALI. Now, what about in the circumstance— Would there be any given time period? For example, let us say you are a State House member and you have served for 10, 20 years, and you have, over the course of that time, been asked for a lot of information, maybe in 5-year intervals, although most of what you have, you have correctly complied with the law in most cases, but over a long period of time you get three strikes, as it were. For example, I guess it is kind of a compound question. The first question is, would this apply to a public official, would this apply to a legislator?

Mr. VEREB. The second part of this would apply to elected officials.

Mr. VITALI. So we theoretically, if we pass this act, could be removed from office under this provision.

Mr. VEREB. No. This could be used as a tool as part of the— I believe the only thing that constitutionally is sound to remove us from office is an impeachment. This would be a vehicle per se to be used in that process which the Constitution calls for.

Mr. VITALI. So this provision could serve as a grounds for impeachment of a member of the legislature?

Mr. VEREB. We are not going to go beyond the extent of it being constitutional. This particular violation would be serious enough to rise to be used in an impeachment against an elected official.

Mr. VITALI. The definition of "public official," does that include a legislator?

Mr. VEREB. I do not have the definition of "public official" listed in my amendment. I am assuming that the words "public official" would be anyone considered a public official in the Commonwealth.

Mr. VITALI. Right. Now, let me ask you a question: If you are proposing legislation that says three violations would cause

a public official to be discharged, and that would include a member of the legislature, have you reviewed whether this amendment passes constitutional muster?

Mr. VEREB. See, that is a decision that would ultimately be up to the legislature, but I have reviewed it with a number of people, and this is not an attempt to refute the Constitution. And certainly the term "public official," it is not listed in the bill; it certainly would refer to the definition of "public official" that is in the Constitution. Again, this is not here to supersede or in any way override the Constitution; this is to put some bite with the bark that would occur if an elected official were to stand in the way of the release, or violate this act, three times.

Mr. VITALI. Let me ask you the other part of that question: Are those three violations that would cause a public official to lose their job, is there any time period? In other words, if you do not have any violation, do those three violations have to occur within any given time period or could they be over a 30-year period?

Mr. VEREB. Three violations as designated by the amendment.

Mr. VITALI. The question is, is there a time period, or if three violations occurred over a 20-year period, would that still cause a discharge?

Mr. VEREB. Three violations of this act is what the amendment is addressing. Whether or not you are a legislator or if you leave the General Assembly and become a public employee, it is three strikes and you are out.

Mr. VITALI. So there is no time limit. You could have your third strike 20 years after your first strike, under this act, and you would still be out? Is that it?

Mr. VEREB. Mr. Speaker, in all honesty, I think I have answered the question. Thank you.

Mr. VITALI. Okay. That concludes my questions.

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, there are a lot of reasons why I would ask the members to vote against the Vereb amendment, but I will go right to the heart of his amendment, section (c), paragraph (2): "Three violations of this act by a public official shall be considered grounds for forfeiture of office. The violations must be based on findings by the clearinghouse or a court." Mr. Speaker, I would submit to the members that this is a clear violation of Article II, section 2, of the State Constitution, where the powers of each House for the expulsion of its members are contained in the Constitution. This amendment is clearly unconstitutional by allowing a clearinghouse that is created by the open records act, to allow a clearinghouse to expel a public official is absolutely crazy. I would say that this is clearly unconstitutional, to allow a clearinghouse— The clearinghouse that we set up in this act is not punitive; the clearinghouse is to be helpful. There is no way that that clearinghouse has the authority of the Constitution – Article II, section 2 – vested in it. This is clearly unconstitutional, and I would ask that the members vote this issue down on the issue of constitutionality in that the amendment violates Article II, section 2, of our Constitution – or section 11. I am sorry, Mr. Speaker.

The SPEAKER. The gentleman, Representative McCall, raises the point of order that amendment A04752 to SB 1 is unconstitutional.

The Speaker, under rule 4, is required to submit questions of constitutionality of an amendment to the House for decision.

On the question,

Will the House sustain the constitutionality of the amendment?

The SPEAKER. On the point of order, the Chair recognizes the gentleman, Representative McCall.

Mr. McCALL. Again, Mr. Speaker, the amendment clearly articulates in section (c), subsection (2), that the clearinghouse has the ability, after three violations of this act, the public official has to forfeit his or her office. That is clearly unconstitutional. It runs contrary to Article II, section 11, and I would ask the members to vote that the amendment is unconstitutional.

The SPEAKER. The Chair will remind members they are allowed to speak once on the issue of constitutionality.

Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

Just in contrast to the previous speaker, I do not believe that my amendment states that the clearinghouse can remove an employee and/or a public official; rather, the clearinghouse can determine that there was an actual violation of the act. So I encourage, obviously, a vote that it is constitutional.

The SPEAKER. Those who believe the amendment is constitutional will vote "aye"; those believing the amendment is not constitutional will vote "nay."

On the question recurring,

Will the House sustain the constitutionality of the amendment?

The following roll call was recorded:

YEAS—67

Adolph	Denlinger	Killion	Reed
Argall	DiGirolamo	Leach	Reichley
Baker	Ellis	Maher	Roae
Bastian	Evans, J.	Major	Rock
Bear	Everett	Marsico	Rohrer
Benninghoff	Fleck	Micozzie	Schroder
Beyer	Gabig	Moyer	Smith, S.
Boback	Geist	Murt	Sonney
Boyd	Godshall	Mustio	Stairs
Brooks	Harhart	O'Neill	Stern
Cappelli	Harper	Peifer	Stevenson
Civera	Harris	Perry	Taylor, J.
Clymer	Helm	Perzel	True
Cox	Hershey	Petri	Turzai
Creighton	Hickernell	Pickett	Vereb
Cutler	Hutchinson	Quinn	Watson
Dally	Kenney	Raymond	

NAYS—135

Barrar	Goodman	McIlhattan	Santoni
Belfanti	Grell	Melio	Saylor
Bennington	Grucela	Mensch	Scavello
Biancucci	Haluska	Metcalfe	Seip
Bishop	Hanna	Millard	Shapiro
Blackwell	Harhai	Miller	Shimkus
Brennan	Harkins	Milne	Siptroth

Buxton	Hennessey	Moul	Smith, K.
Caltagirone	Hess	Mundy	Smith, M.
Carroll	Hornaman	Myers	Solobay
Casorio	James	Nailor	Staback
Causar	Josephs	Nickol	Steil
Cohen	Kauffman	O'Brien, M.	Sturla
Conklin	Keller, M.	Oliver	Surra
Costa	Keller, W.	Pallone	Swanger
Cruz	Kessler	Parker	Tangretti
Curry	King	Pashinski	Taylor, R.
Daley	Kirkland	Payne	Thomas
DePasquale	Kortz	Payton	Vitali
Dermody	Kotik	Petrarca	Vulakovich
DeWeese	Kula	Petrone	Wagner
Donatucci	Lentz	Phillips	Walko
Eachus	Levdansky	Preston	Wansacz
Evans, D.	Longietti	Pyle	Waters
Fabrizio	Mackereth	Quigley	Wheatley
Fairchild	Mahoney	Ramaley	White
Frankel	Manderino	Rapp	Williams
Freeman	Mann	Readshaw	Wojnaroski
Galloway	Mantz	Roebuck	Yewcic
George	Markosek	Ross	Youngblood
Gerber	Marshall	Rubley	Yudichak
Gergely	McCall	Sabatina	
Gibbons	McGeehan	Sainato	O'Brien, D.,
Gillespie	McI. Smith	Samuelson	Speaker
Gingrich			

NOT VOTING—0

EXCUSED—1

DeLuca

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

The SPEAKER. The amendment is declared unconstitutional.

On the question recurring,

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

Mr. TANGRETTI offered the following amendment No. A04930:

Amend Title, page 1, by inserting before line 1 (A04720)

Amend Title, page 1, line 5, by striking out "an Open Records Clearinghouse" and inserting

the Pennsylvania Public Records Office

Amend Table of Contents, page 2, line 5, by striking out all of said line and inserting Section 503. (Reserved).

Amend Table of Contents, page 1, by inserting between lines 6 and 7 (A04720)

Amend Table of Contents, page 2, line 26, by striking out all of said line

Amend Table of Contents, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting Section 3101.2. Severability.

Amend Sec. 102, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting

Amend Sec. 102, page 4, lines 13 through 21, by striking out all of said line

Amend Sec. 102, page 2, by inserting between lines 6 and 7 (A04720)

Amend Sec. 102, page 9, by inserting between lines 8 and 9 "Records office." The Pennsylvania Public Records Office established under section 1310.

Amend Bill, page 3, lines 3 through 7 (A04720), by striking out all of said lines and inserting

Amend Sec. 503, page 13, lines 9 through 30; page 14, lines 1 through 7, by striking out all of said lines on said pages and inserting Section 503. (Reserved).

Amend Sec. 504, page 14, line 11, by striking out "clearinghouse" and inserting records office

Amend Sec. 504, page 14, line 12, by inserting after "agency" where it appears the first time , legislative agency

Amend Sec. 504, page 14, line 17, by striking out "clearinghouse" and inserting records office

Amend Sec. 505, page 14, line 23, by striking out "agencies.—The clearinghouse" and inserting agencies and legislative agencies.—The records office

Amend Sec. 505, page 14, line 24, by inserting after "Commonwealth" agencies, legislative agencies

Amend Sec. 505, page 14, line 28, by striking out "clearinghouse's" and inserting record office's

Amend Sec. 505, page 15, lines 2 through 5, by striking out all of said lines and inserting records office.

Amend Sec. 708, page 4, by inserting between lines 18 and 19 (A04720)

Amend Sec. 708, page 20, lines 17 and 18, by striking out "Commonwealth or local"

Amend Bill, page 7, lines 24 through 30 (A04720), by striking out all of said lines and inserting

Amend Sec. 1101, page 33, line 11, by striking out all of said line and inserting records office within 15

Amend Sec. 1101, page 33, lines 18 through 20, by striking out "a" in line 18, all of line 19 and "assign an appeals officer to" in line 20 and inserting

an agency, the records office shall

Amend Sec. 1101, page 33, lines 22 and 23, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 33, line 26, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 33, line 29, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 33, line 30, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 8, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 9, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 12, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 15, by striking out "appeals officer" and inserting records office

Amend Sec. 1102, page 34, lines 19 through 30; page 35, lines 1 through 21, by striking out all of said lines on said pages

Amend Sec. 1301, page 35, line 27, by striking out "appeals officer" and inserting

records office

Amend Sec. 1302, page 36, line 12, by striking out "appeals officer" and inserting

records office

Amend Sec. 1303, page 37, line 3, by striking out "appeals officer" and inserting

records office

Amend Sec. 1304, page 37, line 6, by striking out "appeals officer" and inserting

records office

Amend Sec. 1307, page 38, lines 21 through 26, by striking out the colon after "established" in line 21 and all of lines 22 through 26 and inserting

by the records office.

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1310, page 7, lines 41 and 42; page 8, lines 1 through 17 (A04720), by striking out all of said lines on said pages and inserting

Amend Bill, pages 41 and 42, lines 1 through 30, by striking out all of said lines on said pages and inserting

Section 1310. Pennsylvania Public Records Office.

(a) Establishment.—The Pennsylvania Public Records Office is established within the State Ethics Commission, which shall appoint an executive director of the public records office who shall hire other staff as necessary to operate the office.

(b) Powers and duties.—The director of the public records office has the following powers and duties:

(1) To receive and respond to requests for information from persons who have been denied access to public records by a Commonwealth agency, a local agency, the General Assembly or a legislative agency under this act.

(2) To receive and respond to requests for information from a Commonwealth agency, a local agency, the General Assembly or a legislative agency regarding compliance with this act.

(3) To order a Commonwealth agency, a local agency, the General Assembly or a legislative agency to comply with provisions of this act upon finding that a request for access to a public record was properly made.

(4) To issue advisory opinions on compliance with this act.

(5) To request information from Commonwealth agencies, local agencies, the General Assembly and legislative agencies in order to make compliance determinations under this act. All information supplied by a Commonwealth agency, a local agency, the General Assembly or a legislative agency which is relevant to a request shall be subject to confidentiality under subsection (c).

(6) To guide and oversee the compliance with this act by all Commonwealth agencies, local agencies, the General Assembly and legislative agencies.

(7) To provide a list to any requesting agency or individual of Federal and State laws that exempt certain types of records from disclosure.

(8) To make its advisory opinions and written decisions available for review.

(9) To conduct training for public officials, public employees and third parties relating to the Commonwealth's access laws with assistance from the Department of Community and Economic Development's Center for Local Government.

(10) To issue a report semi-annually to the General Assembly and to the Governor, which report shall include, but not be limited to:

(i) The number of requests to review denials from persons making public record requests.

(ii) The number of public record requests which were determined, upon review of the access office, to have been improperly denied.

(iii) The number of requests made by agencies seeking clarification on compliance with this act.

(iv) The number of orders issued by the public records office directing an agency to comply with this act.

(v) The number of advisory opinions issued by the public records office.

(vi) The number of requests for the list of Federal and State exemptions to public access of records.

(vii) The number of training sessions conducted for public officials, public employees and third parties relating to public access of records, including the number of persons attending such training sessions.

(11) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(12) To promulgate any regulations necessary to administer this act.

(13) Set a schedule for the requester and agency to submit documents in support of their positions.

(14) To review all information filed relating to a request. The public records office may hold a hearing, but the decision to hold or not to hold a hearing is not appealable. The public records office may admit into evidence testimony, evidence and documents it believes to be reasonably probative and relevant to an issue in dispute. The public records office may limit the nature and extent of evidence to be cumulative.

(c) Confidentiality.—All information requested by the public records office from an agency in order to make a determination of whether an agency is complying with this act shall remain confidential and shall not be subject to public access.

(d) Fees.—The following shall apply:

(1) The public records office may impose a reasonable filing fee for an appeal made under section 1101, and any fees collected under this subsection shall be deposited in a restricted account in the General Fund which is established for the public records office. The money from this account shall be appropriated as necessary for the operation of the public records office.

(2) The public records office may waive the filing fee if the person requesting access to the public record is unable to afford the fee based on guidelines established by the public records office.

Section 1311. Administrative appeals.

(a) General rule.—Notwithstanding any other provision of law, a party aggrieved by a denial or deemed denial of access to a public record by a Commonwealth agency, local agency, the General Assembly or a legislative agency may, within 30 days after a request is denied or deemed denied, appeal to the public records office by forwarding to the office a copy of the request and the written explanation for the denial, if any, provided by the Commonwealth agency, local agency, the General Assembly or legislative agency, and requesting a review of the matter.

(b) Ruling.—

(1) Within 30 business days after receipt of the appeal, the public records office shall rule either that the denial or deemed denial of access to the record by the Commonwealth agency, local agency, the General Assembly or legislative agency is upheld or that the decision to deny access to the record was improper, and a Commonwealth agency, the local agency, the

General Assembly or legislative agency must provide access to the record. The public records office may hold a private hearing on the matter and may review the record.

(2) The 30-business-day period may be extended by agreement of the parties. If the parties do not agree to an extension or the public records office does not issue a ruling within 30 business days after the date of the appeal, the denial from the Commonwealth agency, local agency, the General Assembly or legislative agency shall be deemed affirmed.

(c) Explanation.—If the public records office upholds the decision of the Commonwealth agency, local agency, the General Assembly or legislative agency to deny access to the public record, the office shall fully explain in writing to the person requesting the public record the reason for the denial. If the public records office rules that the Commonwealth agency, local agency, the General Assembly or legislative agency shall provide access to the public record, it shall order the Commonwealth agency, local agency, the General Assembly or legislative agency to provide the individual with access to the record and shall fully explain in writing the reason access must be provided.

(d) Other appeals.—Costs or attorney fees shall not be awarded under this section for administrative appeal to the public records office under this section.

Amend Bill, page 10, by inserting between lines 12 and 13 (A04720)

Section 3101.1. Severability.

All provisions of this act are severable.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Tangretti for an explanation of the amendment.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, this amendment reverts back to the language dealing with the appeal of any decision by an agency not to release documents that was in the original HB 443 that the Representative from Fayette County had, and I think it only makes sense that we, in my opinion, allow the Ethics Commission to be the clearinghouse by creating the Pennsylvania Public Records Office within their jurisdiction, in which they would hire the executive director and staff to do the appropriate review of appeals. I think it is consistent, it is standard, it reduces the burden for a number of people to go to a number of different appeal agencies and individuals, and I think this is the appropriate place where it should be. And I would ask all the members to consider this amendment and, hopefully, vote in the positive. Thank you.

The SPEAKER. Will the House agree to the amendment?

The House will be at ease.

The Chair recognizes Representative Shapiro on the amendment.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I applaud the maker of the amendment's intent, and I understand his intent is to try to create an office that is as strong as it can be to ensure that the public has access to as many records as possible. I, however, rise in opposition to the gentleman's amendment. I do so based upon the global compromise that we have been able to reach. Actually, I should not yet call it a compromise but the global discussions that we have had, Democrat and Republican, who have come together to try to come up with a solution to address the gentleman's concerns. Specifically, what we do as it relates to the executive director and what we have tried to do to accomplish greater

independence for the executive director is to vest that executive director with a 6-year term, a term that does not necessarily run concurrent with one Governor or another, to create more independence for that office, very similar to how the FDA (Food and Drug Administration), for example, would work down in Washington, DC. In addition to that, as I understand it relevant to the Ethics Commission, I understand the Ethics Commission at this time is not prepared to accept the responsibilities, as the gentleman's amendment would lay out.

And so I would urge the members to vote against the Tangretti amendment, recognizing that the baseline language is such that we will still have independence in this office and still have a very strong Office of Open Records. Thank you, Mr. Speaker.

The SPEAKER. Are there any members seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Tangretti, for the second time.

Mr. TANGRETTI. Thank you, Mr. Speaker.

With all due respect for the gentleman from Montgomery County, I really believe that this is the way that we should proceed. I think that it is removed from the possibility of, regardless of the term, of the administration – any administration – from here into the future having some concerns or causing some concerns by appointing that executive director. And I would also remind the gentleman from Montgomery County, as was brought out in debate earlier on another amendment, that this is to be implemented in a year from now, so I would think that the Ethics Commission would have plenty of time to do what they need to do to gear up for this.

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

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—144

Adolph	Fleck	Marsico	Reichley
Argall	Freeman	McGeehan	Roae
Baker	Gabig	McIlhattan	Rock
Barrar	Geist	Melio	Roebuck
Bastian	George	Mensch	Rohrer
Bear	Gibbons	Metcalfe	Ross
Benninghoff	Gillespie	Micozzie	Rubley
Bennington	Gingrich	Millard	Sabatina
Beyer	Godshall	Miller	Samuelson
Boback	Grell	Milne	Saylor
Boyd	Grucela	Moul	Scavello
Brennan	Hanna	Moyer	Schroder
Brooks	Harhart	Murt	Seip
Buxton	Harper	Mustio	Smith, K.
Caltagirone	Harris	Nailor	Smith, M.
Cappelli	Helm	Nickol	Solobay
Carroll	Hennessey	O'Brien, M.	Sonney
Causar	Hershey	O'Neill	Staback
Civera	Hess	Oliver	Stairs
Clymer	Hickernell	Pallone	Steil
Conklin	Hornaman	Payne	Stern
Costa	Hutchinson	Peifer	Stevenson
Cox	Josephs	Perry	Swanger
Creighton	Kauffman	Perzel	Tangretti
Cruz	Keller, M.	Petrarca	Taylor, J.
Cutler	Keller, W.	Petri	True
Daley	Kenney	Phillips	Turzai

Dally	Kessler	Pickett	Vereb
Denlinger	Killion	Pyle	Vitali
DePasquale	Kula	Quigley	Vulakovich
DiGirolamo	Mackereth	Quinn	Watson
Donatucci	Maher	Ramaley	White
Ellis	Mahoney	Rapp	Wojnaroski
Evans, J.	Major	Raymond	Yewcic
Everett	Mantz	Readshaw	Youngblood
Fairchild	Marshall	Reed	Yudichak

NAYS—58

Belfanti	Gergely	Mann	Siptroth
Bianucci	Goodman	Markosek	Smith, S.
Bishop	Haluska	McCall	Sturla
Blackwell	Harhai	McI. Smith	Surra
Casorio	Harkins	Mundy	Taylor, R.
Cohen	James	Myers	Thomas
Curry	King	Parker	Wagner
Dermody	Kirkland	Pashinski	Walko
DeWeese	Kortz	Payton	Wansacz
Eachus	Kotik	Petrone	Waters
Evans, D.	Leach	Preston	Wheatley
Fabrizio	Lentz	Sainato	Williams
Frankel	Levdansky	Santoni	
Galloway	Longietti	Shapiro	O'Brien, D.,
Gerber	Manderino	Shimkus	Speaker

NOT VOTING—0

EXCUSED—1

DeLuca

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?

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. I believe it is a parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. MAHER. Now, the amendment just adopted dealt with changing the "clearinghouse" term and so forth. It strikes me that that means there are a number of amendments – though some have been considered and others yet to be considered – that now have a defect that is curable under our rules by allowing amendments to be redrafted and resubmitted. What is the procedure— I guess I am just trying to understand, for amendments that are yet to be considered, it seems straightforward enough that a member has to read his amendment and decide if it has been adversely affected by the one that just passed. If it has, they need to notice the Chair, and then the Chair will grant them dispensation or whatever is appropriate. They will go to LRB (Legislative Reference Bureau) and proceed with redrafting. But I guess my question is more towards, for instance, the Mahoney amendment makes references— I am not quite sure where we stand, I guess,

in terms of, given the adoption of this amendment, how that affects all the preceding amendments. Can the Chair provide some guidance to us?

The SPEAKER. The opportunity for replacement amendments is lost if they have already been considered. Those amendments that have not been considered, if they are affected by the previous adoption of the amendment, can be offered as replacement amendments.

Mr. MAHER. So what is the result with respect to amendments that have already been considered that refer to an entity—

The SPEAKER. The Chair has already answered that.

Mr. MAHER. —that no longer exists?

The SPEAKER. The Chair has already answered that question.

Mr. MAHER. I did not understand.

The SPEAKER. If amendments had been offered, the opportunity to have a replacement amendment drafted is lost.

Mr. MAHER. So I am guessing that we will wind up with a bill then that has references in it to an entity that does not exist anymore? That is what I am trying to understand.

The SPEAKER. The Legislative Reference Bureau will reconcile those differences. The result of the last amendment is what it is. If it affects amendments that have yet to be offered, replacement amendments can be requested.

The House will be at ease.

LEAVE OF ABSENCE

The SPEAKER. Without objection, Representative GRELL will be placed on leave. The Chair sees no objection.

The House will continue to be at ease.

CONSIDERATION OF SB 1 CONTINUED**AMENDMENT A04930 RECONSIDERED**

The SPEAKER. The Chair is in receipt of a reconsideration motion.

Representative McCall and Representative Evans move that the vote by which amendment A04930 was passed to SB 1, PN 1583, on the 10th day of December 2007 be reconsidered.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes Representative Tangretti on the motion to reconsider.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, just to explain what has occurred, in an effort to move the process forward, as a result of the passage of the amendment, we have, in effect, brought the process to a standstill, which was not my intent. What has been agreed to by me is that – and others – that we will reconsider this vote and it will be taken again at the end of the night so that all the other amendments that would have been ruled out of order or had to have been redrafted, which, of course, would have delayed the process significantly to the extent that we may not have had the opportunity to get this to the Governor before the end of the

year, can be offered, will be offered and voted on, and then ultimately, with the reconsideration of this amendment, at the end of the night, at the end of this debating period – hopefully it is not too much longer in this evening – then we will offer the amendment again, and I would appreciate a vote for reconsideration. Thank you.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. The honorable gentleman from Westmoreland's recantation of the agreement was precise, and I embrace his perspective.

The SPEAKER. Representative Maher.

Mr. MAHER. Mr. Speaker, I understand the mechanical aspects insofar as they have been described. However, it strikes me that as we undertake further amendments that refer to an entity which would be obliterated by the gentleman, Mr. Tangretti's amendment, that we will actually be compounding the difficulty already before us. And I suppose it would make sense to travel the path described by Mr. Tangretti if, in fact, his amendment would be redrafted so that all these other parts of the bill, and I understand what the Speaker said earlier, that LRB could do something to reconcile these differences, but I genuinely do not know that we should get in the business of having conflicts between entities that exist and entities that do not exist and that LRB can just paper it over. That has never been my experience here before. I certainly understand how LRB can reconcile references to sections and numbers and subsections and so forth, but substantive questions such as whether or not an entity exists are really not, it seems to me, matters for LRB to simply be scribbling away.

So I guess what I am asking for from the other side of the aisle would be a commitment that if we do, in fact, reconsider this amendment, that it will, in fact, be reintroduced as an amendment which contemplates the bill as it is and not the bill as it once was. Those are very different bills at this point. Is the Chair aware of other cases where LRB simply has gone about changing substantive text in bills in ways not adopted by this chamber or the other chamber? I cannot think of one. And it may just be as simple as Mr. Tangretti adding an amendment that says any reference to the one would be deemed to be a reference to the other. Maybe that would get it done; I do not know, but I certainly do not think we can expect to have a finished product that refers to one entity in some places, another entity in other places, and it seems to me that part of the point of his amendment is that they are really very different entities. If they were identical entities, identical in their authority and mission and responsibilities and lines of chain of command and we are just dealing with the name—

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

Mr. MAHER. —I think that would be okay, but that is not before us.

The SPEAKER. For what purpose does the majority leader rise?

Mr. DeWEESE. Only to encourage my honorable friend from Upper St. Clair to focus on the motion to reconsider and have the Speaker focus on it too, respectfully.

Mr. MAHER. Well, you know, Mr. Speaker, this very much affects my thoughts on whether we should be reconsidering, because to reconsider so that we can compound the problem before us does not seem to be a good path. The members who have conflicting amendments at this stage can have them

redrafted, and we will have no further compounding of this problem. But to say that the alternative, with reconsideration as it has been described, would be that we would merrily go forth adopting amendments that will refer to one entity and full expectation that that entity will cease to exist, which basically means all of those amendments will refer to actions to be taken by an entity that will not exist, but there being no provision that those responsibilities are to be taken up by the new entity to be created, it seems to me that that is more than just a technical problem; it is at the crux of whether or not to reconsider, because I think I would rather have amendments redrafted based on how the bill is than sally forth and face a more compound problem later.

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

The following roll call was recorded:

YEAS—118

Adolph	Frankel	Manderino	Scavello
Argall	Freeman	Mann	Seip
Baker	Galloway	Markosek	Shapiro
Belfanti	George	McCall	Shimkus
Bennington	Gerber	McGeehan	Siproth
Bianucci	Gergely	McI. Smith	Smith, K.
Bishop	Gibbons	Melio	Smith, M.
Blackwell	Goodman	Miller	Smith, S.
Brennan	Grucela	Moul	Solobay
Buxton	Haluska	Mundy	Staback
Caltagirone	Hanna	Mustio	Sturla
Carroll	Harhai	Myers	Surra
Casorio	Harkins	O'Brien, M.	Tangretti
Civera	Harris	Oliver	Taylor, R.
Cohen	Hess	Pallone	Thomas
Conklin	Hornaman	Parker	Vitali
Costa	James	Pashinski	Wagner
Cruz	Josephs	Payton	Walko
Curry	Keller, W.	Petrarca	Wansacz
Daley	Kessler	Petrone	Waters
DePasquale	King	Phillips	Wheatley
Dermody	Kirkland	Preston	White
DeWeese	Kortz	Ramaley	Williams
DiGirolo	Kotik	Readshaw	Wojnaroski
Donatucci	Kula	Roebuck	Yewcic
Eachus	Leach	Rohrer	Youngblood
Ellis	Lentz	Sabatina	Yudichak
Evans, D.	Levdansky	Sainato	
Fabrizio	Longietti	Samuelson	O'Brien, D., Speaker
Fairchild	Mahoney	Santoni	

NAYS—83

Barrar	Gillespie	Mensch	Reed
Bastian	Gingrich	Metcalf	Reichley
Beare	Godshall	Micozzie	Roae
Benninghoff	Harhart	Millard	Rock
Beyer	Harper	Milne	Ross
Boback	Helm	Moyer	Ruble
Boyd	Hennessey	Murt	Saylor
Brooks	Hershey	Nailor	Schroder
Cappelli	Hickernell	Nickol	Sonney
Causer	Hutchinson	O'Neill	Stairs
Clymer	Kauffman	Payne	Steil
Cox	Keller, M.	Peifer	Stern
Creighton	Kenney	Perry	Stevenson
Cutler	Killion	Perzel	Swanger
Dally	Mackereth	Petri	Taylor, J.
Denlinger	Maher	Pickett	True
Evans, J.	Major	Pyle	Turzai

Everett	Mantz	Quigley	Vereb
Fleck	Marshall	Quinn	Vulakovich
Gabig	Marsico	Rapp	Watson
Geist	McIlhattan	Raymond	

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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

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

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will go over temporarily.

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

Mr. **McCALL** offered the following amendment No. **A04754**:

Amend Sec. 3101, page 46, by inserting between lines 20 and 21
(5) If a provision of this act regarding access to a record conflicts with any other Federal or State statute, regulation or judicial order or decree, the provision of this act shall not control.

Amend Bill, page 47, by inserting between lines 6 and 7

Section 3103. References.

A reference in a statute, regulation or judicial order or decree to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, shall be deemed a reference to this act.

Amend Sec. 3103, page 47, line 7, by striking out "3103" and inserting

3104

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

The SPEAKER. The Chair recognizes Representative McCall on the amendment.

Mr. **McCALL**. Thank you, Mr. Speaker.

Mr. Speaker, the amendment that I am offering mirrors pretty much what is in the Mahoney amendment, but we wanted to add some more clarification in that we all understand that open records is intended to deal with public records, and I believe that that is exactly and precisely what this bill does. But we also recognize that there are other things or other information that is released by government that is not a public record – and let me reemphasize that – that we do, in fact, release information to other entities that are not public records, and we do that for a variety of good reasons. And if Chairman Geist and Chairman Markosek will allow me to wear my transportation hat, I will refer you to the Drivers Privacy Protection Act that allows for and provides that driver's license information can go to the insurance industry so they can rate those driver's licenses through an underwriting process with the records that they obtain from PENNDOT, and Federal law

allows that to occur; there is a Federal law on the books that allows that to occur. And if that did not happen, the insurance industry would have a real concern, and it can literally place that industry in crisis without having that kind of information, that underwriting information, on drivers that they insure.

I, frankly, do not believe that this legislation really has an effect on the law in that way. I think that that flow of information will continue to flow, and I want to say for the record that it is not our intent to, in any which way, stop the flow of that nonpublic record from flowing to those industries – the insurance industry, the banking industry, et cetera. But I am going to offer the amendment because there is concern within the insurance industry, within the banking industry, within the reporting credit agencies pursuant to the Fair Credit Reporting Act and other laws, and other industries do, in fact, have concerns that that free flow of information that they need to have at their disposal will not be released to them. And I just want to make it abundantly clear with the amendment that I am offering here, that I wanted to make it clear and unambiguous that nothing in this act is intended to preclude the release of appropriate information for legitimate purposes, that this information is being released pursuant to some other State or Federal law and we are not going to stop that information from being released, and I would ask that we vote for the McCall amendment.

The SPEAKER. Will the House agree to the amendment? Representative Gabig.

Mr. **GABIG**. Thank you, Mr. Speaker.

I wonder if the gentleman would stand for interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. **GABIG**. Thank you, Mr. Speaker.

I want to thank the gentleman for that explanation. It was very helpful to me and I am sure many others on the floor. My question has to do, I think it is the second part of the McCall amendment that appears on the computer screen, I am not sure what section, but the second part which references the old 1957 law, to draw the gentleman's attention to what my question has to do with. Is there anything in there – I completely agree with what the gentleman is trying to do, health issues, insurance issues – but is there anything in there, in that old 1957 law which you cite by reference and will thereby be incorporated into our current law, which would prevent, for example, legislative records from being released or other records? I mean, are there exemptions that are listed in the 1957 law that are cited that could potentially really take a lot of the meat out of what we are trying to do or not? Has that been looked at by your staff to ensure that we are not going a little bit too far with this McCall amendment?

Mr. **McCALL**. It does not have any effect at all on that.

Mr. **GABIG**. Okay. So the reference to the 1957 law that might be cited in other statutes or regulations or court orders will not prevent us from, in fact, doing what we have been trying to do in this SB 1 as amended. Is that the gentleman's intent with this amendment?

Mr. **McCALL**. Yes, Mr. Speaker, and just for the information of the members, the language that I have referenced in this amendment is already in the Statutory Construction Act.

Mr. **GABIG**. I would thank the gentleman for those responses, and I do not have any further comment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—201

Adolph	Gabig	Marshall	Ross
Argall	Galloway	Marsico	Rubley
Baker	Geist	McCall	Sabatina
Barrar	George	McGeehan	Sainato
Bastian	Gerber	McI. Smith	Samuelson
Bear	Gergely	McIlhattan	Santoni
Belfanti	Gibbons	Melio	Saylor
Benninghoff	Gillespie	Mensch	Scavello
Bennington	Gingrich	Metcalfe	Schroder
Beyer	Godshall	Micozzie	Seip
Biancucci	Goodman	Millard	Shapiro
Bishop	Grucela	Miller	Shimkus
Blackwell	Haluska	Milne	Siptroth
Boback	Hanna	Moul	Smith, K.
Boyd	Harhai	Moyer	Smith, M.
Brennan	Harhart	Mundy	Smith, S.
Brooks	Harkins	Murt	Solobay
Buxton	Harper	Mustio	Sonney
Caltagirone	Harris	Myers	Staback
Cappelli	Helm	Nailor	Stairs
Carroll	Hennessey	Nickol	Steil
Casorio	Hershey	O'Brien, M.	Stern
Causer	Hess	O'Neill	Stevenson
Civera	Hickernell	Oliver	Sturla
Clymer	Hornaman	Pallone	Surra
Cohen	Hutchinson	Parker	Swanger
Conklin	James	Pashinski	Tangretti
Costa	Josephs	Payne	Taylor, J.
Cox	Kauffman	Payton	Taylor, R.
Creighton	Keller, M.	Peifer	Thomas
Cruz	Keller, W.	Perry	True
Curry	Kenney	Perzel	Turzai
Cutler	Kessler	Petrarca	Vereb
Daley	Killion	Petri	Vitali
Dally	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGirolamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longiotti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Wojnaroski
Evans, J.	Maher	Readshaw	Yewcic
Everett	Mahoney	Reed	Youngblood
Fabrizio	Major	Reichley	Yudichak
Fairchild	Manderino	Roae	
Fleck	Mann	Rock	O'Brien, D.,
Frankel	Mantz	Roebuck	Speaker
Freeman	Markosek	Rohrer	

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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

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

Mr. KAUFFMAN offered the following amendment No. A04756:

Amend Sec. 102, page 8, by inserting between lines 7 and 8
(18) The results of polling contracted for or conducted by a legislative agency and paid for with funds of the legislative agency.

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

The SPEAKER. The Chair recognizes Representative Kauffman for an explanation of the amendment.

Mr. KAUFFMAN. Thank you, Mr. Speaker.

This amendment is very simple. It attempts to bring under public disclosure any polling done by a legislative agency and paid for by that same legislative agency.

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

The following roll call was recorded:

YEAS—201

Adolph	Gabig	Marshall	Ross
Argall	Galloway	Marsico	Rubley
Baker	Geist	McCall	Sabatina
Barrar	George	McGeehan	Sainato
Bastian	Gerber	McI. Smith	Samuelson
Bear	Gergely	McIlhattan	Santoni
Belfanti	Gibbons	Melio	Saylor
Benninghoff	Gillespie	Mensch	Scavello
Bennington	Gingrich	Metcalfe	Schroder
Beyer	Godshall	Micozzie	Seip
Biancucci	Goodman	Millard	Shapiro
Bishop	Grucela	Miller	Shimkus
Blackwell	Haluska	Milne	Siptroth
Boback	Hanna	Moul	Smith, K.
Boyd	Harhai	Moyer	Smith, M.
Brennan	Harhart	Mundy	Smith, S.
Brooks	Harkins	Murt	Solobay
Buxton	Harper	Mustio	Sonney
Caltagirone	Harris	Myers	Staback
Cappelli	Helm	Nailor	Stairs
Carroll	Hennessey	Nickol	Steil
Casorio	Hershey	O'Brien, M.	Stern
Causer	Hess	O'Neill	Stevenson
Civera	Hickernell	Oliver	Sturla
Clymer	Hornaman	Pallone	Surra
Cohen	Hutchinson	Parker	Swanger
Conklin	James	Pashinski	Tangretti
Costa	Josephs	Payne	Taylor, J.
Cox	Kauffman	Payton	Taylor, R.
Creighton	Keller, M.	Peifer	Thomas
Cruz	Keller, W.	Perry	True
Curry	Kenney	Perzel	Turzai
Cutler	Kessler	Petrarca	Vereb
Daley	Killion	Petri	Vitali
Dally	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGirolamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley

Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Wojnarowski
Evans, J.	Maher	Readshaw	Yewcic
Everett	Mahoney	Reed	Youngblood
Fabrizio	Major	Reichley	Yudichak
Fairchild	Manderino	Roae	
Fleck	Mann	Rock	O'Brien, D.,
Frankel	Mantz	Roebuck	Speaker
Freeman	Markosek	Rohrer	

NAYS-0

NOT VOTING-0

EXCUSED-2

DeLuca Grell

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

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

Mr. **REICHLEY** offered the following amendment No. **A04759**:

Amend Sec. 3102, page 47, by inserting between lines 6 and 7
(3) (i) The General Assembly declares the repeal under subparagraph (ii) is necessary to effectuate the provisions of section 102.
(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

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

AMENDMENT PASSED OVER TEMPORARILY

The **SPEAKER**. The Chair recognizes Representative Reichley for an explanation of the amendment.
This amendment will go over temporarily.

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

Mr. **SOLOBAY** offered the following amendment No. **A04763**:

Amend Sec. 506, page 16, line 6, by inserting after "access" substantially
Amend Sec. 708, page 24, line 4, by striking out "award" and inserting
proceedings
Amend Sec. 708, page 24, by inserting between lines 4 and 5
(ii) An arbitration opinion and award, any exhibits entered into evidence at an arbitration proceeding and any transcript of an arbitration proceeding.

Amend Sec. 708, page 24, line 5, by striking out "(ii)" and inserting
(iii)
Amend Sec. 708, page 24, line 7, by striking out "ARBITRATION AWARD" and inserting
final order in an arbitration proceeding

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

The **SPEAKER**. The Chair recognizes Representative Solobay on the amendment.

Mr. **SOLOBAY**. Thank you, Mr. Speaker.

Basically what this amendment will allow for is that the final word of arbitration rulings will be that that will be disclosed, but the negotiations that go on during an arbitration hearing would not be.

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

The following roll call was recorded:

YEAS-180

Adolph	Gerber	McGeehan	Sainato
Argall	Gergely	McI. Smith	Samuelson
Baker	Gibbons	McIlhattan	Santoni
Barrar	Gillespie	Melio	Saylor
Bastian	Gingrich	Mensch	Scavello
Belfanti	Godshall	Micozzie	Seip
Benninghoff	Goodman	Millard	Shapiro
Bennington	Grucela	Miller	Shimkus
Beyer	Haluska	Milne	Siproth
Biancucci	Hanna	Moul	Smith, K.
Bishop	Harhai	Moyer	Smith, M.
Blackwell	Harhart	Mundy	Smith, S.
Boback	Harkins	Murt	Solobay
Brennan	Harper	Mustio	Sonney
Buxton	Harris	Myers	Staback
Caltagirone	Helm	Nailor	Stairs
Cappelli	Hennessey	O'Brien, M.	Steil
Carroll	Hershey	O'Neill	Stern
Casorio	Hess	Oliver	Stevenson
Causer	Hornaman	Pallone	Sturla
Civera	James	Parker	Surra
Clymer	Josephs	Pashinski	Swanger
Cohen	Keller, W.	Payne	Tangretti
Conklin	Kenney	Payton	Taylor, J.
Costa	Kessler	Peifer	Taylor, R.
Cruz	Killion	Perry	Thomas
Curry	King	Perzel	Turzai
Daley	Kirkland	Petrarca	Vereb
Dally	Kortz	Petri	Vitali
DePasquale	Kotik	Petrone	Vulakovich
Dermody	Kula	Pickett	Wagner
DeWeese	Leach	Preston	Walko
DiGirolamo	Lentz	Pyle	Wansacz
Donatucci	Levdansky	Quigley	Waters
Eachus	Longietti	Quinn	Watson
Ellis	Mackereth	Ramaley	Wheatley
Evans, D.	Maher	Raymond	White
Evans, J.	Mahoney	Readshaw	Williams
Everett	Major	Reed	Wojnarowski
Fabrizio	Manderino	Reichley	Yewcic
Fleck	Mann	Roebuck	Youngblood
Frankel	Mantz	Rohrer	Yudichak
Freeman	Markosek	Ross	
Galloway	Marshall	Rubley	O'Brien, D.,
Geist	Marsico	Sabatina	Speaker
George	McCall		

NAYS—21

Bear	Denlinger	Kauffman	Rapp
Boyd	Fairchild	Keller, M.	Roae
Brooks	Gabig	Metcalf	Rock
Cox	Hickernell	Nickol	Schroder
Creighton	Hutchinson	Phillips	True
Cutler			

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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

On the question recurring,

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

Mr. S. SMITH offered the following amendment No. **A04764**:

Amend Bill, page 46, by inserting between lines 20 and 21 Section 3101.1. Continuation.

(a) General rule.—Except as set forth in subsection (b), this act is a continuation of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and any reference to that act shall be considered a reference to this act.

(b) Exception.—Nothing in this act shall be construed to adopt any prior judicial interpretation of the Right-to-Know Law.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Smith for a brief explanation on the amendment.

Mr. S. SMITH. Thank you, Mr. Speaker.

Given the fact that the McCall amendment passed a little bit ago, I do not believe we will need to consider this language, and I would withdraw the amendment, Mr. Speaker. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. STEIL offered the following amendment No. **A04785**:

Amend Table of Contents, page 2, by inserting between lines 1 and 2

Section 307. Special legislative task force.

Amend Bill, page 11, by inserting after line 30 Section 307. Special legislative task force.

(a) Establishment.—There is hereby established a legislative task force to study and develop a methodology for the General Assembly to implement and administer the provisions of this act as the act relates to records of the General Assembly.

(b) Composition of task force.—The task force shall consist of:

(1) Four members of the General Assembly, one each chosen by the Majority Leader and Minority Leader of the Senate and Majority Leader and Minority Leader of the House of Representatives.

(2) One member from a public media association appointed by the Speaker of the House of Representatives.

(3) One member from a public interest group, appointed by the President pro tempore.

(4) The Chief Clerk of the Senate.

(5) The Chief Clerk of the House of Representatives.

(c) Organization.—The task force shall select a chairperson and adopt operating procedures.

(d) Purpose.—The purpose of the task force is to adopt standards by which to interpret legislative records to ensure compliance with the intent of this act while protecting the confidential and personal relationships between legislators and their constituents. To that end, the task force shall study:

(1) Technology which might categorize legislative records, especially electronic records to define compliance.

(2) Determine changes which might be necessary to legislative storage and retrieval systems consistent with the legislative standards adopted.

(e) Report.—Within six months of the effective date of this section the task force shall make its report which when adopted by the Senate and the House of Representatives shall fully implement the intent of section 303. If the task force makes no report within six months or the Senate and the House of Representatives do not approve such report, then section 303 shall be implemented as drafted.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Steil on the amendment.

Mr. STEIL. Thank you, Mr. Speaker.

This amendment was offered in anticipation of other amendments being added to the bill. Since it has not happened, I will withdraw the amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. BENNINGHOFF offered the following amendment No. **A04819**:

Amend Sec. 708, page 6, lines 1 and 2 (A04720), by striking out all of said lines and inserting

Amend Sec. 708, page 28, lines 8 through 10, by striking out "the cause" in line 8, all of line 9, "activity or criminal negligence" in line 10 and inserting

and the cause and manner of death to all persons interested therein

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Benninghoff for a brief explanation.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

This, too, is a pretty brief technical amendment. We are just adding a clause on behalf of the Coroners Association across the Commonwealth, and we are inserting to make sure the words "and the cause and manner of death to all persons interested therein" are added to this amendment, and I would appreciate people's support. Thank you very much.

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

The following roll call was recorded:

YEAS—201

Adolph	Gabig	Marshall	Ross
Argall	Galloway	Marsico	Rubley
Baker	Geist	McCall	Sabatina
Barrar	George	McGeehan	Sainato
Bastian	Gerber	McI. Smith	Samuelson
Bear	Gergely	McIlhattan	Santoni
Belfanti	Gibbons	Melio	Saylor
Benninghoff	Gillespie	Mensch	Scavello
Bennington	Gingrich	Metcalfe	Schroder
Beyer	Godshall	Micozzie	Seip
Bianucci	Goodman	Millard	Shapiro
Bishop	Grucela	Miller	Shimkus
Blackwell	Haluska	Milne	Siptroth
Boback	Hanna	Moul	Smith, K.
Boyd	Harhai	Moyer	Smith, M.
Brennan	Harhart	Mundy	Smith, S.
Brooks	Harkins	Murt	Solobay
Buxton	Harper	Mustio	Sonney
Caltagirone	Harris	Myers	Staback
Cappelli	Helm	Nailor	Stairs
Carroll	Hennessey	Nickol	Steil
Casorio	Hershey	O'Brien, M.	Stern
Causar	Hess	O'Neill	Stevenson
Civera	Hickernell	Oliver	Sturla
Clymer	Hornaman	Pallone	Surra
Cohen	Hutchinson	Parker	Swanger
Conklin	James	Pashinski	Tangretti
Costa	Josephs	Payne	Taylor, J.
Cox	Kauffman	Payton	Taylor, R.
Creighton	Keller, M.	Peifer	Thomas
Cruz	Keller, W.	Perry	True
Curry	Kenney	Perzel	Turzai
Cutler	Kessler	Petrarca	Vereb
Daley	Killion	Petri	Vitali
Dally	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGirolamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Wojnaroski
Evans, J.	Maher	Readshaw	Yewcic
Everett	Mahoney	Reed	Youngblood
Fabrizio	Major	Reichley	Yudichak
Fairchild	Manderino	Roae	
Fleck	Mann	Rock	O'Brien, D.,
Frankel	Mantz	Roebuck	Speaker
Freeman	Markosek	Rohrer	

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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

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

Mr. **PALLONE** offered the following amendment No. **A04827**:

Amend Sec. 3101, page 9, by inserting between lines 26 and 27 (A04720)

(2) This act shall apply to records in existence prior to as well as subsequent to the effective date of this act.

Amend Sec. 3101, page 9, line 27 (A04720), by striking out "(2)" and inserting

(3)

Amend Sec. 3101, page 9, line 29 (A04720), by striking out "(3)" and inserting

(4)

Amend Sec. 3101, page 9, line 35 (A04720), by striking out "(4)" and inserting

(5)

Amend Sec. 3101, page 9, line 38 (A04720), by striking out "(5)" and inserting

(6)

Amend Sec. 3101, page 10, line 4 (A04720), by striking out "(6)" and inserting

(7)

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

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Pallone for an explanation on the amendment.

The gentleman withdraws the amendment. The Chair thanks the gentleman.

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

The **SPEAKER**. The Chair recognizes the gentleman from Montgomery County, Representative Shapiro, who offers amendment A04885.

The gentleman indicates the amendment is withdrawn. The Chair thanks the gentleman.

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

Mr. S. SMITH offered the following amendment No. A04887:

Amend Sec. 708, page 20, line 21, by inserting after "required" or authorized

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

The SPEAKER. The Chair recognizes the minority leader for an explanation of the amendment.

Mr. S. SMITH. Mr. Speaker, this amendment does parallel some of the language we were just talking about a little bit ago with the McCall amendment and the other amendment that I withdrew. What it hopes to do, Mr. Speaker, is clarify a situation where the law – the bill as it is drafted says that if the Federal law requires information to be released to some entity, that we would have to do that. What this amendment would do is it would change that to "authorized," essentially saying that if Federal law requires or authorizes, but maybe does not mandate, information to be released, that we would still have the ability to release information to those entities that the McCall amendment references, which are essentially people that do business with the Commonwealth but are not exactly government agencies. And hopefully it will clarify that, that where Federal law either requires or allows, and the way we do that is by changing the word "required" to "authorized."

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—201

Table listing names of members who voted 'YEAS' (201 total). Includes names like Adolph, Argall, Baker, Barrar, Bastian, Bear, Belfanti, Benninghoff, Bennington, Beyer, Bianucci, Bishop, Blackwell, Boback, Boyd, Brennan, Brooks, Buxton, Caltagirone, Cappelli, Carroll, Casorio, Causer, Civera, Clymer, Cohen, Conklin, Costa, Cox, Creighton, Cruz, Curry, Gabig, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Goodman, Grucela, Haluska, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Helm, Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, James, Josephs, Kauffman, Keller, M., Cruz, Kenney, Marshall, Marsico, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Mensch, Metcalfe, Micozzie, Millard, Miller, Milne, Moul, Moyer, Mundy, Murt, Mustio, Myers, Nailor, Nickol, O'Brien, M., O'Neill, Oliver, Pallone, Parker, Pashinski, Payne, Payton, Peifer, Perry, Perzel, Ross, Rubley, Sabatina, Sainato, Samuelson, Santoni, Saylor, Scavello, Schroder, Seip, Shapiro, Shimkus, Siptroth, Smith, K., Smith, M., Smith, S., Solobay, Sonney, Staback, Stairs, Steil, Stern, Stevenson, Sturla, Surra, Swanger, Tangretti, Taylor, J., Taylor, R., Thomas, True, Turzai.

Table listing names of members who did not vote or were excused. Includes names like Cutler, Daley, Dally, Denlinger, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Evans, J., Everett, Fabrizio, Fairchild, Fleck, Frankel, Freeman, Kessler, Killion, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longiotti, Mackereth, Maher, Mahoney, Major, Manderino, Mann, Mantz, Markosek, Petrarca, Petri, Petrone, Phillips, Pickett, Preston, Pyle, Quigley, Quinn, Ramaley, Rapp, Raymond, Readshaw, Reed, Reichley, Roae, Rock, Roebuck, Rohrer, Vereb, Vitali, Vulakovich, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, White, Williams, Wojnarowski, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker.

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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

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

The SPEAKER. The Chair rescinds its announcement that amendment A04885 was withdrawn.

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

Mr. SHAPIRO offered the following amendment No. A04885:

Amend Sec. 3101, page 9, line 28 (A04720), by striking out "103" and inserting 102

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

The SPEAKER. The Chair recognizes Representative Shapiro for an explanation on the amendment.

Mr. SHAPIRO. Mr. Speaker, this is a technical amendment. The Mahoney amendment A, which went in earlier, referenced on page 9, line 28, section 103, when, in fact, it should have referenced section 102.

I would just ask the members to support this technical correction. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—201

Adolph	Gabig	Marshall	Ross
Argall	Galloway	Marsico	Rubley
Baker	Geist	McCall	Sabatina
Barrar	George	McGeehan	Sainato
Bastian	Gerber	McI. Smith	Samuelson
Bear	Gergely	McIlhattan	Santoni
Belfanti	Gibbons	Melio	Saylor
Benninghoff	Gillespie	Mensch	Scavello
Bennington	Gingrich	Metcalfe	Schroder
Beyer	Godshall	Micozzie	Seip
Biancucci	Goodman	Millard	Shapiro
Bishop	Grucela	Miller	Shimkus
Blackwell	Haluska	Milne	Siptroth
Boback	Hanna	Moul	Smith, K.
Boyd	Harhai	Moyer	Smith, M.
Brennan	Harhart	Mundy	Smith, S.
Brooks	Harkins	Murt	Solobay
Buxton	Harper	Mustio	Sonney
Caltagirone	Harris	Myers	Staback
Cappelli	Helm	Nailor	Stairs
Carroll	Hennessey	Nickol	Steil
Casorio	Hershey	O'Brien, M.	Stern
Causar	Hess	O'Neill	Stevenson
Civera	Hickernell	Oliver	Sturla
Clymer	Hornaman	Pallone	Surra
Cohen	Hutchinson	Parker	Swanger
Conklin	James	Pashinski	Tangretti
Costa	Josephs	Payne	Taylor, J.
Cox	Kauffman	Payton	Taylor, R.
Creighton	Keller, M.	Peifer	Thomas
Cruz	Keller, W.	Perry	True
Curry	Kenney	Perzel	Turzai
Cutler	Kessler	Petrarca	Vereb
Daley	Killion	Petri	Vitali
Dally	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGirolamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Wojnaroski
Evans, J.	Maher	Readshaw	Yewcic
Everett	Mahoney	Reed	Youngblood
Fabrizio	Major	Reichley	Yudichak
Fairchild	Manderino	Roe	
Fleck	Mann	Rock	O'Brien, D.,
Frankel	Mantz	Roebuck	Speaker
Freeman	Markosek	Rohrer	

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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

On the question recurring,

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

Mr. **KORTZ** offered the following amendment No. **A04962**:

Amend Bill, page 7, by inserting between lines 40 and 41 (A04720)

Amend Sec. 1307, page 40, line 19, by inserting after "\$100." The agency may require a certified check, money order or other form of verified payment of funds when requiring open records request fees to be prepaid.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Kortz on the amendment.

The gentleman indicates he is withdrawing the amendment. The Chair thanks the gentleman.

On the question recurring,

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

Mr. **REICHLEY** offered the following amendment No. **A04965**:

Amend Sec. 3102, page 10, by inserting between lines 12 and 13 (A04720),

Amend Sec. 3102, page 47, by inserting between lines 6 and 7
 (3) (i) The General Assembly declares the repeal under subparagraph (ii) is necessary to effectuate the definition of "State-affiliated entity" in section 102.
 (ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative— The gentleman withdraws.

Does the gentleman intend to offer any other amendments? The gentleman withdraws the remainder of his amendments. The Chair thanks the gentleman.

On the question recurring,

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

Mr. **YUDICHAK** offered the following amendment No. **A04981**:

Amend Sec. 701, page 17, line 11, by inserting after "agency." Communications between registered lobbyists and public officials shall be exempted only when the registered lobbyist is acting outside the scope of his lobbying activities.

Amend Sec. 701, page 17, line 14, by removing the period after "agency" and inserting

or to exempt records relating to communications between corporations and public officials.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Yudichak on the amendment.

Mr. YUDICHAK. Thank you, Mr. Speaker.

There is a great writer who had a saying once, that do not mistake motion for action. We have been debating open records and debating reform now for many, many months, and I have talked to many of my colleagues on both sides of the aisle, and the level of frustration continues to increase because we see motion but no action.

The real issue in open records comes down to, and I believe the prime sponsor, the gentleman that has put his heart and soul to this bill, said it best, it comes down to the money. Constituents in Luzerne County, the most important thing that they are concerned about when it comes to open records is how are we spending their hard-earned tax dollars. So as we talk about opening the shutters and allowing the sunshine to come in the window, we have got to make sure that we are not bringing down the blinds right behind that.

My amendment gets at the heart of what I think most people, certainly most constituents, are concerned about and that is the money that we spend – their hard-earned tax dollars, that \$27.2 billion in the General Fund – they want to make sure that the lobbyists, the special interests, and the corporations that influence this place, that those records are open; that if someone is having a communication with a lobbyist and then trying to advance policy in this chamber, the people should have a right to know exactly how they are being influenced.

Please support the Yudichak amendment. Thank you.

The SPEAKER. Representative Maher.

Mr. MAHER. May I ask the maker of the amendment to answer a couple of questions, just for clarity?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

And I know you to be a man of genuine integrity and a terrific legislator and have offered this with all the right purposes, but I would ask you, we all get endless, endless unsolicited correspondence from individuals, firms registered as lobbyists, and you may remember under our lobbying law, we also have the principal, that it may not be the lobbyists per se but those engaged as lobbyists. We all get all sorts of correspondence. Would this mean that when you open your e-mail and discover 22 bits of e-mail that you did not ask for and, frankly, you probably trash at a pretty good clip, that is now, under this amendment, that would be a public document, I believe. Is that correct?

Mr. YUDICHAK. Where would the e-mails be coming from? A constituent or from a—

Mr. MAHER. No. Some lobbyist sends you an e-mail that says, please vote "yes" on amendment XYZ, or some union sends you an e-mail and it says, please vote "no" on amendment ABC. We all get a zillion of these e-mails, and frankly, they do not have, generally, long life expectancies in my in-basket, and I am suspecting that is the same for most members of this body, and when you are talking about the communications between a lobbyist and a public official, it sounds to me that you would include those as public records. Am I understanding that?

Mr. YUDICHAK. I believe they would be included if the intent is to influence the process and influence the legislator, that they would be included.

Mr. MAHER. And you, like me, probably get stacks and stacks and stacks and stacks of correspondence,

glossy materials, much of which you go through triage – those things that may be of interest, those things that this lobbyist has contacted you and everybody else 1,000 times about and goes right to the circular file, et cetera. That would all be covered now as being public record?

Mr. YUDICHAK. My intent is to get out, and as you know, there are many ways that lobbyists or corporations try to influence this process, particularly in terms of the appropriation of funds. That, and if we can carve it out and if that can be done in conference committee, I will certainly be agreeable. I do not want to inundate everyone's offices with every e-mail and every piece of correspondence. However, we are in new ground here, and perhaps the new clearinghouse can further define exactly what we have. Not every piece of mail that is sent to me is received. Some of that does not get to my eye or to my desk.

So I understand your question, I understand your point, and I appreciate your making that point.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my inquiries, and I know the gentleman who offers this amendment appreciates the concern that I do have, and that it seems to me that the correspondence that I am most certainly never going to throw away is correspondence from my constituents. I have got 60,000 bosses, and when they write to me, they have got my attention, by e-mail, by letter, whatever. But all of those others, I try to dispose of most of that junk mail as readily as possible, and my concern is that if all of that junk mail is now a public record, instead of having a trash can in my office – because constituent stuff never goes into the trash, what is going into the trash is what comes from everybody else – and so instead of having a trash can, I am going to need to have a file cabinet so that these public records— I do understand what your concern is, and I would add that we are completing the first year just now, under the new lobbying law and the disclosures, and there is a great deal of information that is now available on the Web so we can see who is hiring whom and spending what to influence what issues.

And I am just concerned that without refinement, and maybe I will just present it back to you as an open-ended question, if the gentleman will receive any further interrogation, but without refinement, I am just concerned that we are going to have a real practical problem implementing this amendment.

May I ask the gentleman's—

Mr. YUDICHAK. Mr. Speaker, thank you.

If I can flip the question back to you, the important – in an effort, in a dialogue to try to flesh this out because I think you are making a valid point, how would you separate out the important correspondence from the lobbyists or from a corporation, one that may be of great significance?

Mr. MAHER. Well, it might disappoint them to realize there is not very much that would find its way into such a category, and I recognize that that is not much of a standard that could be applied, but just with the open-ended question I have left you with, if you want to illuminate for me, that would be appreciated, but I just, you know, even with the e-mail—

Mr. YUDICHAK. If I could, Mr. Speaker, for an example, corporation X corresponds with a legislator. That correspondence has information that, in turn, becomes a smoking gun in an investigation.

Mr. MAHER. Well—

Mr. YUDICHAK. How do you separate and say, well, there is the junk mail and then there is the serious mail? My point is, we may be able to get to that, and perhaps the wise colleagues

of ours that will be appointed to the conference committee or the individuals and the professionals that will be involved in this clearinghouse can get to that, but right now in this first step, as this is being called throughout the Commonwealth, a first step toward open records, that as it happens here in Harrisburg, this will not be the last word. But maybe we can get to that. I want it on the table, I want it for discussion, I want it debated.

Mr. MAHER. Thank you. That concludes my interrogation.

And I understand the gentleman—

The SPEAKER. The gentleman is in order if he wishes to make comments.

Mr. MAHER. Thank you.

I do understand the genuine issue that the gentleman is pursuing here, but if I understand his description, the question is, you save everything because we are not certain how we would define anything less than that, and I have got to just be candid and say there are certain lobbyists and lobbying firms and principals that I even use a spam filter for. I do not even know that they are sending me things, and that now I am going to be obliged to preserve such traffic is — it does not seem like a very good answer.

And so with the hope that a lot of the clarity about who is trying to influence whom about what and what they are spending to do it is going to be addressed under our lobbying law and is being addressed under the lobbying law that became effective this year, I am going to have to demur from being able to support the amendment as it stands.

And in another area of clarity that I think is going to be required is when it says, communications are to become a public record, does that mean, you know, a lot of communication happens in conversation or telephonically. Does this create some burden to maintain either an electronic recording or some sort of a series of notes or a transcript or something such from those conversations? And if it would, then that is going to incur a lot of costs.

Now, I have taken some pride in the years in having among the leanest staffs in the legislature, but I am afraid just to file and sort and transcribe to preserve the junk mail will add a cost that will add staff, that will not really advance the public interest in any way.

So I am afraid that as much as I respect what the gentleman is trying to accomplish, I think this is a bridge that is too far.

Thank you, Mr. Speaker.

The SPEAKER. Representative Manderino, on the amendment.

Ms. MANDERINO. Thank you, Mr. Speaker.

Will the maker of the amendment stand for a brief interrogation?

The SPEAKER. The gentleman indicates that he will. The lady is in order and may proceed.

Ms. MANDERINO. Thank you, Mr. Speaker.

The prior member asked about communications with lobbyists in what I will call after the fact, meaning after a legislation or an item is before us for consideration and they are trying to influence our vote. But I want to talk about communications with lobbyists at other times, because the language of your amendment does not talk about influence of a vote, but communication with a lobbyist.

As I read your amendment, if I communicate with a lobbyist or a lobbyist communicates with me in the development of legislation or in offering an opinion about a bill that I am

considering introducing, that would be covered under your amendment. Is that your understanding as well?

Mr. YUDICHAK. Communications between a lobbyist and a public official. The basis of and the intent of my legislation on its face is that it is hard for me to comprehend that a lobbyist, who influences the process, that we are going to say that is a private and exempted correspondence; that a correspondence between a legislator and a lobbyist or a corporation on a specific piece of legislation, they are exempted in terms of anything outside the scope of their lobbying activity. Private correspondence, communication specifically on the influence of this process, that correspondence would be covered by the open records act.

Ms. MANDERINO. Okay. So I think you answered yes, but let me be very specific. I am contemplating introducing a bill on the problem with the delivery of obstetrical services in Pennsylvania. My approach to developing legislation is to think of every potential person affected by what it is I am trying to do and gather input from them as I am developing my bill. So in that case, I would reach out to obstetricians. I would reach out to hospital administrators. I would reach out to trial lawyers. I would reach out to health-care practitioners who live in my district. I would think of the whole universe of people who might like or not like the idea that I am planning to develop into legislation so that I can develop the most comprehensive bill that I can think to address the problem as I see it. As your language is written, all of that communication is now a public record. Am I correct?

Mr. YUDICHAK. As we gather information in the committee process, that information is generally public, yes. So I am not exactly sure if I know where you are going. I mean, you were describing exactly how we should move a piece of legislation, so I think that is public and those people would understand that they are dealing in the public arena.

Ms. MANDERINO. Let me clarify one more time before I— A piece of legislation that is already developed and introduced is a public document. A piece of legislation that is not yet introduced, from my perspective, is my work product. Does your language affect my work product?

Mr. YUDICHAK. I do not believe so. You referenced that you would be speaking to physicians, et cetera. They are not registered lobbyists. They would not be under them.

Ms. MANDERINO. If I ask the Hospital and Healthcare Association of Pennsylvania for their opinion about what is impacting the obstetrical problems in Pennsylvania because I have a couple of ideas of how I might want to introduce legislation to address that, is their opinion to me about from where they sit as a registered lobbyist as to how it impacts the opinion, which may or may not make its way into my work product of a bill that is not yet introduced, is that a communication under your language?

Mr. YUDICHAK. Depending on the determination of the clearinghouse and how this bill finally evolves, that would be to be determined. The correspondence in the specific language of the amendment, for registered lobbyists as a correspondence, communication with a legislator, that is public record. Your example, the clearinghouse could say, this is not a bill before the House, this is a general opinion on legislation that is being developed, could be exempt. That is going to be determined by the clearinghouse.

Ms. MANDERINO. Thank you, Mr. Speaker.

I have finished my interrogation and would like to speak on the amendment.

The SPEAKER. The lady is in order and may proceed.

Ms. MANDERINO. Thank you, Mr. Speaker.

I appreciate very much the gentleman's response to my interrogatories, but based on his response, I am asking members of the House to vote "no" on this amendment.

The amendment itself says nothing about final product which is already part of the public dialogue and is already a public record on which somebody is expressing an opinion. The language of the amendment, if you take a minute to look at it, talks about all communications. I think it is very dangerous and actually stifling to the legislative process to consider preliminary work-product issues as communications under the open records law.

As a matter of fact, in the body of the open records law as it came over from the Senate and as was in the Mahoney amendment, we specifically had work product – work product – as an exempt classification, and it makes sense to do that. Quite frankly, I believe that the best pieces of legislation are ones that started as an idea that was thoroughly vetted by the proposer before they actually put it into writing. I suspect that the vast majority of members approach drafting legislation and considering solutions to problems which may become legislative documents, the same way I do. You do not work in a vacuum, you do not take your ideas only in your own head and think that you have the answer to the solution. You reach out, you reach out to every vested interest or interested person or group that you could think of that might have a stake in the solution you are trying to solve. Some of those will be private citizens, some of those will be registered lobbyists.

A potential risk of this, because if you think about how we amended and opened our Lobbying Disclosure Act, is a lot of citizens who, prior to the passage of our new Lobbying Disclosure Act, clearly saw themselves, when they were advocating with their legislators, as individual citizens advocating on something, and some of them started to ask themselves, well now under this new Lobbying Disclosure Act, am I now becoming a lobbyist so that I now have an obligation to register? And that is a struggle that I think some people are still trying to work their way through.

I think this, in combination, would basically make everybody that you reach out to a lobbyist, whether it is the private citizen in your district who happens to be a nurse that works in a hospital or the hospitals association, just using the example I used in interrogation. But even if it does not, do we really want work product to be part of an open record? I do not think that that is good public policy. I think the goal of following the money of who is trying to influence the process is a valuable and worthy goal. I think that goal is accomplished through our current, enhanced, stronger lobbying disclosure law, which we passed last session and is just being implemented now.

I think the combination of the open records legislation as we have it drafted so far combined with our lobbying disclosure law will reach the goal of people being able to follow the money and see who is trying to influence the process, because under the lobbying disclosure law, they not only have to report what they are spending but they have to report what issues they are spending it on. So I think we have already accomplished that, and I ask you, please, to think very seriously about how you want your work product, your preliminary work product, to be

perceived. I want my work product to be just that, my private work product and not a public document until I introduce it across the desk and make it a bill for open debate.

So, please, I urge a "no" vote on this amendment.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative Grell on the floor. His name will be added to the master roll.

CONSIDERATION OF SB 1 CONTINUED

The SPEAKER. The Chair recognizes Representative Leach on the amendment.

Mr. LEACH. Thank you, Mr. Speaker.

I rise in opposition to this amendment. A couple of weeks ago when we debated this, overwhelmingly we rejected an amendment which would have said that all of our e-mails are subject to the request of anybody, at any time, as a public record, and instead, we came up with what I think was a very well-crafted compromise on that issue, that Representative Shapiro and others came up with, which is that there are certain defined public records and if they happen to be e-mail, then they are recoverable, and if you can provide them in another form, then you can provide it in that form and meet any request for that information. That is a reasonable approach to take.

Mr. Speaker, if this amendment were to become law, that would completely obviate and destroy that carefully crafted compromise, and I think it would be a real disservice to the House to do that. There are a variety of contacts, and Representative Manderino and others have mentioned them, where communication with lobbyists is an important part of the legislative process. What is our strategy? Candid assessments of other lobbyists or other interest groups or other legislators, candid discussions about what would be acceptable to this group and what would not be acceptable. Negotiations where you say, would you be willing to accept this? How about if we start here and try to get there? You cannot negotiate in public with the newspaper printing every offer and every counteroffer that is going back and forth. You have to judge us on our product, and you certainly can judge us on any contributions we receive. But saying that people should be— I mean, this says, any communications. Now, I guess that does not mean that people are going to be listening in on our phone calls and sitting in our office, but it is the same thing as an e-mail or as a letter.

The fact is, it is very important that we have private conversations sometimes as part of the legislative process. We will destroy the deliberative process if we get rid of the ability to have candid, private conversations on important legislative matters. And ironically, the average person is not going to get any more information than they get now, because what will happen is, if we know that anyone can request an e-mail we send, then we are not going to use e-mail. We are just going to use it for the most mundane, banal scheduling matters. We will walk across the hall, we will walk across the street, and we will have a private conversation. The same thing will be communicated; it will be much less efficient, because now you can send an e-mail to six or seven different lobbyists or interest groups or whatever it is, advocates, at a time. But if you have to

walk around and try to reach someone on the phone, it is very difficult, it is going to wind up costing the taxpayers money.

The bottom line, Mr. Speaker, is, we have an interest as a legislator in being a deliberative body with candid, private discussions on very important, sensitive matters whereupon we are then judged on the product that we present to the people of Pennsylvania.

So I would strongly urge anyone who cares about this body as an institution to vote against this amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

If the maker could please rise for brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. VEREB. The question of "public official" came up under my amendment. I do not know if you heard my definition, but what is your definition of "public official" in this amendment?

Mr. YUDICHAK. Primarily the intent and what I am trying to focus on is the Senate and the House in the Commonwealth of Pennsylvania. A "public official," I am sure, is defined in the bill, and I could get that further definition for you.

Mr. VEREB. Okay. I do not know if it is defined in the bill or referred to the Constitution. We definitely agree on that.

My good colleague from Philadelphia brought up the issue of the work product, the conversation that would occur before a bill would be introduced. In reading through on that, it is saying that the lobbyist is acting outside – the exemption is unless the lobbyist is acting outside of the scope of his or her lobbying activities. If our questioning – I do not want to be too redundant – but if our questioning or if our phone call or if our informational request, like we so often do via e-mail or via letter, is from us to them, unrelated to any types of solicitations they may have made to a bill or close to that bill in the past – I just missed the answer to that question – do you feel that that communication, with your amendment, would be public record?

Mr. YUDICHAK. Yes, I believe that the possibility can be that it would be exempted, and let me explain why. What I am trying to get at in terms of lobbying activity, and the reason that I have and that I point out that you exempt nonlobbying-related activity, if we are trying to develop a piece of legislation and we reach out to someone who has an expertise in the field and ask a question about a specific issue, they are not specifically paid by a client to influence us on that position. It would be after that work product is introduced in the chamber, then they are registered lobbyists being paid by a client and the public should be able to follow that trail.

I am having a hard time understanding. We are public officials, but yet there are a lot of individuals talking like they want to be private businesspeople or private attorneys, that they do not want that information to be known to the public. We are public officials. Our activity, our work product, should be viewed in the open and public forum.

Mr. VEREB. I do not know that I disagree with that. The whole storage issue, the retainment of the documentation and getting in the mindset to retain that for our own safety and future of the law, is certainly what I have in question.

Two other quick things: So the communication, let us just say the communication starts with the lobbyist representing a group, which is then immediately followed by inquiries from members of that group, whether they are immediate constituents in your district or not, but then the communications between

myself and the members of the group that that person lobbies for, would you then consider it a safe measure to maintain those communications as well since they are, obviously they are sending e-mails as a follow-up to a lobbyist's suggestion for support?

Mr. YUDICHAK. If they are not registered lobbyists, no.

Mr. VEREB. Okay. How about the support staff of the registered lobbyists?

Mr. YUDICHAK. If they are employed by the— Are you talking about constituents that are brought up by a lobbyist or an association that may bring up— The nurse association brings up nurses, they are not paid lobbyists. They communicate with you. That would not be included. Just the activities of the registered lobbyists who are paid to influence this process.

Mr. VEREB. Okay. How about the support staff of a lobbyist setting up an appointment, making some type of an inquiry?

Mr. YUDICHAK. No.

Mr. VEREB. No; okay. And then lastly, if you could help me with 701. Can you just very quickly summarize what that is? I am just having trouble understanding. I guess it involves similar things between a corporation and public officials?

Mr. YUDICHAK. There was an exemption in a previous printer's number to this bill that would have exempted records relating to communications between public corporations and public officials. We are removing that and making sure that you cannot exempt those communications.

Mr. VEREB. That we cannot – I am sorry?

Mr. YUDICHAK. That you cannot exempt those corporations under the open records law.

Mr. VEREB. If those corporations are actually lobbying for some type of bill or legislation?

Mr. YUDICHAK. Correct.

Mr. VEREB. Thank you.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates he will. The gentleman is in order and may proceed with his interrogation.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, I would like to direct the level of inquiry to two different areas. As you may recall, Mr. Speaker, being an attorney yourself, a few years ago we had a situation where the Pennsylvania Supreme Court struck down our lobbyist disclosure law based upon a suit that was filed by lawyers who claimed the Supreme Court is the only constitutional body that can regulate the conduct of lawyers, even if they are acting in capacity as lobbyists. Is it possible for a lawyer/lobbyist to state that if your amendment went into the bill that eventually became law, that somehow that is an unconstitutional exertion of authority by the legislature, when only the Supreme Court can be acting in that capacity?

Mr. YUDICHAK. First, since we are talking about open records and full disclosure, I am not an attorney. I just had the good fortune to marry one, but I am not an attorney.

Mr. REICHLEY. You count that, okay. You are in.

Mr. YUDICHAK. The mandate is not on the lobbyist or the attorney. It is on the public official. So I think that we will be fine in terms of constitutionality as a result of that previous decision.

Mr. REICHLEY. Okay. I do have a concern that creative minds at work would state that this is somehow an

infringement, again, along the lines by which the lobbyist disclosure law was struck down a number of years ago. Let me ask you a second question, though. Following up with your conversation with Representative Vereb, I take it that your amendment would require disclosure, for instance, the number of e-mails that we received today on not only this bill but other bills that are before the House for consideration, that come from not only those, quote, unquote, "lobbyists" but associations. Is that correct?

Mr. YUDICHAK. Registered lobbyists.

Mr. REICHLEY. Well, if a county commissioner e-mails me to say, we disagree with provisions of SB 1 because of the impact it is going to have on county government, would that communication be disclosed under your amendment?

Mr. YUDICHAK. No.

Mr. REICHLEY. But if the lobbyist for the County Commissioners Association wrote that same e-mail, that would be subject to disclosure?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. If the president of ExxonMobil sends me an e-mail and says, vote against such and such bill, is that to be disclosed?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. That would be disclosed under this?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. But he is not a registered lobbyist.

Mr. YUDICHAK. He is a corporation.

Mr. REICHLEY. How about any other employees of ExxonMobil, if they are writing me saying, do not do XYZ on some bill, would that person's e-mail to me—

Mr. YUDICHAK. Official correspondence from the corporation. You had mentioned the president, an official correspondence from the president.

Mr. REICHLEY. Okay. But, for instance, if the corporation asks its employees to send a series of e-mails to the members to say do not vote on XYZ bill, that e-mail from those employees, even if it ran up to hundreds of them, that would not be subject to disclosure?

Mr. YUDICHAK. Not my intent, no.

Mr. REICHLEY. But an e-mail from the corporate president or officer or their registered lobbyist would be?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. How about on labor unions? If the members of labor unions contacted us?

Mr. YUDICHAK. The majority of the labor unions, to my knowledge, are registered lobbyists, and they would be covered.

Mr. REICHLEY. I am sorry, Mr. Speaker. I could not hear the last answer.

Mr. YUDICHAK. To my knowledge, the majority of the labor unions are registered as lobbyists. Certainly the largest, AFL-CIO, AFSCME (American Federation of State, County, and Municipal Employees), those are registered lobbyists. They would be qualified.

Mr. REICHLEY. What about a mass e-mailing from members of any organization, whether it is a labor union who would do work for an employee, or let us even leave it up to this: How about members of the League of Women Voters or Common Cause, if they send us a series of e-mails that say, do not vote for SB 1 in its current form, is that something which is subject to disclosure?

Mr. YUDICHAK. No.

Mr. REICHLEY. Okay. And lastly, I think based upon the exchange we have had and you have had with Representative Vereb and the earlier exchange we have had with Representative Mahoney on his particular amendment, a communication between a lobbyist and yourself or myself, that would be subject to disclosure. Is that correct?

Mr. YUDICHAK. Could you repeat that?

Mr. REICHLEY. Sure. Mr. Speaker, if there was a communication between a lobbyist to you or to me, that would be subject to disclosure. Is that correct?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. But if the lobbyist orally said, hey, Doug, go ask John Yudichak to vote "no" on this amendment, that would not be subject to disclosure?

Mr. YUDICHAK. No.

Mr. REICHLEY. And if I sent you an e-mail that the XYZ lobbyist asked me to talk to you about this bill, that would not be subject to disclosure?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. If the corporate president contacted me and said orally, can you send an e-mail to John to say we do not really think this is a good idea, that would not be subject to disclosure?

Mr. YUDICHAK. It would be disclosed on your end, not on mine. I am getting contacted by a colleague.

Mr. REICHLEY. Or if the lobbyist contacted your staff to say orally, we are not in favor of what John is doing, would that be subject to disclosure?

Mr. YUDICHAK. No.

Mr. REICHLEY. And if they wrote a note specifically to your staff assistant or to the gentleman who is helping you tonight saying, hey, we are not really crazy about John's amendment, that would not be subject to disclosure either. Is that correct?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. Okay. So it is solely limited to the explicit communication between the lobbyist or a corporate official and the legislator?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. But there are various permutations in which, as I said, creative minds would try to get around these prohibitions?

Mr. YUDICHAK. I have heard attorneys can be creative; that is correct, sir.

Mr. REICHLEY. All right. Thank you, Mr. Speaker.

The SPEAKER. Representative Pyle. The gentleman waives off.

Representative Yudichak, for the second time.

Representative Payne.

Mr. PAYNE. Thank you, Mr. Speaker.

I wanted to interrogate the maker of the amendment if I could, briefly?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. PAYNE. Thank you.

Mr. Speaker, I am going to try to cut to just a couple of quick things, because I think it has been very well handled by both sides of the aisle tonight. Every one of us here gets in the mail the thick binders from groups, not necessarily a lobbyist, but a group, and inside that binder is a cover paper or a fact sheet or a white paper, if you will, of two or three pages. Under this,

if that would come from any corporation, organization, lobbyist, I would have to keep everything?

Mr. YUDICHAK. Registered lobbyists, official correspondence from a corporation.

Mr. PAYNE. Okay. But I would have to keep—

Mr. YUDICHAK. If it is a nonprofit, if it is an association, if it is not a registered lobbyist, if it is not influencing this process, if it is part of the preliminary work product, I would say no.

Mr. PAYNE. Many, many nonprofits, though, are corporations. They are incorporated. So my point I guess I am getting at is, right now I do not keep all the binders, normally. I doubt that most of us do. We keep the fact sheets so we know what the issues are, but my concern would be, because I am not an attorney, I would have to keep everything.

Mr. YUDICHAK. No. What I am trying to get at is not that preliminary product that was mentioned by the gentlelady from Philadelphia earlier, not that preliminary product, but if you have a specific piece of legislation that you are debating on this floor tonight and you have a binder from a registered lobbyist, from a corporation, that is specifically influencing and directing your activity on this floor, I believe the public should have a right to see that document.

I am not talking about the thousands and thousands of e-mails. I am not talking about the single white piece of white paper that may have an issue, there is a bill coming up. We are talking very specifically about the activity that you are directing on this floor and is being influenced by a registered lobbyist and/or corporation.

Mr. PAYNE. Thank you. Mr. Speaker, that would work out great if I got that binder yesterday or today and the bill is running today. Unfortunately, as you and I both know, we could get a binder in January or February and that bill may not run for 6 months or 8 months or 9 months, and I normally do not keep that full binder. I am concerned now I would have to keep it.

Let me just ask you another question: Every one of us in here, I know, have gotten chain e-mails. I am getting them from Pittsburgh, Philly, Erie on some topic, and they are normally driven by corporations or lobbyist groups who want to get a mass e-mail out to us. Now, they are not my constituents so I traditionally do not keep those e-mails, but they might, in fact, be coming through the efforts of a lobbyist or a corporation. What will I have to do now?

Mr. YUDICHAK. Since this is a new process, as I said earlier, the clearinghouse is going to have to determine that, or that will be the determination made in the conference committee before it comes back to the full House for another vote, and how you would determine whether a registered lobbyist is driving that information or whether they are simply private citizens or your constituents communicating with you, which would be exempt, so that would be determined through that clearinghouse process.

Mr. PAYNE. Well, clearly an e-mail or 300 e-mails which I have gotten already from Pittsburgh or Philly are not my constituents, and I doubt that somebody just in the spur of the moment decided to send those 300 e-mails. They are obviously being driven by a corporation, a lobbyist, or a group.

Okay. Last question: I get a phone call from the County Commissioners Association, the Boroughs Association, the AFL-CIO, and they talk about potential legislation that might come up or might come over from the Senate in that phone call. We do not have it before us, we are not voting, but they have called me. How do I write that down? How do I track that?

Mr. YUDICHAK. Oral communication. It would not be covered under this—

Mr. PAYNE. Your amendment says communication. It does not say written.

Mr. YUDICHAK. We are talking specifically about written e-mail, communication. You do not have a recording device on your, or at least I presume that you do not have a recording device on your phone. You would not be able to capture that information. If they had talked to your staff, your staff are not public officials, so that would be exempted. We went through those questions with the Representative from Lehigh County.

Mr. PAYNE. Okay. And I heard that discussion. I am just not an attorney and being that I want to be sure that I do not get rid of anything or create a loophole for people to say, well, do not send him anything in writing; just call him. Now you have no record.

Mr. YUDICHAK. As I expect with every amendment that has been offered and the entire bill as a whole, once a final open records law is in place, as happened with the lobbyist disclosure act, you will get a very specific guideline on how you will be governed under that new law so that we will be reeducated in the new open records and Right-to-Know Law. So all the questions that you have are very good questions. I am not dismissing those questions. They are not questions that are necessarily going to be answered by my amendment. They are going to be answered as the legislative process continues and as that clearinghouse is created and executes the final guidelines on this law.

Mr. PAYNE. Okay. Thank you, Mr. Speaker.

Mr. Speaker, I would like to speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. PAYNE. Mr. Speaker, I have a lot of respect for the gentleman across the aisle, but in my tenure here, I do not know that we have ever voted on stuff on a bill and then said, do not worry about what the answer is or do not worry whether that is going to be covered; some other organization in 6 months is going to decide what you have to keep and what you do not have to keep. Normally when we are voting on legislation, we have the facts in front of us; we know the results of that vote. I am a little concerned that I would be voting for something tonight that that clearinghouse or that agency, if we go back to Representative Tangretti's amendment, would interpret in several months what it is you have to keep and what it is you do not have to keep. That is a little tough to take a vote when you are not sure exactly what records they are talking about and what records they are not.

For that reason I will probably vote "no" on the amendment. Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition? Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I will be very brief.

I would ask that we oppose the Yudichak amendment. I think, first and foremost, I really believe that administratively the job of keeping the records that would be required under this amendment would really be untenable. It could be a full-time job for each and every one of us just to maintain the records that would be required.

In the first instance in the first part of the amendment, I would have to determine, number one, is the communication from a lobbyist and then also determine is it within their scope as a lobbyist. That is a question that I would have to find out

and get information on my own. So that aspect of it I think is untenable.

In the second instance in the amendment, you know, I think you have to ask, is the communication from a corporation? Is it an e-mail from a lawyer? Is it from an insurance agent? Is it from a business agent? Is it from a businessman or a businesswoman from my district? I may not know the answer to that question, but if I get that correspondence, am I supposed to keep that? How am I going to know the answer to those questions, just on the e-mail side of the equation?

And as far as the corporate communications are concerned, we heard, are nonprofits included in this? Well, I am going to tell you, nonprofits, if they are incorporated, and most of them are incorporated, would be included in this. So all those correspondences between those nonprofits, you are going to have to maintain, keep those records, and save those e-mails.

So it seems to me in that corporate side of the information that we have to save, or be required to save, under this amendment, it seems to me we would have to save that information even if that information is exempted in another part of this legislation, and even if that information is confidential information or proprietary information, and for all those reasons, Mr. Speaker, I would say, we kind of understand where the gentleman is coming from on this amendment, I really believe it is poorly drafted, and we should defeat the amendment.

Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Yudichak.

Mr. YUDICHAK. Thank you, Mr. Speaker.

I appreciate the debate and the dialogue that we had tonight on this amendment. I think it is very important, a very important part of moving this open records bill forward. Certainly the intent, as I listened to my colleagues, they agree with the intent and have some question on the details. The one thing, though, that I am very concerned about that I heard in certain comments made is that this somehow jeopardizes a secret compromise that many of these members in this chamber were not a part of. Was that in an open and transparent forum, that compromise? We are debating open records. I have offered an amendment. We have a dialogue. You get to vote "yes" and "no."

All I am asking is that in the end of the discussion, should a correspondence between a registered lobbyist and a public official, a Representative or a Senator, should that correspondence on issues concerning the appropriation of taxpayer money, should that be public record? I believe it is. I would appreciate your support. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS-62

Adolph	Galloway	Marshall	Samuelson
Bear	George	McGeehan	Scavello
Benninghoff	Gibbons	McIlhatten	Schroder
Beyer	Hanna	Metcalfe	Shapiro

Boyd	Harhart	Milne	Smith, K.
Brooks	Harris	Mustio	Smith, M.
Caltagirone	Hennessey	O'Brien, M.	Stevenson
Carroll	Hershey	Pallone	Tangretti
Conklin	Hickernell	Payton	Taylor, J.
Costa	Hutchinson	Peifer	Taylor, R.
Curry	Keller, W.	Rapp	True
Cutler	Kenney	Raymond	Turzai
Dally	Killion	Reed	White
Denlinger	King	Reichley	Yewcic
Freeman	Lentz	Sabatina	Yudichak
Gabig	Mahoney		

NAYS-140

Argall	Geist	McCall	Rohrer
Baker	Gerber	McI. Smith	Ross
Barrar	Gergely	Melio	Rubley
Bastian	Gillespie	Mensch	Sainato
Belfanti	Gingrich	Micozzie	Santoni
Bennington	Godshall	Millard	Saylor
Biancucci	Goodman	Miller	Seip
Bishop	Grell	Moul	Shimkus
Blackwell	Grucela	Moyer	Sipthoth
Boback	Haluska	Mundy	Smith, S.
Brennan	Harhai	Murt	Solobay
Buxton	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Casorio	Helm	Nickol	Stairs
Causar	Hess	O'Neill	Steil
Civera	Hornaman	Oliver	Stern
Clymer	James	Parker	Sturla
Cohen	Josephs	Pashinski	Surra
Cox	Kauffman	Payne	Swanger
Creighton	Keller, M.	Perry	Thomas
Cruz	Kessler	Perzel	Vereb
Daley	Kirkland	Petrarca	Vitali
DePasquale	Kortz	Petri	Vulakovich
Dermody	Kotik	Petrone	Wagner
DeWeese	Kula	Phillips	Walko
DiGirolamo	Leach	Pickett	Wansacz
Donatucci	Levdansky	Preston	Waters
Eachus	Longiatti	Pyle	Watson
Ellis	Mackereth	Quigley	Wheatley
Evans, D.	Maher	Quinn	Williams
Evans, J.	Major	Ramaley	Wojnaroski
Everett	Manderino	Readshaw	Youngblood
Fabrizio	Mann	Roae	
Fairchild	Mantz	Rock	O'Brien, D., Speaker
Fleck	Markosek	Roebuck	
Frankel	Marsico		

NOT VOTING-0

EXCUSED-1

DeLuca

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. DePASQUALE offered the following amendment No. A04982:

Amend Sec. 1307, page 40, line 10, by striking out "and such" and inserting including costs associated with legal reviews of records or record requests requiring the contracting or procuring of legal counsel outside the agency. Such

Amend Sec. 1307, page 40, lines 11 through 14, by striking out "No fee may be imposed for an agency's review of a" in line 11 and all of lines 12 through 14 and inserting An agency shall not charge a requester any fee for any of the following costs:

- (1) Costs related to reviewing a record to determine if it is a public record.
(2) Costs related to redacting exempt information from a record.
(3) Personnel costs for copying a record.
(4) Personnel costs for preparing a record for delivery.
(5) Personnel costs for observing a requester who is reviewing or copying a record.
(6) For use of agency computers, viewers or other equipment necessary for gaining access to examining a record.
(7) Costs for agency personnel to instruct a requester on the use of agency equipment used to view a record.
(8) Any other processing costs not specifically permitted under this section.

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

The SPEAKER. The Chair recognizes Representative DePasquale on the amendment.

Mr. DePASQUALE. Thank you, Mr. Speaker.

This amendment is intended to ensure that fees that are offered when people come to get their open records are not excessive and that costs that are put onto these do not take into account things that are already being paid for at the local level or by State agencies, and that is the intent of this amendment.

And I also want to state for the record that this does not impact any flat fees. This is to ensure that costs are not added on for these various points that I have outlined in this amendment.

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

The following roll call was recorded:

YEAS-141

Table with 4 columns of names: Adolph, Argall, Barrar, Bastian, Bear, Belfanti, Bennington, Bianucci, Bishop, Blackwell, Boyd, Brennan, Buxton, Caltagirone, Clymer, Cohen, Conklin, Costa, Galloway, George, Gerber, Gergely, Gibbons, Gillespie, Godshall, Grucela, Haluska, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Hennessey, Hershey, Hickernell, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Micozzie, Millard, Miller, Milne, Moul, Moyer, Mundy, Murt, Mustio, Myers, Nickol, O'Brien, M., O'Neill, Samuelson, Santoni, Saylor, Scavello, Schroder, Shapiro, Shimkus, Siptroth, Smith, K., Solobay, Staback, Stairs, Steil, Stevenson, Sturla, Surra, Tangretti, Taylor, J.

Table with 4 columns of names: Cox, Creighton, Cruz, Curry, Cutler, Daley, Dally, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Fabrizio, Frankel, Freeman, Hornaman, James, Josephs, Kenney, Kessler, Killion, Kirkland, Kula, Leach, Lentz, Levdansky, Mackereth, Mahoney, Manderino, Mann, Mantz, Markosek, Marshall, Oliver, Parker, Pashinski, Payton, Perry, Petrarca, Petrone, Preston, Pyle, Quigley, Quinn, Ramaley, Raymond, Readshaw, Rock, Roebuck, Rohrer, Rubley, Taylor, R., Thomas, True, Turzai, Vereb, Vitali, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, Williams, Youngblood, O'Brien, D., Speaker

NAYS-60

Table with 4 columns of names: Baker, Benninghoff, Beyer, Boback, Brooks, Cappelli, Carroll, Casorio, Causer, Civera, Denlinger, Evans, J., Everett, Fairchild, Fleck, Gabig, Geist, Gingrich, Goodman, Grell, Helm, Hess, Hutchinson, Kauffman, Keller, M., King, Kortz, Kotik, Longietti, Maher, Major, Marsico, Mensch, Metcalfe, Nailor, Pallone, Payne, Peifer, Perzel, Petri, Phillips, Pickett, Rapp, Reed, Reichley, Roae, Ross, Sabatina, Sainato, Seip, Smith, M., Smith, S., Sonney, Stern, Swanger, Vulakovich, White, Wojnaroski, Yewcic, Yudichak

NOT VOTING-1

Keller, W.

EXCUSED-1

DeLuca

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

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

The SPEAKER. The Chair recognizes Representative Roae. Will the gentleman inform the Chair which amendment he intends to offer.

Mr. ROAE. Thank you, Mr. Speaker.

Previously I spoke on amendment A4732, and the Chair put the amendment over. I would like to come back to that amendment.

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

The clerk read the following amendment No. **A04732**:

Amend Sec. 708, page 29, line 7, by striking out all of said line and inserting

(26) (i) A proposal pertaining to agency procurement or Amend Sec. 708, page 29, by inserting between lines 15 and 16

(ii) (A) This paragraph does not apply to records or other information created or provided by a consultant or other person under contract with an agency and received or retained by the agency or any other person.

(B) If a requester submits a request for a public record, legislative record or financial record relating to information created or provided by a consultant or other person under contract with an agency, and no public record, legislative record or financial record of the information exists, the agency shall create a record by obtaining testimony under oath from the consultant or other person and creating a transcript therefrom.

(C) The testimony shall include information in ample detail, which is proportional to the total cost of the contract, regarding the nature of the work performed under the contract, the specific tasks required by the agency under the contract, the specific tasks performed by the consultant or other person under the contract, any research or findings conducted or issued by the consultant or other person and any recommendations made by the consultant or other person to the agency.

(D) The transcript shall be considered a public record, legislative record or financial record of the agency and shall be provided to the requester, in accordance with this act, and retained by the agency, in accordance with applicable record retention schedules.

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

The SPEAKER. The Chair recognizes Representative Roae on the amendment.

Mr. ROAE. Thank you, Mr. Speaker.

I spoke on this probably an hour ago or so, and basically this was the amendment that would make sure that consulting work that is paid for with tax money is part of the public record, and if the consulting report is not written down, it would ensure that the public has access to the report anyway. It would require that the consulting report be done by oral testimony under oath so that a transcript could be written so that the taxpayer can get access to the consulting information. Taxpayers deserve access of knowing how their tax money is being spent, and my amendment does that, Mr. Speaker.

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. VITALI. Thank you, Mr. Speaker.

I am having a little trouble visualizing how this is going to work in the real world. Are there any models out there in any other States where the approach you are suggesting has been taken?

Mr. ROAE. Mr. Speaker, we are going to have a model here in Pennsylvania. If tax money is used to pay a consultant to do consulting work, the consulting report is going to be public record, under my amendment.

Mr. VITALI. Could I assume that is a "no" answer?

Mr. ROAE. I have not researched other States.

Mr. VITALI. Okay. So what you are suggesting— I am trying to get an idea for who is going to do the transcribing, who is going to provoke the questions. You have a system set up where there is going to be a transcript of testimony. Could you just sort of maybe give an example of how this would work and who would do the recording and how it would be recorded?

Mr. ROAE. Mr. Speaker, I think it should be noted that in most circumstances when a consultant does consulting work, it is normal process for there to be a report. Normally when you hire a consultant, when the consultant is done, they issue a report. The report states what the consultant was charged to do, what the findings were, what the recommendations were, and so on.

How this would work, Mr. Speaker, is that most of the time when tax money is used to fund some type of a consultant study, most of the time there is going to be a written report, because that is how things are normally done. In the rare instance of where the consultant does not put anything in writing, this amendment added to the bill would push the issue and require it if somebody makes a request for public record. In most circumstances, if somebody hires a consultant for a half an hour to do some mundane task, it is probably not going to involve somebody from the public even knowing about it, let alone asking for a transcript of the consulting work.

Where this would mainly apply would be if somebody hired a consultant and they spent \$100,000 or \$200,000 of tax money, the public deserves to know why that money was spent.

Mr. VITALI. Okay. So let us say the Parking Authority of Philadelphia spends \$200,000 on a consultant and there is no record. What happens next? I mean, how is this testimony recorded? Who determines what length? Who determines how detailed? How is the recording accomplished? I understand what you are getting at, but I am sort of wondering, is this in any way workable in the real world?

Mr. ROAE. Mr. Speaker, this is very workable. If there is a written document, a written consultant report, you know, a document on pieces of paper, if somebody requested the information, you would say, here, you can have it. If there is no written report, the person that did the consulting work would have to give testimony and a paper record would be created.

Mr. VITALI. Whom would he testify to?

Mr. ROAE. The exact details would have to be worked out by the agency, just like any other. If somebody makes a public record request, this legislation does not say whether the secretary gives you the report or the person who authorized the consulting work gives it to you or they give it to you on blue paper or yellow paper. The intent of this bill is to give the public access to information.

Mr. VITALI. I truly know what the intent is. But let us use the example if the Philadelphia Parking Authority pays its consultant \$200,000 and no record is created. I mean, what happens next in your mind, under this, if this were to become law?

Mr. ROAE. A request would have to be made to the consultant to provide testimony under oath as to what the nature of the consulting work was, what they did, why they did it,

and so on, and presumably it would be one of the officers of the Parking Authority who would make that request to the consultant.

Mr. VITALI. And what if he just came in and gave some vague five-sentence explanation? How would that help things here?

Mr. ROAE. Well, with anything, there could be a court challenge. Somebody could challenge in court that it was not specific enough. Again, this issue is not going to come up that often, because in 99.99 percent of the time, if somebody spends \$100,000 on a consultant or they spend \$200,000 of tax money on a consultant, 99.99 percent of the time there is going to be a written report.

Mr. VITALI. That concludes my questioning. Thank you.

Mr. ROAE. Thank you.

The SPEAKER. Representative Sainato.

Mr. SAINATO. Will the maker of the amendment agree to interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. SAINATO. Thank you, Mr. Speaker.

I just have a quick question. The consultant that has to make this transcript, who is going to be paying this consultant for their time that it is going to take to do this? I will repeat it, Mr. Speaker. For the consultant that has to make this transcript, from what I understand they may have to come in on their own time to do this. I do not think they are going to come for free. Who has to pay for them to do this? Would it be the municipality, the local governments?

Mr. ROAE. Mr. Speaker, I had difficulty hearing the question. I would like to answer the question, but I could not hear it.

The SPEAKER. The House will come to order.

Members will take their seats. I know the hour is late. Members will please take their seats. Conversations in the center aisles will break up.

Mr. SAINATO. I will repeat the question, Mr. Speaker.

The consultant has to come in and give this oral testimony. Who pays for the stenographer? Who pays for the consultant's time that it is going to take to make this record?

Mr. ROAE. The agency involved or the legislative agency, the executive branch, whoever it is that has to do it, that would come out of their budget. They would have to make sure that when they hire consultants, part of the bid specs should probably be that the consultant needs to put a consulting report in writing so you do not have that problem. I agree, it could be a problem if you have to re-create the whole thing. So when consulting work is bid out, people are going to have to tell the consultant that if we are spending \$100,000 for consulting work, we want a paper document, we do not just want an oral presentation of the findings.

Mr. SAINATO. Well, Mr. Speaker, would this not add to the costs for local government, State government, county government if they have to do this and put this extra time in?

Mr. ROAE. Mr. Speaker, I do not believe it would; 99.99 percent of consulting work normally involves a written report being done anyways. This is only very unusual circumstances where \$100,000 or \$200,000 of taxpayer money is spent on consulting and no written documentation is produced as part of the consultant's report.

Mr. SAINATO. All right, Mr. Speaker. I have ended my interrogation. I just would like to speak, though.

I do have some concern—

The SPEAKER. The gentleman is in order and may proceed.

Mr. SAINATO. Thank you, Mr. Speaker.

I do have some concern on this. I think it could add to the costs, and the ultimate costs are borne by the taxpayers in Pennsylvania, especially if we are dealing with our local municipalities, our counties, and even when we get into the State legislature and Senate because the costs have to be paid by someone, and I think it would be borne by the taxpayers.

Thank you.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the membership vote against the Roae amendment for a number of reasons. Number one, cost. When you read the current fiscal note that all of us have on our computers and at our desks, it tells you that there is no current quantifiable cost or statistics or numbers that they could put in place for us to determine what this will cost locally or what it will cost State government or the agencies of State government. So we may be opening up a Pandora's box to costs that are inconceivable and could run into the millions upon millions of dollars.

The second part of the amendment that we have concern about is the privity of contracts where we are going to open information up to a new realm that was never contemplated before. I hire an attorney for consultation with the assumption that consultation will be held very private for my use. Under this amendment, that information now becomes a public record. After I just hired that person for my own private advice, it now becomes a public record under this amendment.

And the other issue that I have a concern with is the attorney-client privilege as well as the attorney-work-product privilege. Under this language, there are no exceptions for that attorney-client privilege; that attorneys, conceivably, could be compelled to testify against their own client.

I think this is a very slippery slope and a very dangerous precedent for us to set, and I would ask that the members vote against this amendment.

The SPEAKER. Representative Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I also rise in opposition to this amendment.

There are times when local government bodies have real estate to sell and they will contract with a real estate appraiser for consulting to determine what the value of that real estate is, and if we make that information public, it hampers them on their ability to get the best value for the real estate by disclosing that in advance. So there is another example, Mr. Speaker, where we would not want information from a consultant public. We want our government agencies to be able to get the largest amount of money for property that they sell so that we can maximize taxpayer dollars. And here we would be releasing the consultant's report, showing our hand, showing what that value of that real estate is, and hampering us in our ability to negotiate the best value.

Thank you.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

I also rise against this amendment, Mr. Speaker.

I think that the gentleman from Carbon has raised a number of pertinent issues regarding the legal protections that are afforded to the people who are going to be producing the consultant arrangements, and speaking with another person, it is

akin to asking somebody to build you a house, and after the house is completed, asking for a report about that house. Now you have gone past the completion of the contract, the service has been rendered, and now you are requiring them to produce something above and beyond that.

So I think it violates the privity of contract. I think it requires people to perform services beyond the scope of a contract. I think it is also subject to attorney-client privilege being invoked and claiming somehow this would violate that particular communication.

So I urge "no" on this amendment. Thank you.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Kortz.

Mr. KORTZ. Thank you, Mr. Speaker.

Can the maker of the amendment rise for brief interrogation?

The SPEAKER. The gentleman will stand for interrogation. The gentleman is in order and may proceed.

Mr. KORTZ. Mr. Speaker, the question I have is, if there was consultant work done 10 years, 15 years, 20 years, 30 years ago where there was no report, since this bill is not prospective, that would be a record that we would have to generate. How do we do that? How do we go back into a 30-year timeframe, 40-year, and generate something?

Mr. ROAE. Mr. Speaker, the same situation could occur if there was a report. If consulting work was done 20 years ago or 30 years ago or 40 years ago, it may be difficult to find the paper copy of that, too. It may be difficult to find the paper copy of anything that was done, you know, 50 years ago, a letter, nothing to do with consulting work, anything that we do in this chamber, anything that we have ever done that would now be considered public record. So, Mr. Speaker, I do not think that is a valid argument, because you could say that about anything that has to do with anything in this entire bill.

Mr. KORTZ. Mr. Speaker, if I could follow up with another question. If the consultant has passed away, how do we get that information?

Mr. ROAE. Well, in that situation I do not believe you would be able to get it, and I think that if somebody went to court and they demanded testimony from a dead person, the judge would probably say no. I mean, obviously you would not be able to get it in that circumstance unless that consulting firm had something in writing. If they had something in writing, they could give it, but if they had something in writing, this would be a moot point anyways. All consulting work is normally put in writing. It is very rare to have consulting work not result in a written report.

Mr. KORTZ. Thank you, Mr. Speaker.

That completes my interrogation. If I could speak on the amendment?

The SPEAKER. The gentleman is in order and may proceed.

Mr. KORTZ. Mr. Speaker, I think this amendment is a very slippery slope. We are putting local agencies under the gun for something, a document that may not exist. They may not be able to get the document, but yet they are under the gun to produce it. If they cannot produce it, the fines start adding up. Since this bill is not a prospective bill and we can go back 30, 40, 50, 60 years, I think it is a bad amendment, and I would ask everybody to vote negative.

The SPEAKER. The Chair recognizes Representative Roae for the second time.

Mr. ROAE. Thank you, Mr. Speaker.

Some points were made regarding this amendment. Somebody questioned the cost. I maintain that my amendment may actually save money. If somebody knows that the work of a consultant is going to be public record, they may not hire a consultant. If somebody was going to hire a consultant at \$20,000 a month or some large amount of money, they might not do that if they knew they had to put the consultant report in writing.

As far as all the other points made about my amendment, Mr. Speaker, I feel that it is the intent of the open records legislation to allow the public to have access to how our tax money is being spent. If a government agency or a member of the General Assembly or anybody that is using tax money, if we pay for consulting work with tax money, the public deserves to see what they were paying for.

I urge everybody to please vote for my amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—40

Barrar	Cox	Hutchinson	Quigley
Bear	Creighton	Kauffman	Rapp
Benninghoff	Cutler	Kenney	Reed
Boback	Dally	Mantz	Roae
Boyd	Denlinger	Metcalfe	Rock
Brooks	Everett	Moul	Rohrer
Caltagirone	Fairchild	Mustio	Schroder
Cappelli	Gillespie	Peifer	Taylor, J.
Causar	Harhart	Perry	True
Clymer	Hickernell	Phillips	Turzai

NAYS—162

Adolph	Gingrich	McGeehan	Santoni
Argall	Godshall	McI. Smith	Saylor
Baker	Goodman	McIlhattan	Scavelllo
Bastian	Grell	Melio	Seip
Belfanti	Grucela	Mensch	Shapiro
Bennington	Haluska	Micozzie	Shimkus
Beyer	Hanna	Millard	Siptroth
Biancucci	Harhai	Miller	Smith, K.
Bishop	Harkins	Milne	Smith, M.
Blackwell	Harper	Moyer	Smith, S.
Brennan	Harris	Mundy	Solobay
Buxton	Helm	Murt	Sonney
Carroll	Hennessey	Myers	Staback
Casorio	Hershey	Nailor	Stairs
Civera	Hess	Nickol	Steil
Cohen	Hornaman	O'Brien, M.	Stern
Conklin	James	O'Neill	Stevenson
Costa	Josephs	Oliver	Sturla
Cruz	Keller, M.	Pallone	Surra
Curry	Keller, W.	Parker	Swanger
Daley	Kessler	Pashinski	Tangretti
DePasquale	Killion	Payne	Taylor, R.
Dermody	King	Payton	Thomas
DeWeese	Kirkland	Perzel	Vereb
DiGirolamo	Kortz	Petrarca	Vitali
Donatucci	Kotik	Petri	Vulakovich
Eachus	Kula	Petrone	Wagner
Ellis	Leach	Pickett	Walko
Evans, D.	Lentz	Preston	Wansacz
Evans, J.	Levdansky	Pyle	Waters
Fabrizio	Longietti	Quinn	Watson

Fleck	Mackereth	Ramaley	Wheatley
Frankel	Maher	Raymond	White
Freeman	Mahoney	Readshaw	Williams
Gabig	Major	Reichley	Wojnaroski
Galloway	Manderino	Roebuck	Yewcic
Geist	Mann	Ross	Youngblood
George	Markosek	Rubley	Yudichak
Gerber	Marshall	Sabatina	
Gergely	Marsico	Sainato	O'Brien, D.,
Gibbons	McCall	Samuelson	Speaker

NOT VOTING—0

EXCUSED—1

DeLuca

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. Does the gentleman, Representative Roae, offer another amendment? The gentleman withdraws his amendments. The Chair thanks the gentleman.

The Chair recognizes Representative Perry. Will the gentleman inform the Chair which amendment he intends to offer.

Mr. PERRY. Thank you, Mr. Speaker.

Which amendment do you have; 705, Mr. Speaker?

The SPEAKER. The Chair would like to know which amendment the gentleman wishes to offer.

Mr. PERRY. 4705 would be fine at this time or any other one of the three.

The SPEAKER. 4705.

On the question recurring,

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

The clerk read the following amendment No. **A04705**:

Amend Sec. 102, page 4, by inserting between lines 6 and 7

"Account." Includes any record evidencing the receipt or disbursement of funds by an agency, including a receipt, invoice and other billing information related to the receipt or disbursement of such funds.

Amend Sec. 102, page 9, line 30, by striking out "and" and inserting a comma

Amend Sec. 102, page 10, line 1, by inserting after "Authority" and the Commonwealth Financing Agency

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Perry.

Mr. PERRY. Thank you, Mr. Speaker.

Mr. Speaker, this is a simple amendment, which simply defines what "account" means in terms of this bill. Currently neither this bill nor any current law defines what the term "account" means, and it leaves it up to the courts to decide.

Under this amendment, the term "account," what would be used to define it is the same language as the Supreme Court most recently depicted in the opinion in *LaValle v. Office of General Counsel*, and that way, by denoting exactly what we mean, it will leave it out of the interpretation of the courts.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I understand what my good friend desires to accomplish with this amendment, and I have been struggling to climb a hill on this subject this afternoon, and I appreciate his good efforts, but when I read the word "accounts," I tend to read that word — because we are talking about accounting records — the way I look at the world as a C.P.A. (certified public accountant). And I recognize there are all sorts of ways people might define "accounts," but accounts are really an accounting. It is not source document; it is not other records. And the Supreme Court decision that my colleague educated me about speaks to "accounts" and defines them in three words, "records evidencing disbursement." Now, you may notice that this amendment has considerably more than three words to define "accounts."

I think the mission is a good mission, but I cannot get past that C.P.A. instinct in me that says, if you are talking about a specific thing that has a name, the name should mean something. And in this case I am afraid that we are taking the word "cat" and defining it as "dog," and I am not comfortable doing that. And so although I appreciate the direction the gentleman is going, I am going to have to demur from an amendment that defines "accounts" in a way that departs so significantly from the way that I think most accountants would understand the word to mean.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Perry for the second time.

Mr. PERRY. Thank you, Mr. Speaker.

In deference to my good friend from Allegheny County, I would submit that most of the taxpayers are not accountants, and although he defines the term "account" the way he wishes to, most folks want to know where their money is being spent by whatever means are necessary. And such that the court in the past, for 40 years, had determined that "account" was determined to be a record of debits and credits, it did not adequately depict what the citizenry defined as an "account," which is an accounting of the spending of their money. And this amendment would define that, particularly so that it would not be left up to the courts and we could take a stand here for the citizens of Pennsylvania and say that we stand by them and we are in full support of an accounting of their money.

And I urge your support of this amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask for a "no" vote on the Perry amendment.

Mr. Speaker, the definition of "account" is certainly very broad. I do not feel that it is a proper definition, and I would ask that the members vote "no."

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—100

Adolph	Gabig	McI. Smith	Reichley
Baker	Galloway	McIlhattan	Roae
Bastian	Geist	Mensch	Rock
Bear	Gillespie	Metcalfe	Rohrer
Benninghoff	Gingrich	Millard	Ross
Boback	Grell	Miller	Rubley
Boyd	Harhart	Milne	Samuelson
Brooks	Harris	Moul	Saylor
Caltagirone	Helm	Mustio	Scavello
Cappelli	Hennessey	Nailor	Schroder
Causer	Hershey	Nickol	Shapiro
Clymer	Hess	O'Neill	Smith, M.
Cox	Hickernell	Peifer	Sonney
Creighton	Hutchinson	Perry	Steil
Curry	Kauffman	Petrarca	Stern
Cutler	Keller, M.	Petri	Stevenson
Dally	Kenney	Phillips	Swanger
Denlinger	King	Pickett	Taylor, J.
DePasquale	Kotik	Pyle	Thomas
DiGirolamo	Lentz	Quigley	True
Ellis	Mackereth	Quinn	Turzai
Everett	Major	Rapp	Vereb
Fairchild	Mantz	Raymond	Vulakovich
Fleck	Marshall	Readshaw	Watson
Freeman	Marsico	Reed	

NAYS—102

Argall	George	Manderino	Seip
Barrar	Gerber	Mann	Shimkus
Belfanti	Gergely	Markosek	Siptroth
Bennington	Gibbons	McCall	Smith, K.
Beyer	Godshall	McGeehan	Smith, S.
Bianucci	Goodman	Melio	Solobay
Bishop	Grucela	Micozzie	Staback
Blackwell	Haluska	Moyer	Stairs
Brennan	Hanna	Mundy	Sturla
Buxton	Harhai	Murt	Surra
Carroll	Harkins	Myers	Tangretti
Casorio	Harper	O'Brien, M.	Taylor, R.
Civera	Hornaman	Oliver	Vitali
Cohen	James	Pallone	Wagner
Conklin	Josephs	Parker	Wansacz
Costa	Keller, W.	Pashinski	Waters
Cruz	Kessler	Payne	Wheatley
Daley	Killion	Payton	White
Dermody	Kirkland	Perzel	Williams
DeWeese	Kortz	Petrone	Wojnaroski
Donatucci	Kula	Preston	Yewcic
Eachus	Leach	Ramaley	Youngblood
Evans, D.	Levdansky	Roebuck	Yudichak
Evans, J.	Longiotti	Sabatina	
Fabrizio	Maher	Sainato	O'Brien, D.,
Frankel	Mahoney	Santoni	Speaker

NOT VOTING—0

EXCUSED—1

DeLuca

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. PERRY offered the following amendment No. **A04716**:

Amend Sec. 102, page 5, by inserting between lines 21 and 22

(4) Application and database compilation or log of applications by political subdivisions, nonprofit organizations, other entities and individuals for the receipt of State-funded grants awarded on a discretionary basis by a Commonwealth agency, including legislative initiative grants, regardless of whether the applicant receives the grant for which it has applied. For purposes of this paragraph, financial record shall include information regarding:

(i) where applicable, the application sequence number;

(ii) the date the application was received by the Commonwealth agency;

(iii) the applicant name and contact person;

(iv) the project description;

(v) the project location;

(vi) the amount of funding requested;

(vii) any notations as to whether the application was complete and consistent with program guidelines;

(viii) whether or not the Commonwealth agency had approved the application;

(ix) where applicable, the amount of the grant awarded;

(x) where applicable, the date on which the Commonwealth agency notified the applicant that it approved the application;

(xi) in the case of a legislative initiative grant, the name of any member of the General Assembly who recommends the grantee; and

(xii) any other relevant information that qualifies as a public record or financial record under this act.

Amend Sec. 102, page 6, by inserting between lines 28 and 29

"Legislative initiative grant." A grant that is awarded, in whole or in part, on the basis of a recommendation made by or on behalf of a member of the General Assembly.

Amend Sec. 708, page 30, line 14, by inserting after "(b)(5)."

Information described in paragraph (4) of the definition of "financial record" relating to individuals and protected under subsection (b)(28) shall also be exempt from access by a requester under this act.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Perry on the amendment.

Mr. PERRY. Thank you, Mr. Speaker.

This, too, is a simple amendment, which just seeks to shine the light on the discretionary spending regarding the grants that are given out by this body and other bodies associated with State government.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—115

Adolph	Freeman	Marsico	Rapp
Argall	Gabig	McI. Smith	Raymond
Baker	Geist	McIlhattan	Readshaw
Barrar	Gillespie	Mensch	Reed
Bastian	Gingrich	Metcalfe	Reichley
Bear	Godshall	Micozzie	Roae

Benninghoff	Grell	Millard	Rock
Beyer	Hanna	Miller	Rohrer
Boback	Harhart	Milne	Ross
Boyd	Harper	Moul	Rubley
Brennan	Harris	Moyer	Sainato
Brooks	Helm	Murt	Samuelson
Buxton	Hennessey	Mustio	Saylor
Caltagirone	Hershey	Nailor	Scavello
Cappelli	Hess	Nickol	Schroder
Causer	Hickernell	O'Neill	Sonney
Civera	Hornaman	Pallone	Stairs
Clymer	Hutchinson	Payne	Steil
Cox	Kauffman	Peifer	Stern
Creighton	Keller, M.	Perry	Stevenson
Cutler	Kenney	Perzel	Swanger
Dally	Killion	Petrarca	Taylor, J.
Denlinger	Kortz	Petri	True
DiGirolo	Kotik	Petrone	Turzai
Ellis	Mackereth	Phillips	Vereb
Evans, J.	Maher	Pickett	Vitali
Everett	Major	Pyle	Vulakovich
Fairchild	Mantz	Quigley	Watson
Fleck	Marshall	Quinn	

NAYS—87

Belfanti	Gerber	Markosek	Smith, S.
Bennington	Gergely	McCall	Solobay
Bianucci	Gibbons	McGeehan	Staback
Bishop	Goodman	Melio	Sturla
Blackwell	Grucela	Mundy	Surra
Carroll	Haluska	Myers	Tangretti
Casorio	Harhai	O'Brien, M.	Taylor, R.
Cohen	Harkins	Oliver	Thomas
Conklin	James	Parker	Wagner
Costa	Josephs	Pashinski	Walko
Cruz	Keller, W.	Payton	Wansacz
Curry	Kessler	Preston	Waters
Daley	King	Ramaley	Wheatley
DePasquale	Kirkland	Roebuck	White
Dermody	Kula	Sabatina	Williams
DeWeese	Leach	Santoni	Wojnaroski
Donatucci	Lentz	Seip	Yewcic
Eachus	Levdansky	Shapiro	Youngblood
Evans, D.	Longietti	Shimkus	Yudichak
Fabrizio	Mahoney	Siptroth	
Frankel	Manderino	Smith, K.	O'Brien, D.,
Galloway	Mann	Smith, M.	Speaker
George			

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

The SPEAKER. Does the gentleman have any other amendments he wishes to offer?

Mr. PERRY. Thank you, Mr. Speaker.
I would like to withdraw amendment 04758.

The SPEAKER. The Chair thanks the gentleman.
Mr. PERRY. Thank you, Mr. Speaker.

The SPEAKER. The House will be at ease.

If the Chair could have the members' attention.

The Chair is not aware of any other amendments that are pending before the House that have been timely filed. Is there any member that believes they have a timely filed amendment that they wish to offer?

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

The clerk read the following amendment No. **A04930**:

Amend Title, page 1, by inserting before line 1 (A04720)
Amend Title, page 1, line 5, by striking out "an Open Records Clearinghouse" and inserting

the Pennsylvania Public Records Office

Amend Table of Contents, page 2, line 5, by striking out all of said line and inserting
Section 503. (Reserved).

Amend Table of Contents, page 1, by inserting between lines 6 and 7 (A04720)

Amend Table of Contents, page 2, line 26, by striking out all of said line

Amend Table of Contents, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting
Section 3101.2. Severability.

Amend Sec. 102, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting

Amend Sec. 102, page 4, lines 13 through 21, by striking out all of said line

Amend Sec. 102, page 2, by inserting between lines 6 and 7 (A04720)

Amend Sec. 102, page 9, by inserting between lines 8 and 9 "Records office." The Pennsylvania Public Records Office established under section 1310.

Amend Bill, page 3, lines 3 through 7 (A04720), by striking out all of said lines and inserting

Amend Sec. 503, page 13, lines 9 through 30; page 14, lines 1 through 7, by striking out all of said lines on said pages and inserting
Section 503. (Reserved).

Amend Sec. 504, page 14, line 11, by striking out "clearinghouse" and inserting

records office

Amend Sec. 504, page 14, line 12, by inserting after "agency" where it appears the first time

, legislative agency

Amend Sec. 504, page 14, line 17, by striking out "clearinghouse" and inserting

records office

Amend Sec. 505, page 14, line 23, by striking out "agencies.—The clearinghouse" and inserting

agencies and legislative agencies.—The records office

Amend Sec. 505, page 14, line 24, by inserting after "Commonwealth"

agencies, legislative agencies

Amend Sec. 505, page 14, line 28, by striking out "clearinghouse's" and inserting

record office's

Amend Sec. 505, page 15, lines 2 through 5, by striking out all of said lines and inserting

records office.

Amend Sec. 708, page 4, by inserting between lines 18 and 19 (A04720)

Amend Sec. 708, page 20, lines 17 and 18, by striking out "Commonwealth or local"

Amend Bill, page 7, lines 24 through 30 (A04720), by striking out all of said lines and inserting

Amend Sec. 1101, page 33, line 11, by striking out all of said line and inserting

records office within 15

Amend Sec. 1101, page 33, lines 18 through 20, by striking out "a" in line 18, all of line 19 and "assign an appeals officer to" in line 20 and inserting

an agency, the records office shall

Amend Sec. 1101, page 33, lines 22 and 23, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 33, line 26, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 33, line 29, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 33, line 30, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 8, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 9, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 12, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 15, by striking out "appeals officer" and inserting

records office

Amend Sec. 1102, page 34, lines 19 through 30; page 35, lines 1 through 21, by striking out all of said lines on said pages

Amend Sec. 1301, page 35, line 27, by striking out "appeals officer" and inserting

records office

Amend Sec. 1302, page 36, line 12, by striking out "appeals officer" and inserting

records office

Amend Sec. 1303, page 37, line 3, by striking out "appeals officer" and inserting

records office

Amend Sec. 1304, page 37, line 6, by striking out "appeals officer" and inserting

records office

Amend Sec. 1307, page 38, lines 21 through 26, by striking out the colon after "established" in line 21 and all of lines 22 through 26 and inserting

by the records office.

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1310, page 7, lines 41 and 42; page 8, lines 1 through 17 (A04720), by striking out all of said lines on said pages and inserting

Amend Bill, pages 41 and 42, lines 1 through 30, by striking out all of said lines on said pages and inserting

Section 1310. Pennsylvania Public Records Office.

(a) Establishment.—The Pennsylvania Public Records Office is established within the State Ethics Commission, which shall appoint an executive director of the public records office who shall hire other staff as necessary to operate the office.

(b) Powers and duties.—The director of the public records office has the following powers and duties:

(1) To receive and respond to requests for information from persons who have been denied access to public records by a

Commonwealth agency, a local agency, the General Assembly or a legislative agency under this act.

(2) To receive and respond to requests for information from a Commonwealth agency, a local agency, the General Assembly or a legislative agency regarding compliance with this act.

(3) To order a Commonwealth agency, a local agency, the General Assembly or a legislative agency to comply with provisions of this act upon finding that a request for access to a public record was properly made.

(4) To issue advisory opinions on compliance with this act.

(5) To request information from Commonwealth agencies, local agencies, the General Assembly and legislative agencies in order to make compliance determinations under this act. All information supplied by a Commonwealth agency, a local agency, the General Assembly or a legislative agency which is relevant to a request shall be subject to confidentiality under subsection (c).

(6) To guide and oversee the compliance with this act by all Commonwealth agencies, local agencies, the General Assembly and legislative agencies.

(7) To provide a list to any requesting agency or individual of Federal and State laws that exempt certain types of records from disclosure.

(8) To make its advisory opinions and written decisions available for review.

(9) To conduct training for public officials, public employees and third parties relating to the Commonwealth's access laws with assistance from the Department of Community and Economic Development's Center for Local Government.

(10) To issue a report semi-annually to the General Assembly and to the Governor, which report shall include, but not be limited to:

(i) The number of requests to review denials from persons making public record requests.

(ii) The number of public record requests which were determined, upon review of the access office, to have been improperly denied.

(iii) The number of requests made by agencies seeking clarification on compliance with this act.

(iv) The number of orders issued by the public records office directing an agency to comply with this act.

(v) The number of advisory opinions issued by the public records office.

(vi) The number of requests for the list of Federal and State exemptions to public access of records.

(vii) The number of training sessions conducted for public officials, public employees and third parties relating to public access of records, including the number of persons attending such training sessions.

(11) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(12) To promulgate any regulations necessary to administer this act.

(13) Set a schedule for the requester and agency to submit documents in support of their positions.

(14) To review all information filed relating to a request. The public records office may hold a hearing, but the decision to hold or not to hold a hearing is not appealable. The public records office may admit into evidence testimony, evidence and documents it believes to be reasonably probative and relevant to

an issue in dispute. The public records office may limit the nature and extent of evidence to be cumulative.

(c) Confidentiality.—All information requested by the public records office from an agency in order to make a determination of whether an agency is complying with this act shall remain confidential and shall not be subject to public access.

(d) Fees.—The following shall apply:

(1) The public records office may impose a reasonable filing fee for an appeal made under section 1101, and any fees collected under this subsection shall be deposited in a restricted account in the General Fund which is established for the public records office. The money from this account shall be appropriated as necessary for the operation of the public records office.

(2) The public records office may waive the filing fee if the person requesting access to the public record is unable to afford the fee based on guidelines established by the public records office.

Section 1311. Administrative appeals.

(a) General rule.—Notwithstanding any other provision of law, a party aggrieved by a denial or deemed denial of access to a public record by a Commonwealth agency, local agency, the General Assembly or a legislative agency may, within 30 days after a request is denied or deemed denied, appeal to the public records office by forwarding to the office a copy of the request and the written explanation for the denial, if any, provided by the Commonwealth agency, local agency, the General Assembly or legislative agency, and requesting a review of the matter.

(b) Ruling.—

(1) Within 30 business days after receipt of the appeal, the public records office shall rule either that the denial or deemed denial of access to the record by the Commonwealth agency, local agency, the General Assembly or legislative agency is upheld or that the decision to deny access to the record was improper, and a Commonwealth agency, the local agency, the General Assembly or legislative agency must provide access to the record. The public records office may hold a private hearing on the matter and may review the record.

(2) The 30-business-day period may be extended by agreement of the parties. If the parties do not agree to an extension or the public records office does not issue a ruling within 30 business days after the date of the appeal, the denial from the Commonwealth agency, local agency, the General Assembly or legislative agency shall be deemed affirmed.

(c) Explanation.—If the public records office upholds the decision of the Commonwealth agency, local agency, the General Assembly or legislative agency to deny access to the public record, the office shall fully explain in writing to the person requesting the public record the reason for the denial. If the public records office rules that the Commonwealth agency, local agency, the General Assembly or legislative agency shall provide access to the public record, it shall order the Commonwealth agency, local agency, the General Assembly or legislative agency to provide the individual with access to the record and shall fully explain in writing the reason access must be provided.

(d) Other appeals.—Costs or attorney fees shall not be awarded under this section for administrative appeal to the public records office under this section.

Amend Bill, page 10, by inserting between lines 12 and 13 (A04720)

Section 3101.1. Severability.

All provisions of this act are severable.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman, Representative Tangretti, on the amendment.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, can I have one second, please.

The SPEAKER. The House will be at ease.

The Chair recognizes Representative Tangretti on the amendment.

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

Again, Mr. Speaker, this is the amendment that we considered previously this evening, that passed, that goes back to the original Mahoney language on HB 443 that sets up the Public Records Office in the Ethics Commission as opposed to a clearinghouse in the Department of Community and Economic Development, which the Ethics Commission would, in fact, appoint the executive director, and I would ask for an affirmative vote on that.

Again, thank you very much.

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. MAHER. At the time that the motion for reconsideration of this amendment was considered, I believe that I understood the rationale to be that it would be held to be the caboose on the train so that we would not encounter concerns with respect to other amendments, and while I heard the Chair's inquiry as to whether there were any other amendments timely filed, I believe there are at least two reconsideration motions on file with the Chair, and I am wondering, would the better process be to address those and then have the Tangretti amendment at the very end so we do not stumble in the same concern as we had before?

The SPEAKER. For the gentleman's information, we are checking the consequence of that process as we speak.

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. For the information of the members, the three amendments for reconsideration motions have been filed and will not be affected by the result of the Tangretti amendment.

The House will be at ease.

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. The Tangretti amendment will go over temporarily.

On the question recurring,

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

MOTION TO RECONSIDER AMENDMENT A04705

The SPEAKER. The gentlemen, Representative Schroder and Representative Perry, move that the vote by which amendment A04705 was defeated to SB 1, PN 1583, on the 10th day of December be reconsidered.

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

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. I would like to respectfully request a negative vote – respectfully request a negative vote –on the motion to reconsider.

The SPEAKER. Representative Perry, do you wish to speak?

Mr. PERRY. Thank you, Mr. Speaker.

Mr. Speaker, we have heard two arguments against this amendment. So on the motion to reconsider, I would ask you to support it because the two arguments against this were, one, it did not fit an accounting definition, and if you look in the dictionary, there are many definitions for many different terms. The other argument against this bill was just vote "no," which I do not think is an appropriate reason to vote "no." So I would ask you to vote "yes" just to reconsider it so we could have an intelligent discussion about what this amendment does.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGiolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siptroth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payton	Walko

Curry	Kessler	Petrarca	Wansacz
Daley	King	Petrone	Waters
DePasquale	Kirkland	Preston	Wheatley
Dermody	Kortz	Ramaley	White
DeWeese	Kotik	Readshaw	Williams
Donatucci	Kula	Roebuck	Wojnaroski
Eachus	Leach	Sabatina	Yewcic
Evans, D.	Lentz	Sainato	Youngblood
Fabrizio	Levdansky	Samuelson	Yudichak
Frankel	Longietti	Santoni	
Freeman	Mahoney	Seip	O'Brien, D.,
Galloway	Manderino	Shapiro	Speaker

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

MOTION TO RECONSIDER
AMENDMENT A04763

The SPEAKER. It has been moved by Representative Turzai and Representative Perry that the vote by which amendment 4763 was passed to SB 1 on the 10th of December be reconsidered.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question, Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

Respectfully, again, I would ask that the chamber move the process forward. We are in the 12th month of debating this legislation. We have had public hearings. We have had hours and hours and hours and days and days and days of debate. We have already considered this once. To have another hour or two on this amendment would be unproductive, in my view, and I would respectfully request that we not reconsider this proposal.

Thank you very much, Mr. Speaker.

The SPEAKER. Representative Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

With all due respect to the majority leader, giving us two more minutes for a reconsideration of amendment 4763 will not delay what has been significantly delayed before.

This merely, this amendment, protects arbitration opinions and awards, and upon reflection, many of us feel that in the spirit of openness of all these records, that there is no real justification for protecting arbitration opinions and awards, as well as exhibits and transcripts, from arbitration proceedings. We think, in fact, they should be part of the open public record and that a motion to reconsider would allow us to get a revote on that. A motion to reconsider is for more openness and a motion against this particular amendment is for more openness,

and I just want to make that clear to the members and to the public.

Thank you.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siptroth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payton	Walko
Curry	Kessler	Petrarca	Wansacz
Daley	King	Petrone	Waters
DePasquale	Kirkland	Preston	Wheatley
Dermody	Kortz	Ramaley	White
DeWeese	Kotik	Readshaw	Williams
Donatucci	Kula	Roebuck	Wojnaroski
Eachus	Leach	Sabatina	Yewcic
Evans, D.	Lentz	Sainato	Youngblood
Fabrizio	Levdansky	Samuelson	Yudichak
Frankel	Longietti	Santoni	
Freeman	Mahoney	Seip	O'Brien, D., Speaker
Galloway	Manderino	Shapiro	

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

**MOTION TO RECONSIDER
AMENDMENT A04730**

The SPEAKER. It is moved by Representative Maher and Representative Clymer that the vote by which amendment 4730 was defeated to SB 1, PN 1583, on the 10th day of December be reconsidered.

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

The SPEAKER. On the question, Representative Maher.
Mr. MAHER. Thank you, Mr. Speaker.

I am not sure that a reconsideration will actually change the outcome, but it would allow certain members to have their votes recorded as they intended, and I would ask for the courtesy of reconsideration.

Thank you.
The SPEAKER. On the question, Representative DeWeese.

Mr. DeWEESE. This is a moment of keen disappointment, because my amicable rapport with the gentleman from Upper St. Clair is at its dizzying zenith tonight, but nevertheless, for the reasons that I have enunciated earlier, I would ask, respectfully, that we get this process moving forward. We have to work on our hazardous sites proposal, our health-care proposal. We have already been through all of these things, and I would prefer not to debate them again. They have been debated already today.

So I would ask, respectfully and with a manly affection to my colleague, that we not support him.

Thank you.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson

Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGrolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siptroth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payton	Walko
Curry	Kessler	Petrarca	Wansacz
Daley	King	Petrone	Waters
DePasquale	Kirkland	Preston	Wheatley
Dermody	Kortz	Ramaley	White
DeWeese	Kotik	Readshaw	Williams
Donatucci	Kula	Roebuck	Wojnaroski
Eachus	Leach	Sabatina	Yewcic
Evans, D.	Lentz	Sainato	Youngblood
Fabrizio	Levdansky	Samuelson	Yudichak
Frankel	Longietti	Santoni	
Freeman	Mahoney	Seip	O'Brien, D., Speaker
Galloway	Manderino	Shapiro	

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

**MOTION TO RECONSIDER
AMENDMENT A04982**

The SPEAKER. It has been moved by Representative Beyer and Representative Sam Smith that the vote by which amendment A4982 was passed to SB 1, PN 1583, on the 10th day of December be reconsidered.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question, Representative Beyer.

Mrs. BEYER. Mr. Speaker, thank you.

I am asking that this amendment be reconsidered because I believe that all of the facts and the implications and the massive amount of problems that school districts and municipalities may face in reprinting and distributing

documents that are requested without proper reimbursement were not fully considered.

Now, I am asking the majority leader, whom I have wholesome and sisterly affection for, that he not oppose this motion to reconsider and we redebate this particular issue because of its serious financial impact to school districts and municipalities across the State.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. This proposal passed at approximately 141 to 60, and again, I was an advocate of the sanctity of the collective-bargaining agreements that I thought could be compromised by this proposal.

I would also ask that the sisterly affection be extended to my worthy colleague from Fayette County, Mr. Mahoney, as the session rolls forward. Thank you.

By the way, I am not for your proposal. I want to defeat your proposal.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. The gentleman will cease.

The gentleman is, under the rules, not permitted to speak on the motion to suspend.

On the motion to reconsider, the gentleman is in order and may proceed.

Mr. MAHER. Mr. Speaker, just for clarity, could you just explain what that ruling was. I did not understand.

The SPEAKER. The Chair was thinking about something else. The gentleman is in order and may speak on the motion.

Mr. MAHER. Thank you, Mr. Speaker.

For the sake of clarity, this particular amendment, the DePasquale amendment, is the one which is at question here, not Mrs. Beyer's amendment, and given the long number of votes that we have made today, it may have just been one of those unfortunate slips of an elbow or a finger or something such, but the board was actively cascading from green to red when the result was locked in.

I know there were a number of people who were attempting to record their vote the way they desired who were foreclosed from that opportunity on this particular proposal, and it may well be that the reason people were actively trying to record their vote as they intended was because the underlying amendment will remove from every town, every borough, every school district, every authority, every instrumentality the ability to have the most fundamental decisions about how to interact with their bosses – their constituents – that they have had for 5 years now, with virtually no complaints that I am aware of. However, there is an exception here. The amendment provides if you are an attorney, townships and boroughs, and on and on and on, can charge for attorneys doing the exact same procedures that if someone who is not an attorney is doing them will incur no cost.

Mr. D. EVANS. Mr. Speaker?

Mr. MAHER. This segregation of attorneys—

Mr. D. EVANS. Mr. Speaker?

Mr. MAHER. —being superior to regular Pennsylvanians—

The SPEAKER. For what purpose—

Mr. MAHER. Mr. Speaker, I am not interested in yielding.

The SPEAKER. For what purpose does the gentleman, Representative Evans, rise?

Mr. D. EVANS. Mr. Speaker, I thought this was on reconsideration?

The SPEAKER. The gentleman is correct.

The gentleman will confine his remarks to the motion to reconsider.

Mr. MAHER. Indeed, Mr. Speaker, and I think the core of the reason for the motion for reconsideration is because this amendment went up on the board, the board was barely yellow, or orange, with the number for this amendment before the vote was rolling, and the vote was locked in before the board had stabilized.

In the interest of fairness and openness, for heaven's sake – this is about open records – we ought to make sure that members have had the opportunity to vote the correct way on this. And I understand the reasons enunciated by the gentleman in opposition to some others, but members were deprived of the opportunity to debate or vote on this particular amendment, and it is going to affect every one of you in every community that you represent, and every school district you represent, and I think we all deserve a chance to ensure that we have voted as you would intend to.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—99

Adolph	Gabig	McIlhattan	Raymond
Argall	Geist	Mensch	Reed
Baker	Gillespie	Metcalf	Reichley
Barrar	Gingrich	Micozzie	Roae
Bastian	Godshall	Millard	Rock
Bear	Grell	Miller	Rohrer
Benninghoff	Harhart	Milne	Ross
Beyer	Harper	Moul	Ruble
Boback	Harris	Moyer	Saylor
Boyd	Helm	Murt	Scavello
Brooks	Hennessey	Mustio	Schroder
Cappelli	Hershey	Nailor	Smith, S.
Causar	Hess	Nickol	Sonney
Civera	Hickernell	O'Neill	Stairs
Clymer	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Verb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson
Fleck	Marsico	Rapp	

NAYS—103

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siproth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cox	Keller, W.	Payton	Walko

Cruz	Kessler	Petrarca	Wansacz
Curry	King	Petrone	Waters
Daley	Kirkland	Preston	Wheatley
DePasquale	Kortz	Ramaley	White
Dermody	Kotik	Readshaw	Williams
DeWeese	Kula	Roebuck	Wojnarowski
Donatucci	Leach	Sabatina	Yewcic
Eachus	Lentz	Sainato	Youngblood
Evans, D.	Levdansky	Samuelson	Yudichak
Fabrizio	Longietti	Santoni	
Frankel	Mahoney	Seip	O'Brien, D.,
Freeman	Manderino	Shapiro	Speaker
Galloway			

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

**MOTION TO RECONSIDER
AMENDMENT A04981**

The SPEAKER. It is moved by Representative Boback and Representative Argall that the vote by which the amendment A4981 was defeated to SB 1, PN 1583, on the 10th day of December be reconsidered.

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

The SPEAKER. On the question, Representative Boback.
Ms. BOBACK. Thank you, Mr. Speaker.

I request the courtesy of the floor, if you would be so kind, a clarification from Representative Yudichak's amendment.

We all want total disclosure. I just ask for your courtesy for reconsideration of this amendment.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalf	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Ruble
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder

Causser	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siptroth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payton	Walko
Curry	Kessler	Petrarca	Wansacz
Daley	King	Petrone	Waters
DePasquale	Kirkland	Preston	Wheatley
Dermody	Kortz	Ramaley	White
DeWeese	Kotik	Readshaw	Williams
Donatucci	Kula	Roebuck	Wojnarowski
Eachus	Leach	Sabatina	Yewcic
Evans, D.	Lentz	Sainato	Youngblood
Fabrizio	Levdansky	Samuelson	Yudichak
Frankel	Longietti	Santoni	
Freeman	Mahoney	Seip	O'Brien, D., Speaker
Galloway	Manderino	Shapiro	

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

The SPEAKER. The gentleman, Representative Turzai, moves that the rules be suspended for the immediate consideration of amendment A05— The gentleman withdraws? The Chair thanks the gentleman.

The gentleman, Mr. Turzai, all the amendments are withdrawn? The Chair thanks the gentleman.

On the question recurring,

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

MOTION TO SUSPEND RULES

The SPEAKER. The gentleman, Representative Kauffman, moves that the rules be suspended for the immediate consideration of amendment A05075.

On the question,

Will the House agree to the motion?

MOTION WITHDRAWN

The SPEAKER. Is the gentleman waiving off speaking or— Withdraw the amendment? Withdraw the amendment? The Chair thanks the gentleman.

On the question recurring,

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

MOTION TO SUSPEND RULES

The SPEAKER. The gentleman, Representative Scott Perry, moves for a suspension of the rules for the immediate consideration of amendment A05071.

On the question,

Will the House agree to the motion?

The SPEAKER. On the motion to suspend the rules, the Chair recognizes Representative Perry.

Mr. PERRY. Thank you, Mr. Speaker.

As most of you in this body know, I am often a proponent of suspending the rules, and so in this case, because this is so important, I feel compelled to ask for your support on the suspension on this occasion so I can offer this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. It gives me great pause to try to contravene the honorable lieutenant colonel, whom I consider among my worthy companions. But nevertheless, one more time, this proposal was inaugurated in January. We have had hundreds of efforts to amend, and we have had scores and scores of hours to debate. So if my honorable colleague for some reason was not able to get this amendment in on time, I really believe that tonight's future hours should be devoted to the hazardous waste cleanup proposal and to our health-care proposal. We are making substantial progress. This open records bill has been debated aggressively, and I would reluctantly ask that Mr. Perry's efforts be overruled.

I would oppose a suspension of our rules. Thank you.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—99

Adolph	Fleck	McIlhattan	Reed
Argall	Freeman	Mensch	Reichley
Baker	Gabig	Metcalfe	Roae
Barrar	Geist	Micozzie	Rock

Bastian	Gillespie	Millard	Rohrer
Bear	Gingrich	Miller	Ross
Benninghoff	Godshall	Milne	Rubley
Beyer	Harhart	Moul	Saylor
Boback	Harper	Moyer	Scavello
Boyd	Harris	Murt	Schroder
Brooks	Helm	Mustio	Smith, S.
Cappelli	Hennessey	Nailor	Sonney
Causar	Hershey	Nickol	Stairs
Civera	Hickernell	O'Neill	Steil
Clymer	Hutchinson	Peifer	Stern
Cox	Kauffman	Perry	Stevenson
Creighton	Keller, M.	Perzel	Swanger
Cutler	Kenney	Petri	Taylor, J.
Dally	Killion	Phillips	True
Denlinger	Mackereth	Pickett	Turzai
DiGirolamo	Maher	Pyle	Vereb
Ellis	Major	Quigley	Vitali
Evans, J.	Mantz	Quinn	Vulakovich
Everett	Marshall	Rapp	Watson
Fairchild	Marsico	Raymond	

NAYS—103

Belfanti	Gergely	Mann	Shapiro
Bennington	Gibbons	Markosek	Shimkus
Bianucci	Goodman	McCall	Siptroth
Bishop	Grell	McGeehan	Smith, K.
Blackwell	Grucela	McI. Smith	Smith, M.
Brennan	Haluska	Melio	Solobay
Buxton	Hanna	Mundy	Staback
Caltagirone	Harhai	Myers	Sturla
Carroll	Harkins	O'Brien, M.	Surra
Casorio	Hess	Oliver	Tangretti
Cohen	Hornaman	Pallone	Taylor, R.
Conklin	James	Parker	Thomas
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payne	Walko
Curry	Kessler	Payton	Wansacz
Daley	King	Petrarca	Waters
DePasquale	Kirkland	Petrone	Wheatley
Dermody	Kortz	Preston	White
DeWeese	Kotik	Ramaley	Williams
Donatucci	Kula	Readshaw	Wojnaroski
Eachus	Leach	Roebuck	Yewcic
Evans, D.	Lentz	Sabatina	Youngblood
Fabrizio	Levdansky	Sainato	Yudichak
Frankel	Longietti	Samuelson	
Galloway	Mahoney	Santoni	O'Brien, D., Speaker
George	Manderino	Seip	
Gerber			

NOT VOTING—0

EXCUSED—1

DeLuca

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

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

MOTION TO SUSPEND RULES

The SPEAKER. Representative Longietti moves for a suspension of the rules for the immediate consideration of amendment A05059.

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

MOTION WITHDRAWN

The SPEAKER. Representative Longietti.
Mr. LONGIETTI. Mr. Speaker, I withdraw my amendment.
The SPEAKER. The Chair thanks the gentleman.

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

The SPEAKER. It has been moved by Representative Perry that the rules be suspended for the immediate consideration of amendment A05072. The gentleman withdraws. The Chair thanks the gentleman.

Are there any other members seeking to suspend the rules?

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

CONSIDERATION OF
AMENDMENT A04930 CONTINUED

The SPEAKER. The Chair returns to the Tangretti amendment A04930.

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

The SPEAKER. Does Representative Tangretti wish to be recognized? The Chair recognizes Representative Tangretti on the amendment.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Again, for the third time, I would ask the members of the House to support the amendment that places the appeals for the decisions on records in the Ethics Commission where I think it belongs, and I would hope that you all agree.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—147

Adolph	Everett	Mantz	Rohrer
Argall	Fairchild	Marsico	Ross
Barrar	Freeman	McGeehan	Rubley
Bastian	Gabig	McI. Smith	Sabatina
Bear	George	McIlhattan	Samuelson
Benninghoff	Gibbons	Melio	Saylor
Bennington	Gillespie	Mensch	Scavello
Beyer	Gingrich	Metcalfe	Schroder
Bianucci	Godshall	Micozzie	Seip
Bishop	Goodman	Millard	Shimkus
Blackwell	Grucela	Miller	Siptroth
Boback	Hanna	Milne	Smith, K.
Boyd	Harhai	Moul	Smith, M.
Brennan	Harhart	Murt	Solobay
Brooks	Harris	Mustio	Sonney
Buxton	Helm	Nailor	Staback

Caltagirone	Hennessey	Nickol	Steil
Cappelli	Hershey	O'Brien, M.	Stern
Carroll	Hess	O'Neill	Stevenson
Causser	Hickernell	Oliver	Swanger
Civera	Hornaman	Pallone	Tangretti
Clymer	Hutchinson	Parker	Taylor, J.
Conklin	Kauffman	Payne	Taylor, R.
Costa	Keller, W.	Perry	Thomas
Cox	Kenney	Petrarca	True
Creighton	Kessler	Petri	Turzai
Cruz	Killion	Petrone	Vitali
Curry	King	Phillips	Vulakovich
Cutler	Kirkland	Pyle	Waters
Daley	Kortz	Quigley	Watson
Dally	Kula	Quinn	White
Denlinger	Lentz	Ramaley	Williams
DeWeese	Levdansky	Rapp	Wojnaroski
DiGirolamo	Mackereth	Raymond	Yewcic
Donatucci	Mahoney	Reed	Youngblood
Ellis	Major	Reichley	Yudichak
Evans, D.	Manderino	Rock	

NAYS—55

Baker	Grell	McCall	Santoni
Belfanti	Haluska	Moyer	Shapiro
Casorio	Harkins	Mundy	Smith, S.
Cohen	Harper	Myers	Stairs
DePasquale	James	Pashinski	Sturla
Dermody	Josephs	Payton	Surra
Eachus	Keller, M.	Peifer	Vereb
Evans, J.	Kotik	Perzel	Wagner
Fabrizio	Leach	Pickett	Walko
Fleck	Longiotti	Preston	Wansacz
Frankel	Maher	Readshaw	Wheatley
Galloway	Mann	Roae	
Geist	Markosek	Roebuck	O'Brien, D.,
Gerber	Marshall	Sainato	Speaker
Gergely			

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

VOTE CORRECTIONS

The SPEAKER. Representative Boback.

Ms. BOBACK. Thank you, Mr. Speaker.

On amendment 4981, I would like to be recorded in the positive. I have been recorded in the negative.

The SPEAKER. The Chair thanks the lady. Her remarks will be spread upon the record.

Ms. BOBACK. Thank you.

The SPEAKER. Representative Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker. Correction of the record.

On amendment 4763, I was recorded in the affirmative. I would like to be recorded in the negative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

Representative Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

A4763, an amendment to SB 1, I was marked as in the affirmative. I would like to be marked in the negative. Thank you.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

Representative O'Neill.

Mr. O'NEILL. On amendment 4982, I was inadvertently recorded in the positive. I should be in the negative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

Mr. O'NEILL. Thank you.

The SPEAKER. Representative Rubley.

Mrs. RUBLEY. Thank you, Mr. Speaker.

On amendment 4934, I was recorded in the positive, affirmative. I would like to turn it to the negative. Thank you.

The SPEAKER. The Chair thanks the lady. Her remarks will be spread upon the record.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 810, PN 1301**, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey certain lands situate in the City of Pittston, Luzerne County, to the Redevelopment Authority of the City of Pittston; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey to Bensalem Township, certain lands situate in Bensalem Township, Bucks County.

On the question,

Will the House agree to the bill on second consideration?

Ms. **HELM** offered the following amendment No. **A03099**:

Amend Title, page 1, line 5, by striking out "AND"

Amend Title, page 1, line 8, by removing the period after "COUNTY" and inserting

; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey to the Pennsylvania State Employees Credit Union, certain lands situate in Susquehanna Township, Dauphin County.

Amend Bill, page 7, by inserting between lines 6 and 7 Section 3. Conveyance in Susquehanna Township, Dauphin County.

(a) Authorization.—The Department of General Services, with the approval of the Governor, is authorized on behalf of the Commonwealth of Pennsylvania to grant and convey to the Pennsylvania State Employees Credit Union certain lands, and any improvements thereon, situate in Susquehanna Township, Dauphin County for \$2,718,600 and under terms and conditions to be established in an agreement of sale with the Department of General Services.

(b) Description.—The property to be conveyed under subsection (a) consists of approximately 47.28-acres, and any improvements thereon, bounded and more particularly described as follows:

CALENDAR

BILL ON CONCURRENCE IN HOUSE
AMENDMENTS AS AMENDEDSENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED

SB 1 (Pr. No. 1721) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for the Office of Open Records; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

On the question,

Will the Senate concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 1?

Senator PILEGGI. Madam President, I move that the Senate do concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 1.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I rise to ask my colleagues to support Senate Bill No. 1, which would significantly strengthen Pennsylvania's open records law. Senate Bill No. 1 is the first comprehensive rewrite of this law since Pennsylvania's current open records law was passed more than 50 years ago in 1957. Much of this legislation before us today is identical to what the Senate approved in November. Since then, the House has considered the bill and made numerous amendments. Many of those changes improved the bill, and I want to thank the leadership and Members of the House of Representatives for their work on this issue.

Many of the Members in this Chamber have also been very involved in shaping this legislation. I would like to especially thank two Members from the other side of the aisle who were instrumental in our discussions this week with the House, Senator Mellow and Senator Anthony Williams. I also would like to thank all of the Members of the Republican Caucus for their ongoing support of this process.

Rather than go into detail regarding the core elements of the bill, which I described on the Senate floor in November, I would like to briefly describe the most significant changes made to Senate Bill No. 1 since the Senate last voted.

Under the current version, legislative records and financial records of the judiciary are now presumed to be open, along with records from Commonwealth agencies and local agencies. For legislative records and financial records of the judiciary, the burden of proof is now on the agency seeking to prevent access to a record. This is the same burden of proof we are placing on Commonwealth agencies and local agencies.

The definition of "legislative record" has been expanded to include two new categories. Polls and various records relating to regulations received by the General Assembly are now included in the definition of "legislative record."

The bill before us allows a local emergency dispatch center or a court to release a 911 recording or transcript of a recording when the public interest in disclosure outweighs the interest in nondisclosure.

This version of Senate Bill No. 1 also increases the potential penalty for denying access to a record in bad faith to \$1,500.

Many other changes have been made to improve this legislation, but these are the key provisions. Pennsylvania needs a stronger open records law because transparency builds trust in government. As I have said before, a strong open records law is the true foundation of government reform. By opening government records to public inspection, we give citizens the ability to thoroughly review governmental actions, which is their right.

Madam President, I ask the Senate to concur in House amendments, as amended, to Senate Bill No. 1.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I will be very brief, but I would be remiss if I did not put a few comments on the record. First and foremost, Madam President, I want to thank Senator Pileggi for taking the initiative at the start of the Session of making this particular proposal Senate Bill No. 1, and for showing his complete and total commitment to the first significant rewrite of the open records law in Pennsylvania in the past 50 years. To Senator Pileggi and his staff, along with Senator Anthony Williams, I want to say thank you and congratulations, and also for giving us the opportunity to share in the input.

Madam President, it seems like it was just yesterday, but it was now some 14 or 15 years ago, maybe even a little bit longer than that, when we first had the opportunity of opening up this Chamber to live television coverage. I worked very closely, as President pro tempore of the Senate at the time, with Senator Jubelirer. And we also, Senator Jubelirer and I, worked very closely to liberalize and open up the Sunshine Act as it dealt with local government.

Madam President, this particular piece of legislation, which was done on a bipartisan basis, working across party lines, is extremely significant for the people of Pennsylvania. Madam President, Senate Bill No. 1 is a very strong, substantive step toward making all Pennsylvania government and governmental bodies open and accessible, as they should be. None of us in this elected body, whether it be this body or the House of Representatives, owns the office. We only serve an office in trust for people as long as they feel that we are doing the job that best reflects their views, so openness and accessibility is paramount.

I want to again thank Senator Pileggi and Senator Anthony Williams for doing an outstanding job. Today is a historic day in the movement forward of Pennsylvania, so that we can be open, that the government is of the people, by the people, and for the people. I am very happy to play just a very small part in that, Madam President, and I thank you very much.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Madam President, I know it is extremely cloudy and overcast today outside of the Capitol in Harrisburg, and actually all around the State, but it certainly is a lot more sunny inside these Chambers today as a result of the action I believe we are about to take, and I hopefully believe it will be a unanimous action in the Senate here today. There is going to be a lot more sunshine not only in these hallowed halls of the State legislature, but certainly in government offices across the State, as well as local hosts, municipalities, communities, counties, and legal jurisdictions in the State as a result of this new and improved open records law.

I agree with my colleagues who have spoken who point to the compromised nature of this bill. I have learned the hard way that you cannot always have your way in these Chambers, on both sides of the aisle and certainly in two Houses of the legislature, in order to move progressively forward on any major substantive issue. But I am very pleased at the good work that the leadership has demonstrated here today in the Senate, especially on both sides of the aisle, especially at the committee level as well, in forging this significant compromise piece of legislation that is progressive, that is substantive, and really lets a lot more sunshine into State government.

As my colleagues have pointed out, when I first started looking at the issue of open records as a State Senator, in this past year when I introduced legislation similar to legislation that State Representative Tim Mahoney from Fayette County had presented in the House, I did not really know that this law had not really been reviewed or substantively changed since the mid-1950s. So I agree with the characterization that it is far too long and long overdue that this reform is now before us today.

Obviously, under this legislation, many more records will be presumed to be open, accessible, and available. I think, fundamentally, this is the main feature of this new and improved open records law. It is important to note that the major components of the original open records bill that this Senate, leadership and all of us included, passed in November remain largely in place, and I think there was very good guidance and input from House Members on both sides of the aisle on this final passage.

Senate Bill No. 1 retains the strong language that provides easier access to a wider range of new and old government records as well as contracts. The bill also gives citizens new appeal rights and imposes tougher penalties against officials who wrongly withhold public records. The crux of Senate Bill No. 1 is still in place, but this compromise creates new access to government records. It clarifies documents that are personal information that will remain confidential, it will not come into conflict with any Federal law, and it specifies that other information is explicitly public.

Some of the notable compromise amendments would, first and foremost, presume, with limited exceptions, that all government records are public records, disclose available birth dates on court and public documents to help verify identity, make 911 recordings available when such disclosure would serve the public interest, increase the civil penalty to \$1,500 against an official who wrongly denies access to a public document, and make correspondence between legislators and lobbyists public documents. And I think this is certainly a cornerstone piece of legislation in regard to the relationship that lobbyists and lobbying organiza-

tions, organizations that have professional paid lobbyists, the significant role they play in the drafting, formulation, and passage of pieces of legislation in lobbying both Houses of the Capitol.

This is a solid bipartisan effort that makes government more transparent and gives our citizens greater access to all levels of government. But I do want to point out, Madam President, that I do believe very strongly that notwithstanding the leadership and the temperament and the ability to get this moved out into reform legislation, we should not underestimate or downplay the role that individual citizens and organizations played across this State in bringing this issue to the forefront. It is unfortunate that it took so many lawsuits over so many years for this issue to come to a head. That is disappointing not only in terms of the costs, but fundamentally, I think it is violative of free speech, of the rights of newspapers and those who are out in the public arena responsible for disseminating information about government.

I think it is a shame that so many organizations and so much time has had to be expended, time as well as resources, trying to fight for basic information that should be made public. I think that, fundamentally, this will be something that will be improved greatly as time goes on.

So whether it is the citizen gadflies, whether they are obnoxious or litigious, reviewed by some, or heralded by others as great citizen activists, whether it is the contribution of the Pennsylvania Newspaper Association, whom I specifically would like to single out and let them enjoy a little bit of credit today, because the fact of the matter is they, in a very responsible fashion, worked with all levels of the legislature, House and Senate, regardless of party persuasion. They did a lot of due diligence in helping to enumerate principles. They reviewed best practices around the country. I think they played a helpful, constructive role, certainly separating out the power of the press and the freedom of the press from the prerogatives of the legislative branch, but I think they played a very helpful role, and I would like to thank them and draw attention to their contribution on this issue over the last year.

I do think Representative Mahoney from Fayette County deserves credit because, as a freshman legislator, I think he had the benefit of having some new impressions that he could impose upon the media. He had a clean bill of health to some extent, and I think it was important that, not only for his size but for the size of the issue that he brought to the table in the House, he should be credited specifically.

In closing, I also want to thank my colleague, Senator Kasunic, and the Senate Democratic Policy Committee. I do not want to be overly partisan, but the fact of the matter is that we had a committee that branched out across the Commonwealth, conducted public hearings, and heard all kinds of comments. Despite the fact that we finally have an agreement, there were sincere differences, rightfully, and significant issues that had to be addressed and maybe still have to be addressed. Certainly, police organizations and district attorneys raised significant issues, and it took many of us, myself included, time to pause and better evaluate their points of view. In the end, we have a great, new, progressive bill, and the sunshine is shining in a lot more clearly.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Madam President, let me say at the outset that I think this legislation is a great piece of legislation and is going to go a tremendous way in opening and in the transparency of State and local government and of all of our records.

But I do have two questions and probably two concerns over what may be contained in the legislation, and if I may, would the Majority Leader consent to brief interrogation?

The PRESIDENT. He indicates he will.

Senator PUNT. Madam President, it is my understanding that addresses of employees are to be made available, if requested. It is also my understanding that law enforcement officials and judges would be exempt. Am I correct in that understanding?

Senator PILEGGI. Yes, Madam President, the gentleman is correct.

Senator PUNT. Madam President, the second concern I have is birth dates of all employees. Would they be available for disclosure if somebody should request?

Senator PILEGGI. Madam President, the issue of birth dates is one that has been discussed a great deal in connection with this bill. Under current law, dates of birth in public records are available for public inspection if the record is otherwise available. Senate Bill No. 1 maintains the current law in that regard, but for newly available public records, also allows that birth dates would be available for public inspection.

Senator PUNT. Thank you, Madam President. I am done with my interrogation. A comment, if I may.

On the issue of addresses of employees being available, that issue, and the date of birth, I think is going to come back and bite us very badly one day. We do not need to have somebody's address out there to be made available to anyone. Those who would look for such are looking for problems or skullduggery. Why would somebody need to know an address of where a State employee lives? Judges are exempt, and law enforcement officials are exempt, as they should be. What happens if someone is convicted and found guilty in a district justice's court, and that person wants to get even? They simply go and ask for the employees of that office, what is their home address? Or with any judge, or with anyone. The employees in their offices could possibly become victimized because of a ruling put forth by a district justice, Court of Common Pleas, or what have you. I think that is a mistake. We are going to have to revisit this someday, I believe, and hopefully it will not be as a result of an injury or a fatality caused by some nut. And God only knows, Madam President, we have plenty out there, and all it takes is one action.

The second issue deals with the date of birth. I am very concerned about that, as I have discussed with the Majority Leader. There is no earthly reason why anyone needs to know somebody's date of birth. Just 2 or 3 weeks ago, we had hackers from China break into four of our State departments' computer operations - PHEAA, DEP, and I forget the other two. Why? Who knows.

We all know and are aware of the issues of identity theft. Somebody gets on there requesting your date of birth, it is public record. You can have it. If they get a portion of your Social Security number, along with your date of birth, you can be ruined. You can be ruined. I think that is something we need to look at

as well. The only reason I can see is, if somebody wants to know somebody's birth date, they are up to no good, or they are just nosy. It is that simple. Why would a newspaper need to know a birth date of someone? The folks who do need to know - law enforcement, judiciary - they have access. They can get that information. But I do not believe anybody should just go in and get somebody's birth date or address.

I raise these two issues because I am greatly concerned about the potential adverse, negative impact it can have down the road. I would ask the Members down the road to watch this very, very carefully and perhaps to revisit those two issues down the road, hopefully before somebody is physically, financially, or emotionally distraught.

Madam President, I thank you.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I certainly appreciate the gentleman's concerns. I would just like to point out for the Members and for those who might be watching this that the current law does allow for dates of birth and addresses in public records to be permitted. So this is not an expansion of that law, but rather, it maintains present law. It would be ironic, in an open records law that is a rewrite for the first time in over 50 years of the State's laws, if we restricted public access.

I am, however, concerned, as is the gentleman, with privacy theft and privacy concerns and identity theft. I understand that there are separate bills that are intended to deal with that, and I think that is an appropriate place to work out those concerns over identity theft and the balance of privacy concerns for sensitive information such as that.

By example, though, I would point out that every county courthouse has deed information and tax assessment information that have addresses that are available for the public, so even if it is not in the phone book where most people look up addresses and not on the Internet, you can certainly go to the county courthouse now and get that information. And dates of birth are very easily available on voter registration records, so anyone who is registered to vote in Pennsylvania indicates the date of birth on the form, and that information is, under current law, available to the public. So this is not an expansion of that right, but a retention of what is currently available. As to the identity theft issues, I think that would be more appropriately dealt with in a separate bill.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Anthony Williams.

Senator A.H. WILLIAMS. Madam President, I want to start with the obvious. It was not my intention to talk about it today on this floor but simply to vote on this, but I really have to publicly make sure that I thank the stewards of this process for guiding us to a reasonable consideration and a balanced consideration when it comes to open records. The items which were mentioned- addresses and several other items- have been part of a very private conversation with those of us who negotiated this outcome. Senator Pileggi and Senator Mellow have been stalwarts for the institution of the Senate while recognizing that the greater good is to make sure that our constituents feel that they are represented

here. So I want to thank Senator Pileggi and Senator Mellow for allowing me to be a participant in this process.

I want to underscore the history of this institution. During the struggle for independence, Pennsylvanians, wary of a central government with a strong dominant executive branch, had great faith in the legislative branch as both a means of balancing power and protecting the rights of the people. We credited the legislative branch for helping to secure the independence of the citizenry of Pennsylvania. Today, we return to those humble beginnings of 1790 when there was an idea, an idea to secure a government that would represent the people.

Today we take a step forward, allowing those citizens to feel that they are truly a part of what we do here every day. Again, I credit Senator Pileggi and Senator Mellow for allowing us to do that. But I want to go one step further, because I think Senator Punt echoed concerns that I have heard. As we go forward, how do we continue to protect those people who are most innocent in that process, those being our constituents? By doing good, we do not want to maim those in that process and step on them. I think we have done a very fair and balanced process to that end, but it outlines that we have work to be done.

I also want to outline concerns that I have heard from my counterparts in the House. The Senate, as they remind us, was created by the House. But as I want to remind them, they were created by the constitutional convention, which required them to create two Houses, two Chambers. They did not do it as a favor to us. They did it because they were required by the constitutional convention to create the Senate. As such, those concerns coming from the House, which sent back innumerable different rewrites of this process, I want them to understand something. James Wilson, the founder and designer of the Senate, regarding the Senate's relationship with the larger House of Representatives, Wilson replied, "They will be rivals in duty, rivals in fame, rivals for the good graces of the common constituents."

We are not a Senate of Republicans and Democrats today. We are one body, one body that says we were created to protect Pennsylvanians. We were created to allow Pennsylvanians to feel that they are a part of us. We are one Senate today, speaking one voice, that we think open records should not only reflect openness of government, but inclusion of government.

There are framers of that measure, and the credit should go to Senator Pileggi. Whether he is a Republican or a Democrat, he is a Member of this hallowed institution, has done an outstanding job, and we should give him credit for that and hope that the House of Representatives, of which we are certainly rivals, and intended to be such, will only do half of what we have done here today.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Indiana, Senator Don White.

Senator D. WHITE. Madam President, that is a tough act to follow, but I want to begin by commending all the people who worked on this legislation. I certainly support the intent and all the efforts undertaken by the leadership on both sides of this aisle aimed at the transparency and openness in government. I sincerely believe Senate Bill No. 1 is another important step in restoring public faith in government.

That being said, I would like to ask the author of the bill if he would stand for very brief interrogation.

The PRESIDENT. Senator Pileggi indicates he will.

Senator D. WHITE. Madam President, does this bill restrict, in any way, the access that insurers and other interested parties currently have to PennDOT records, such as the Driver's Privacy Protection Act?

Senator PILEGGI. Madam President, the answer to that question is no. This bill makes clear that existing Federal and State statutes that deal with specific questions of access are not superceded. That is reflected in section 306 and section 3101 of Senate Bill No. 1.

Senator D. WHITE. I have one other question, Madam President. Does Senate Bill No. 1, as it stands before us today, alter in any way the processes by which insurers request, and PennDOT provides, access to those records?

Senator PILEGGI. Madam President, those processes are now controlled by an existing Federal/State statute or regulation. Those specific statutes would apply, not Senate Bill No. 1.

Senator D. WHITE. Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Brubaker.

Senator BRUBAKER. Madam President, I would like to again say thank you to Senator Pileggi and also would like to say thank you to Senator Mellow, Senator Anthony Williams, and of course also thank you to the chairman of the Committee on State Government, Senator Piccola, for taking a strong leadership position on this issue, and I know every single Member of this great body contributed as well. So thank you to our leadership team, and thank you to each individual rank-and-file Member as well.

I was very proud to be a cosponsor of Senate Bill No. 1, a comprehensive reform to open Pennsylvania's records and shed more light on government actions. Under this legislation, government records will now be considered open unless they fall under a legal exception to protect privacy or security. Our constituents have a right to this information about how our governments operate. This kind of openness allows the people to review and understand what we do, acknowledging what we do well and what we need to improve upon. By passing Senate Bill No. 1 here today, we will take a historic step to make Pennsylvania governments even more accountable to those whom we serve, and to ultimately insure that we are accountable to our citizenry.

Thank you, Madam President.

And the question recurring,
Will the Senate agree to the motion?

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling

Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 313 (Pr. No. 1720) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act, further providing for definitions; and providing for registration, qualifications and supervision of pharmacy technicians and pharmacy technician trainees.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER

SB 776 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1023 (Pr. No. 1350) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 14, 1986 (P.L.2, No.2), known as the Acupuncture Registration Act, redesignating registration as licensure.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-42

Armstrong	Fontana	Mellow	Scarnati
Boscola	Fumo	Musto	Stack
Browne	Gordner	O'Pake	Stout
Brubaker	Greenleaf	Orie	Tartaglione
Corman	Hughes	Piccola	Tomlinson
Costa	Kasunic	Pileggi	Washington
Dinniman	Kitchen	Pippy	Waugh
Eichelberger	LaValle	Punt	Williams, Anthony H.
Erickson	Logan	Rafferty	Wonderling
Ferlo	Madigan	Regola	
Folmer	McIlhinney	Rhoades	

NAY-8

Baker	Robbins	White, Donald	Williams, Constance
Earll	Vance	White, Mary Jo	Wozniak

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER

SB 1122 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

SECOND CONSIDERATION CALENDAR

BILLS ON SECOND CONSIDERATION REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 949 and SB 1019 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

BILLS OVER IN ORDER

SB 295, HB 500 and HB 501 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

COMMUNICATIONS

The SPEAKER. The Chair acknowledges receipt of the following communications, which the clerk will read.

The following communications were read:

A communication dated January 17, 2008, from the Public Employee Retirement Commission regarding amendment No. 05275 to HB 1087, PN 1259, providing an actuarial impact statement on the amendment.

A communication dated January 17, 2008, from the Public Employee Retirement Commission regarding amendment No. 05274 to HB 1086, PN 1258, providing an actuarial impact statement on the amendment.

A communication dated February 1, 2008, from the Public Employee Retirement Commission providing a copy of its annual public report summarizing the commission's findings, recommendations, and activities for the year 2007.

(Copies of communications are on file with the Journal clerk.)

The SPEAKER. The House will be at ease.

The House will come to order.

SUPPLEMENTAL CALENDAR B

BILL ON CONCURRENCE IN SENATE AMENDMENTS TO HOUSE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to House amendments to **SB 1, PN 1726**, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for the Office of Open Records; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

On the question,

Will the House concur in Senate amendments to House amendments?

The SPEAKER. Members will take their seats.

The Sergeants at Arms will clear the aisles. Conversations will cease. Members will take their seats. Members will take their seats. The conversation level on the floor is entirely too loud. Members will please come to order.

The Chair recognizes the majority leader, Representative DeWeese.

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

We hope that today will be the culmination of a lot of hard work on open records. Pennsylvania needs to march briskly into the high-noon tide of open records. Mr. Mahoney in the House chamber launched this effort many, many months ago, and with the dexterous help of Representative Shapiro and our collective

cooperation with our friends in the Senate, as well as some of our good Republican reform friends, we have the chance today to advance Senator Pileggi's proposal.

I would like to enumerate quickly, maybe 10 seconds each, on four quick points relative to the process, because it did come up in the Rules Committee. We no longer gut and replace in the Rules Committee as was done for many, many years prior. So I wanted the world to know – and especially my honorable Republican colleagues to know – that SB 1 did pass the Senate 50 to nothing last Wednesday, January 30, and a corrective reprint was offered on Friday, February 1.

Second point: It was on the legislative schedule for the week, and it was put out by our caucus chairman's office on Friday, February 1.

Third point: It has been on the House voting schedule since 7:52 on Tuesday, the 29th of January.

And the fourth point, Mr. Speaker, it was referred to the Rules Committee on Monday, February 4.

Preeminently this bill has been debated, essentially, for 13 months.

Now, whether it is the statewide building code or turnpike legislation, anything that is statewide and anything that is potentially complicated, there will be some dissonance, some standoffishness, some hesitation. But, Mr. Speaker, this proposal is sound on its own merit. The 50-to-nothing vote in the Senate, the 13 months of debate make for an affirmative vote to be the appropriate vote today.

I remember my honorable friend from Carlisle a few weeks ago debating aggressively on how terrible the property tax proposal was, the amendment to the Constitution, and for a long, long time there was negative debate, and then the votes went up on the board and the board was flush with affirmative votes.

So notwithstanding any tentativeness, Mr. Speaker, I am asking for an affirmative vote on Senator Pileggi's proposal, the one that Timmy Mahoney worked so arduously upon, and I am looking forward to a unanimous acceptance. I hope that my good friends in the Rules Committee have had some time to think. Some of them were not able to embrace this earlier in the day, but I am confident that it will be a unanimous vote.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The House will be at ease.

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Montgomery County, Representative Moyer, who makes a motion to suspend the rules for the purpose of offering amendment A05652, which the clerk will read.

The clerk read the following amendment No. **A05652**:

Amend Sec. 1307, page 94, line 15, by removing the period after "(3)" and inserting

and shall not be sold or otherwise provided to another person for commercial purposes.

Amend Sec. 1307, page 94, lines 16 through 18, by striking out all of said lines

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

The SPEAKER. The Chair recognizes Representative Moyer for a brief explanation for the suspension.

Mr. MOYER. Mr. Speaker, as a supporter of open records, I rise to offer amendment A5652 to SB 1.

Mr. Speaker, this amendment is intended to address the very legitimate concerns of Pennsylvania's real estate agents and to correct a very significant flaw in the Senate-amended version of SB 1. As we have all learned and I am sure—

The SPEAKER. The Chair thanks the gentleman.
Those in favor of the motion to suspend will vote "aye"—

PARLIAMENTARY INQUIRIES

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. Representative Smith.

Mr. S. SMITH. A parliamentary inquiry, Mr. Speaker.

What do the rules provide in terms of debating a motion to suspend the rules? Who is allowed to debate? Could you refresh our memory, Mr. Speaker, please.

The SPEAKER. The majority leader, the minority leader, the maker of the motion, the maker of the amendment under consideration, and the prime sponsor of the bill under consideration.

Mr. S. SMITH. So, Mr. Speaker, then the maker of the motion that you just cut off, he would be allowed to have proceeded to debate this, or at least further explain his amendment and debate it?

The SPEAKER. The purpose of recognizing the gentleman on suspension is to give a brief explanation of the underlying premise of the amendment. The gentleman will be recognized for a full debate on the amendment at a later time. The other members that the Chair enunciated can be recognized for the motion to suspend.

Mr. S. SMITH. Okay, Mr. Speaker.

Under a parliamentary inquiry then, the ruling of the Chair is that the member who moves to suspend the rules gives a brief description of the amendment. At which point in time that motion is placed before the House, the majority and minority leaders are allowed to debate it, as well as that member would—You would be able to come back to that member who made the motion for a full shot at debate.

The SPEAKER. That is correct.

Mr. S. SMITH. Okay.

The SPEAKER. The justification for the suspension is a brief explanation, not a full debate on the underlying amendment.

Mr. S. SMITH. I can certainly live with that, Mr. Speaker. I was concerned that when you shortened his brief description, that he may not have that right to come back and actually debate the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The gentleman is entitled to speak on the amendment.

Mr. DeWEESE. Mr. Speaker, clarification, please.

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. A point of clarification. I was under the impression that my honorable colleague from Montgomery could make the motion and make a brief reasoning behind the

motion and then either historically, at least over the last several sessions, the floor leaders would have great amplitude and we would have the debate opportunity or, as has happened many times, I would relinquish to Mr. Vitali or Mr. Freeman or one of the other members. I am only asking for a clarification, if this is a new way of doing business or my recollection is not as keen as it should be, but I thought that the two floor leaders would have great flexibility and the person making the amendment would have a brief explanation. You are saying that after we debate, he can debate even more?

The SPEAKER. No, the gentleman is correct. The purpose of a motion to suspend is to ask the maker of the amendment to give a brief explanation, not an entire debate on the amendment at hand. The majority and minority leaders have greater latitude. The gentleman is correct.

Mr. DeWEESE. Thank you, Mr. Speaker.

The SPEAKER. On the motion, those in favor will vote "aye"—

The minority leader, Representative Smith.

Mr. S. SMITH. Mr. Speaker, I am looking at rule 77. It says, "A motion to suspend the rules may not be laid on the table, postponed, committed or amended and may be debated by the majority leader, the minority leader, the maker of the motion, the maker of the amendment under consideration and the prime sponsor of the bill under consideration."

So while we are not permitted to debate the substance of the amendment per se, the majority leader and the minority leader, the maker of the motion and the amendment, which are the same in this case, are allowed to debate the purpose for suspension, which would be before us at this moment. Is that correct, Mr. Speaker?

The SPEAKER. The minority leader is correct.

Mr. S. SMITH. On that motion, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. S. SMITH. Mr. Speaker, I think that with the great amount of information that we have received over the past 4 or 5 days on what is embodied in SB 1, that there is indeed reason to suspend the rules to allow for this amendment to SB 1.

If the members recall, SB 1 has been moving through this legislative process for quite some time, and while I suspect at the end of the day that a good open records bill would receive virtually a unanimous support of this legislature, and clearly the gentleman who is advocating the suspension of the rules is supporting the bill. The bill was amended two times, I think, in the Senate last Tuesday or Wednesday, both without a lot of public dialogue or public information. And while we were able to start reviewing that, it was not until just a few days ago that some of the rest of the community of Pennsylvania outside this legislative body, outside the Capitol Building, really got to digest what the impact of SB 1, as it stands before us, really is.

The realtors are one group who came before us and pointed out something that everyone, virtually, is admitting is a significant problem. It is a problem that can be addressed through the suspension of the rules.

Mr. Speaker, I would strongly urge the members to move to suspend the rules for the consideration of this motion simply because this is one of those unintended consequences that if this bill were rushed on through, we would be back trying to fix it later as we have done in the past, and here we have a chance to

fix it, Mr. Speaker. It is right before us. A motion to suspend the rules would allow us to do that.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Moyer.

Mr. MOYER. Mr. Speaker, I would like to speak on the motion.

The SPEAKER. The gentleman is in order.

Mr. MOYER. Thank you, Mr. Speaker.

If I could just reiterate what I just said about 5 minutes ago.

Mr. Speaker, I rise to offer this amendment to SB 1.

Mr. Speaker, this amendment is intended to address the very legitimate concerns of Pennsylvania's real estate agents and to correct a very significant flaw in the Senate-amended version of SB 1.

As we have all learned, Mr. Speaker, through countless e-mails throughout the Commonwealth of Pennsylvania from the real estate industry, provisions of SB 1 would affect the ability of real estate agents to access and utilize vital information in the multiple list, MLS (multiple listing service) system. In fact, Mr. Speaker, the Senate-passed bill will eliminate the ability of MLS, or multilisting services, to provide their services, their products to real estate agents throughout the Commonwealth of Pennsylvania.

Mr. Speaker, my amendment— Mr. Speaker, could I have order, please.

The SPEAKER. The House will come to order.

The gentleman is entitled to be heard.

Mr. MOYER. Thank you.

The SPEAKER. The gentleman is reminded that his remarks are limited to the motion to suspend.

Mr. MOYER. Yes, sir, Mr. Speaker.

Mr. Speaker, my amendment would correct these significant problems by deleting a provision in the bill which would prohibit any purchaser of—

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

The honorable gentleman is discussing the amendment in detail, not suspension of the rules.

Mr. MOYER. Mr. Speaker, I need to do about 2 minutes here to describe to the members of the House how dangerous this problem is.

The SPEAKER. The gentleman will suspend.

The underlying premise of the motion to suspend is to give a brief explanation for the amendment, not to debate the entire substance of the amendment. That will come if the suspension is agreed to, is adopted.

The gentleman will limit his remarks to the motion at hand.

Mr. MOYER. Okay. Thank you, Mr. Speaker.

Under my amendment, MLS services would be permitted – this is the essence of my amendment – under my amendment, MLS services would be permitted to purchase property assessment lists, integrate such information into their lists, and provide access to those lists to real estate agents for reselling to commercial purposes.

Mr. Speaker, I ask for your support for this important amendment, which will ensure that our real estate industry and our agents throughout the Commonwealth of Pennsylvania can thrive here in Pennsylvania, and this is the reason we need to suspend, Mr. Speaker.

PARLIAMENTARY INQUIRY

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. One real quick parliamentary point, Mr. Speaker.

I think you and the Parliamentarian are wrong, and I think that our past history was that the two floor leaders either debate suspension or we accede to one of our members. I just want that on the record. I would like for the Parliamentarian to do some research and get back with us on our past history.

The SPEAKER. The gentleman will suspend.

The Chair will read paragraph three, "A brief description of the underlying bill or amendment shall be given whenever a member moves to suspend the rules of the House in order to consider such bill or amendment," as part of the new rules.

Mr. DeWEESE. Mr. Speaker, I also have read the rules, but my interpretation differs from the honorable Speaker and his honorable counselor. History indicated that the honorable gentleman could make a brief statement but the debate would be between the floor leaders. Again, that is comparatively marginal at this moment. So we will allow that for—

The SPEAKER. For clarification, the Chair has already concurred with the majority leader. The majority and minority leaders are given considerably more latitude than the rest of the floor members.

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

Two quick points: Number one, I do not accept the gentleman's basic premise that this proposal is flawed. I do not accept that.

Number two: To, in my view, potentially derail the most significant piece of reform legislation in years and years, if not decades and decades, is not an appropriate mechanism or it is not an appropriate time for us to offer an amendment, suspending the rules to offer an amendment that we have not even looked at.

So those are the two quick points I wanted to make. I would urge a negative vote on suspension of the rules. Thank you very much.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—102

Adolph	Fairchild	Marsico	Rapp
Argall	Fleck	McIlhattan	Raymond
Baker	Gabig	Mensch	Reed
Barrar	Geist	Metcalfe	Reichley
Bastian	Gillespie	Micozzie	Roae
Bear	Gingrich	Millard	Rock
Benninghoff	Godshall	Miller	Rohrer
Beyer	Grell	Milne	Ross
Boback	Harhart	Moul	Rubley
Boyd	Harper	Moyer	Saylor
Brooks	Harris	Murt	Scavello
Buxton	Helm	Mustio	Schroder
Caltagirone	Hennessey	Nailor	Smith, S.
Cappelli	Hershey	Nickol	Sonney
Causer	Hess	O'Neill	Stairs
Civera	Hickernell	Payne	Steil
Clymer	Hutchinson	Peifer	Stern
Cox	Kauffman	Perry	Stevenson

Creighton	Keller, M.	Perzel	Swanger
Cutler	Kenney	Petri	Taylor, J.
Dally	Killion	Phillips	True
Denlinger	Mackereth	Pickett	Turzai
DiGirolamo	Maher	Pyle	Vereb
Ellis	Major	Quigley	Vulakovich
Evans, J.	Mantz	Quinn	Watson
Everett	Marshall		

NAYS—97

Belfanti	George	Mann	Smith, K.
Bennington	Gerber	Markosek	Smith, M.
Bianucci	Gergely	McCall	Solobay
Bishop	Gibbons	McGeehan	Staback
Blackwell	Goodman	McI. Smith	Sturla
Brennan	Grucela	Melio	Surra
Carroll	Haluska	Mundy	Tangretti
Casorio	Hanna	Myers	Taylor, R.
Cohen	Harhai	O'Brien, M.	Thomas
Conklin	Harkins	Oliver	Vitali
Costa	Hornaman	Parker	Wagner
Cruz	James	Pashinski	Walko
Curry	Josephs	Payton	Wansacz
Daley	Keller, W.	Petrarca	Waters
DeLuca	Kessler	Petrone	Wheatley
DePasquale	King	Ramaley	White
Dermody	Kirkland	Readshaw	Williams
DeWeese	Kortz	Roebuck	Wojnarowski
Donatucci	Kotik	Sabatina	Yewcic
Eachus	Kula	Sainato	Youngblood
Evans, D.	Lentz	Samuelson	Yudichak
Fabrizio	Levdansky	Santoni	
Frankel	Longietti	Seip	O'Brien, D., Speaker
Freeman	Mahoney	Shapiro	
Galloway	Manderino	Shimkus	

NOT VOTING—0

EXCUSED—4

Leach	Pallone	Preston	Siptroth
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Schuylkill County, Representative Argall, who makes a motion to suspend the rules for the purpose of offering amendment A05671, which the clerk will read.

The clerk read the following amendment No. **A05671**:

Amend Sec. 708, page 81, line 30; page 82, line 1, by striking out "**EXCEPT TIME RESPONSE LOGS,**"

Amend Sec. 708, page 82, lines 4 and 5, by striking out "**A 911 RECORDING OR**"

On the question,

Will the House agree to the motion?

MOTION WITHDRAWN

The SPEAKER. The gentleman indicates that he withdraws this amendment? The Chair thanks the gentleman.

On the question recurring,

Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentlelady from Bucks County, Representative Quinn, who makes a motion to suspend the rules for the purpose of offering amendment 05672, which the clerk will read.

The clerk read the following amendment No. **A05672**:

Amend Sec. 1307, page 94, line 15, by inserting after "(3)" and may not be sold or otherwise provided to another person for commercial purposes

Amend Sec. 1307, page 94, lines 16 through 18, by striking out all of said lines

On the question,

Will the House agree to the motion?

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes Representative Quinn for a brief explanation of the amendment.

Ms. QUINN. Mr. Speaker, I ask you first for a ruling.

The SPEAKER. The lady will state her point of parliamentary inquiry.

Ms. QUINN. I would like you to rule whether or not there would be a potential conflict. Though I am not selling or listing real estate at the time, I do have an active license with the Commonwealth.

The SPEAKER. The gentlelady is part of a general class. She has no particular interest. The lady is in order.

Ms. QUINN. Is my amendment in order since it is substantially similar to my colleague's from Montgomery County?

The SPEAKER. The amendment is in order.

Ms. QUINN. Thank you.

I respectfully ask this chamber to suspend the rules and to consider this amendment.

This amendment to SB 1 would counter what I believe is a flaw in the Senate bill that will essentially cripple the real estate industry in the Commonwealth, thereby affecting our real estate transfer tax, thereby affecting our tax base in general.

Presently the multiple list service is the engine that runs the real estate. It is a way that an agent can provide accurate, real-time information to their clients.

Mr. Speaker, may I please have some order.

The SPEAKER. Members will either quiet their conversations or adjourn to the anterooms. The Chair will also remind the lady to confine her remarks to the motion to suspend.

Ms. QUINN. Thank you.

I ask to suspend the rules because I believe that eliminating access that was purchased by the various boards of real estate across this State for the purpose of providing the consumers of the Commonwealth accurate, real-time information before they make what could be the largest investment of their lives, I think it is important we suspend so we could amend this flawed part of SB 1.

Thank you for your consideration.

The SPEAKER. The Chair thanks the lady.

The Chair recognizes the majority leader.

Mr. DeWEESE. Well, I respectfully disagree with the honorable lady. I do not think the proposal is flawed, and I would like an affirmative vote on Dominic Pileggi's SB 1. And a suspension of the rules for an amendment that we have not even seen until just now does not seem to be a commonsensical way to get this bill to the Governor's desk.

So I would ask for a negative vote to my honorable colleague's proposal. Thank you.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—109

Adolph	Fleck	Marsico	Raymond
Argall	Gabig	McIlhattan	Reed
Baker	Geist	Melio	Reichley
Barrar	Gillespie	Mensch	Roae
Bastian	Gingrich	Metcalfe	Rock
Bear	Godshall	Micozzie	Rohrer
Benninghoff	Grell	Millard	Ross
Beyer	Harhart	Miller	Rubley
Boback	Harper	Milne	Saylor
Boyd	Harris	Moul	Scavello
Brooks	Helm	Moyer	Schroder
Buxton	Hennessey	Murt	Smith, K.
Caltagirone	Hershey	Mustio	Smith, M.
Cappelli	Hess	Nailor	Smith, S.
Causar	Hickernell	Nickol	Sonney
Civera	Hutchinson	O'Neill	Stairs
Clymer	Kauffman	Payne	Steil
Costa	Keller, M.	Peifer	Stern
Cox	Kenney	Perry	Stevenson
Creighton	Kessler	Perzel	Swanger
Cutler	Killion	Petri	Taylor, J.
Dally	King	Phillips	Taylor, R.
Denlinger	Mackereth	Pickett	True
DiGiolamo	Maher	Pyle	Turzai
Ellis	Major	Quigley	Vereb
Evans, J.	Mantz	Quinn	Vulakovich
Everett	Marshall	Rapp	Watson
Fairchild			

NAYS—90

Belfanti	Galloway	Manderino	Shapiro
Bennington	George	Mann	Shimkus
Bianucci	Gerber	Markosek	Solobay
Bishop	Gergely	McCall	Staback
Blackwell	Gibbons	McGeehan	Sturla
Brennan	Goodman	McI. Smith	Surra
Carroll	Grucela	Mundy	Tangretti
Casorio	Haluska	Myers	Thomas
Cohen	Hanna	O'Brien, M.	Vitali
Conklin	Harhai	Oliver	Wagner
Cruz	Harkins	Parker	Walko
Curry	Hornaman	Pashinski	Wansacz

Daley	James	Payton	Waters
DeLuca	Josephs	Petrarca	Wheatley
DePasquale	Keller, W.	Petrone	White
Dermody	Kirkland	Ramaley	Williams
DeWeese	Kortz	Readshaw	Wojnaroski
Donatucci	Kotik	Roebuck	Yewcic
Eachus	Kula	Sabatina	Youngblood
Evans, D.	Lentz	Sainato	Yudichak
Fabrizio	Levdansky	Samuelson	
Frankel	Longietti	Santoni	O'Brien, D., Speaker
Freeman	Mahoney	Seip	

NOT VOTING—0

EXCUSED—4

Leach	Pallone	Preston	Siptroth
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Union County, Representative Fairchild, who makes a motion to suspend the rules for the purpose of offering amendment A05675, which the clerk will read.

The clerk read the following amendment No. **A05675**:

Amend Sec. 708, page 81, line 30; page 82, lines 1 through 7, by striking out all of said lines on said pages and inserting

(18) (i) Records or parts of records pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.

(ii) This paragraph shall not apply to a transcript of a recording if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes Representative Fairchild for a brief explanation of the amendment.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

The majority leader continues to articulate the need to not suspend the rules, and the need to suspend the rules and the reason it is not going to create a conflict that we have not had time to read it is because we have already passed the amendment unanimously, and that is why we need to suspend the rules.

These rules will protect our 911 centers; it will protect our senior citizens, and it is imperative. And we have already voted on this, and there is no other better reason to suspend the rules than to protect those individual rights that a person has to privacy. And in addition to that, by enacting this amendment I think we will be sincerely saving lives and protecting people.

Thank you, Mr. Speaker.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Just to remind my honorable friend and fellow military veteran, my good friend, Mr. Fairchild, this proposal does not become law until the first day of January '09. I do not think it is flawed, but I do want the membership to realize that this proposal does not become law until January 1 of '09.

I would ask that we vote in the negative on Mr. Fairchild's motion.

Thank you very much.

The SPEAKER. Representative Smith, on the motion to suspend.

Mr. S. SMITH. Thank you, Mr. Speaker.

Just in quick response to the majority leader's comment that this bill would not become law until January of 2009 – that is absolutely correct, Mr. Speaker. I do not think that that should take us away from taking this opportunity to suspend the rules, Mr. Speaker. The fact is that it is not going to become effective until January 1 of 2009. Therefore, if it takes us a few more days because of going through this process to get the bill right, it still is not going to change anything in terms of the effective date.

The fact is, Mr. Speaker, whether this bill is on the Governor's desk in 2 or 3 days after the Senate signs off on this or whether it is in a week, this is not going to delay the effective date of this bill. So at this moment when we sit here and we clearly identify these flaws in the Senate version of this bill – flaws that affect people of Pennsylvania and their daily lives – I think it is the most responsible thing to do, Mr. Speaker, to suspend the rules, to get the bill right, to do it right the first time. It will go to the Governor's desk within a matter of a few extra days and still become effective, still go into law January 1, 2009. Mr. Speaker, I believe that argument cuts both ways.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

The honorable gentleman uses the word "responsibility." If he feels that this measure is that flawed, it is his responsibility to vote in the negative.

Thank you.

The SPEAKER. Representative Fairchild.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

Will the majority leader stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. Representative Fairchild is in order and may proceed.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

Mr. Speaker, it is my understanding, and I have spoken to the lobbyist from the Pennsylvania Newspaper Association yesterday about this amendment, and they did not have any idea how the amendment and that wording got in there. They said, essentially, they were not responsible. They understood that there was a problem here. And I am trying to find out in my argument to suspend the rules how – and I think members are probably getting calls from maybe protection and abuse people back home, their 911 centers – I am trying to figure out how this mistake was made in the drafting of the Senate language. Did we have any hand in that language or how did that language come about?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Mr. Speaker, I am not privy to the Senate deliberations, and I do not have the knowledge to answer the honorable gentleman's question. I just know that a movement to

suspend the rules will probably not give us that information. I believe that those amongst our Republican colleagues who voted in the negative during the Rules Committee and those who are disinclined to vote for this measure because they feel it is flawed should vote in the negative.

Mr. FAIRCHILD. But, Mr. Speaker, is not the issue of the day the amendment, not the bill itself? Are we not trying to pass a bill – a corrected bill – that makes sense for all Pennsylvanians?

Mr. DeWEESE. Of course we are, Mr. Speaker, but I believe that this proposal is a solid proposal. It passed the State Senate 50 to nothing. I know that you are smiling, and you are going to say that a few other things passed the State Senate 50 to nothing that were not necessarily 100 percent comporting with our views, but we have studied this aggressively. We have had our attorneys and our senior members and our junior member, Mr. Mahoney; Mr. Shapiro; others working on this language a great deal. I do not think we need to suspend the rules, even though you are one of my best Republican friends.

The SPEAKER. The Chair will also remind the gentleman that the gentleman's comments, as well as his interrogation, have to stay on point, and that is the motion to suspend.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

What I am trying to find out is, really, is there a need for me to ask to suspend the rules? And if there is no need, I sit down. But when we talk about standing up to offer an amendment to suspend the rules, I think it is really important we get down to the nitty-gritty and find out what happened, because no one can give me an answer. They say, well, because the Senate—

The SPEAKER. The gentleman will suspend.

The issue is the motion to suspend so the gentleman can offer as an amendment, and at the point, if we get to the amendment, then the gentleman is entitled to speak on the substance of that amendment.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I would like to make a statement.

The SPEAKER. The gentleman is in order to speak on the motion to suspend.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I feel that this amendment— It is extremely important that we suspend the rules. Why? You have been contacted by your 911 people. They say the Senate language is erred and it needs corrected. I believe it is extremely important that we suspend the rules because no one has been able to answer me why and how the Senate got in there. I think it is extremely important to all Pennsylvanians that we provide the emergency 911 information in a concise manner that our law enforcement can work with, and I agree— And I urge you to do the right thing. We receive hundreds of thousands of calls a week with our 911 centers. Let us make it work.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—108

Adolph	Fleck	Marsico	Reed
Argall	Gabig	McIlhattan	Reichley
Baker	Geist	Mensch	Roae

Barrar	Gillespie	Metcalfe	Rock
Bastian	Gingrich	Micozzie	Rohrer
Bear	Godshall	Millard	Ross
Benninghoff	Grell	Miller	Rublely
Beyer	Harhart	Milne	Saylor
Boback	Harper	Moul	Scavello
Boyd	Harris	Moyer	Schroder
Brooks	Helm	Murt	Smith, K.
Buxton	Hennessey	Mustio	Smith, S.
Caltagirone	Hershey	Nailor	Solobay
Cappelli	Hess	Nickol	Sonney
Causar	Hickernell	O'Neill	Stairs
Civera	Hornaman	Payne	Steil
Clymer	Hutchinson	Peifer	Stern
Cox	Kauffman	Perry	Stevenson
Creighton	Keller, M.	Perzel	Swanger
Cutler	Kenney	Petri	Taylor, J.
Dally	Kessler	Phillips	True
Denlinger	Killion	Pickett	Turzai
DiGiolamo	Mackereth	Pyle	Vereb
Ellis	Maher	Quigley	Vulakovich
Evans, J.	Major	Quinn	Wansacz
Everett	Mantz	Rapp	Watson
Fairchild	Marshall	Raymond	Yudichak

NAYS—91

Belfanti	Galloway	Manderino	Seip
Bennington	George	Mann	Shapiro
Bianucci	Gerber	Markosek	Shimkus
Bishop	Gergely	McCall	Smith, M.
Blackwell	Gibbons	McGeehan	Staback
Brennan	Goodman	McI. Smith	Sturla
Carroll	Grucela	Melio	Surra
Casorio	Haluska	Mundy	Tangretti
Cohen	Hanna	Myers	Taylor, R.
Conklin	Harhai	O'Brien, M.	Thomas
Costa	Harkins	Oliver	Vitali
Cruz	James	Parker	Wagner
Curry	Josephs	Pashinski	Walko
Daley	Keller, W.	Payton	Waters
DeLuca	King	Petrarca	Wheatley
DePasquale	Kirkland	Petrone	White
Dermody	Kortz	Ramaley	Williams
DeWeese	Kotik	Readshaw	Wojnaroski
Donatucci	Kula	Roebuck	Yewcic
Eachus	Lentz	Sabatina	Youngblood
Evans, D.	Levdansky	Sainato	
Fabrizio	Longietti	Samuelson	O'Brien, D., Speaker
Frankel	Mahoney	Santoni	
Freeman			

NOT VOTING—0

EXCUSED—4

Leach	Pallone	Preston	Siptroth
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Tioga County, Representative Baker, who moves to suspend the rules for the purpose of offering amendment A05698, which the clerk will read.

The clerk read the following amendment No. **A05698**:

Amend Sec. 708, page 76, line 3, by inserting after "NUMBER;" date of birth, except month and year; signature; home street address;

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes Representative Baker on the motion to suspend.

Mr. BAKER. Thank you, Mr. Speaker.

On the motion to suspend, I would like to enunciate several reasons why I am asking for suspension. And I am not going to say that the legislation is necessarily flawed, but I am going to say that I believe it is incomplete. And for the following reasons, I would like to proffer this amendment for the consideration of the members in that it would protect the life, liberty, health, and welfare of every citizen in Pennsylvania from potential victimization of identity theft. And potentially and specifically another reason that I am offering this amendment is at the request of the domestic violence individuals. The victims of domestic crime are very, very supportive of this amendment. It is their idea. They believe they are going to be exposed to potential perpetrators in the future.

Mr. Speaker, there are four components of this amendment, and the reason that I am asking for suspension is to protect personal addresses, dates of birth, license plate numbers, and persons' signatures. These are all very important components to one's identity being stolen. I, personally, am a victim of crime from identity theft. The perpetrator was convicted of over two dozen felonies, and every law enforcement agency has testified before this General Assembly that name, addresses, dates of birth, license plates are all components to the proliferation of identity theft, and we already experience that every 4 seconds, at billions of dollars of cost in America.

Mr. Speaker, the reasons that I am asking for suspension of personal addresses, for consideration of personal addresses to be included in this legislation is that, especially from a crime victim's standpoint, an individual's home address is not included in the list of exceptions, except for those belonging to law enforcement officers and judges. And the public disclosure of the information would place a victim of domestic violence, as well as a victim of crime, in jeopardy of discovery by the perpetrator. Stalking and domestic violence perpetrators, as well as gangs and organized crime, are known to be relentless in pursuing their victims for reasons that include opportunities for revictimization and pressure to drop charges or refuse to testify.

Mr. DeWEESE. Mr. Speaker?

Mr. BAKER. So that is the reason for the personal address for suspension, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Has he concluded his remarks?

Mr. BAKER. No, I have not, but I was yielding temporarily to the majority leader.

The SPEAKER. For what purpose does the majority leader rise?

Mr. DeWEESE. Just to politely indicate my view that historically and prospectively, notwithstanding the rules changes that we have experienced, the traditions of the House are that the honorable gentleman currently at the microphone would make a very abbreviated statement and the expanded debate would be from his floor leader, and it just seemed as if we were a tiny bit wide of the mark there, Mr. Speaker.

The SPEAKER. The gentleman is correct. The remarks of those moving to suspend are limited to a brief explanation of the underlying amendment.

Mr. BAKER. I will try to do better, Mr. Speaker.

But I did hear you say that it would be appropriate to give reasons for suspension, and so I am attempting to enunciate my reasons for suspension—

The SPEAKER. The gentleman will enunciate his reasons for suspension—

Mr. BAKER. — and it was based on the four compon—

The SPEAKER. —and to suspension, not to the underlying amendment.

Mr. BAKER. Thank you, Mr. Speaker.

Dates of birth, Mr. Speaker. I am asking for suspension because dates of birth are probably the most important element in potential victims of crime being revictimized or every potential citizen in Pennsylvania being victimized of identity theft.

And, Mr. Speaker, I am asking for suspension because in the current language of SB 1, that language is not in there. So I am asking for suspension to include that date of birth to protect every citizen. I do not think the average citizen in Pennsylvania wants their date of birth exposed in order for Social Security cards to be stolen, for driver's licenses to be stolen, for birth certificates to be stolen, for thousands of dollars to be stolen from them as had happened to me when my date of birth was exposed and they secured a birth certificate, driver's license, credit cards, Social Security card from me. Mr. Speaker, our citizens deserve to be protected from exposure of this information.

Another reason I am asking for suspension, Mr. Speaker, is the person's signature, and I know you have some personal experience on this, Mr. Speaker, about a person's signature. And I just believe that it can be counterfeited, it can be fraudulently abused and used and exploited to accomplish criminal intent.

So, Mr. Speaker, I am going to conclude my remarks on behalf of all crime victims, victims of domestic violence, as well as potentially every citizen in Pennsylvania to be a victim of crime, because this information is not protected under SB 1. And I am kindly and respectfully asking for suspension of the rules so that we can protect our citizens from identity theft and revictimization of criminals committing crime against victims of domestic violence.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

(Members proceeded to vote.)

The SPEAKER. For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. I am sorry, Mr. Speaker. I was simply seeking recognition in anticipation of second consideration.

The SPEAKER. The Chair thanks the gentleman.
Nothing is in order but the taking of the roll.

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

The following roll call was recorded:

YEAS—108

Adolph	Fleck	Marsico	Raymond
Argall	Gabig	McIlhattan	Readshaw
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Buxton	Hennessey	Mustio	Schroder
Caltagirone	Hershey	Nailor	Smith, S.
Cappelli	Hess	Nickol	Sonny
Causar	Hickernell	O'Neill	Stairs
Civera	Hornaman	Payne	Steil
Clymer	Hutchinson	Peifer	Stern
Cox	Kauffman	Perry	Stevenson
Creighton	Keller, M.	Perzel	Swanger
Cutler	Kenney	Petrarca	Taylor, J.
Dally	Kessler	Petri	True
Denlinger	Killion	Phillips	Turzai
DiGirolamo	Mackereth	Pickett	Vereb
Ellis	Maher	Pyle	Vulakovich
Evans, J.	Major	Quigley	Wansacz
Everett	Mantz	Quinn	Watson
Fairchild	Marshall	Rapp	Yudichak

NAYS—91

Belfanti	Galloway	Manderino	Shimkus
Bennington	George	Mann	Smith, K.
Biancucci	Gerber	Markosek	Smith, M.
Bishop	Gergely	McCall	Solobay
Blackwell	Gibbons	McGeehan	Staback
Brennan	Goodman	McI. Smith	Sturla
Carroll	Grucela	Melio	Surra
Casorio	Haluska	Mundy	Tangretti
Cohen	Hanna	Myers	Taylor, R.
Conklin	Harhai	O'Brien, M.	Thomas
Costa	Harkins	Oliver	Vitali
Cruz	James	Parker	Wagner
Curry	Josephs	Pashinski	Walko
Daley	Keller, W.	Payton	Waters
DeLuca	King	Petrone	Wheatley
DePasquale	Kirkland	Ramaley	White
Dermody	Kortz	Roebuck	Williams
DeWeese	Kotik	Sabatina	Wojnaroski
Donatucci	Kula	Sainato	Yewcic
Eachus	Lentz	Samuelson	Youngblood
Evans, D.	Levdansky	Santoni	
Fabrizio	Longiatti	Seip	O'Brien, D., Speaker
Frankel	Mahoney	Shapiro	
Freeman			

NOT VOTING—0

EXCUSED—4

Leach	Pallone	Preston	Siptroth
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Tioga, Representative Baker, who moves to suspend the rules for the purpose of offering amendment A05701, which the clerk will read.

The clerk read the following amendment No. **A05701**:

Amend Sec. 708, page 76, line 3, by inserting after "NUMBER;" date of birth, except month and year; signature;

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

The SPEAKER. Again, the Chair will remind the gentleman to keep his remarks to the motion to suspend and not the underlying premise of the amendment.

Mr. BAKER. Thank you, Mr. Speaker.
I will be much briefer this time.

There is one component of those four components that have been extracted from this amendment, and for the same reasons that I mentioned earlier, I would like to protect our citizens from the potential abuse and exposure of their identifying information. ID (identification) theft and domestic violence are ongoing problems that we have here in Pennsylvania. I am even concerned, Mr. Speaker, that we may be exposing certain individuals that work very closely with law enforcement that testified before criminal elements, that they are going to be exposed, that their location might be exposed.

So, Mr. Speaker, again, I am offering this amendment. The genesis of this amendment and motion for suspension is to protect the citizens of Pennsylvania from crime. And I think this is a legitimate public policy issue that I would love to debate in more detail, but I believe that most of us do not want to see our citizens exposed to any more potential crime than is absolutely needed. Mr. Speaker, I am not sure whether these issues, these concerns are going to be addressed later in any legislation, and so I am asking for suspension of the rules for consideration to protect our citizens' health and welfare from crime.

So thank you, Mr. Speaker. I appreciate your indulgence.

The SPEAKER. The Chair thanks the gentleman.

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. If the honorable gentleman was so focused on domestic violence and saving people from domestic violence, he should not have voted for the Civera amendment last year that struck all the money for domestic violence. So it is good today, but it was not good then.

The SPEAKER. The Chair will remind the members to speak on the motion.

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

The following roll call was recorded:

YEAS—106

Adolph	Fleck	McIlhattan	Raymond
Argall	Gabig	Mensch	Readshaw
Baker	Geist	Metcalfe	Reed
Barrar	Gillespie	Micozzie	Reichley
Bastian	Gingrich	Millard	Roae
Bear	Godshall	Miller	Rock
Benninghoff	Grell	Milne	Rohrer
Beyer	Harhart	Moul	Ross
Boback	Harper	Moyer	Rubley
Boyd	Harris	Murt	Saylor
Brooks	Helm	Mustio	Scavello
Buxton	Hennessey	Nailor	Schroder
Caltagirone	Hershey	Nickol	Smith, S.
Cappelli	Hess	O'Neill	Sonney
Causer	Hickernell	Payne	Stairs
Civera	Hornaman	Peifer	Steil
Clymer	Hutchinson	Perry	Stern
Cox	Kauffman	Perzel	Stevenson
Creighton	Keller, M.	Petrarca	Swanger
Cutler	Kenney	Petri	Taylor, J.
Dally	Killion	Phillips	True
Denlinger	Mackereth	Pickett	Turzai
DiGirolamo	Maher	Pyle	Vereb
Ellis	Major	Quigley	Vulakovich
Evans, J.	Mantz	Quinn	Wansacz
Everett	Marshall	Rapp	Watson
Fairchild	Marsico		

NAYS—93

Belfanti	Galloway	Manderino	Smith, K.
Bennington	George	Mann	Smith, M.
Biancucci	Gerber	Markosek	Solobay
Bishop	Gergely	McCall	Staback
Blackwell	Gibbons	McGeehan	Sturla
Brennan	Goodman	McI. Smith	Surra
Carroll	Grucela	Melio	Tangretti
Casorio	Haluska	Mundy	Taylor, R.
Cohen	Hanna	Myers	Thomas
Conklin	Harhai	O'Brien, M.	Vitali
Costa	Harkins	Oliver	Wagner
Cruz	James	Parker	Walko
Curry	Josephs	Pashinski	Waters
Daley	Keller, W.	Payton	Wheatley
DeLuca	Kessler	Petrone	White
DePasquale	King	Ramaley	Williams
Dermody	Kirkland	Roebuck	Wojnaroski
DeWeese	Kortz	Sabatina	Yewcic
Donatucci	Kotik	Sainato	Youngblood
Eachus	Kula	Samuelson	Yudichak
Evans, D.	Lentz	Santoni	
Fabrizio	Levdansky	Seip	O'Brien, D., Speaker
Frankel	Longietti	Shapiro	
Freeman	Mahoney	Shimkus	

NOT VOTING—0

EXCUSED—4

Leach	Pallone	Preston	Siptroth
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Tioga County, Representative Baker, who moves to suspend the rules for the purpose of offering amendment A05702, which the clerk will read.

The clerk read the following amendment No. **A05702**:

Amend Sec. 708, page 76, line 3, by inserting after "NUMBER;" date of birth, except month and year;

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

The SPEAKER. On the motion to suspend, the Chair recognizes the gentleman, Mr. Baker.

Mr. BAKER. Mr. Speaker, I am tempted just to say ditto on the previous comments, but, you know, I am not sure the last remark by the gentleman was appropriate as it had absolutely nothing to do with the suspension of the rules. But I am sure we could dig out and extract some votes to repay the favor to Mr. DeWeese at some point in the future.

And I just want to say, Mr. Speaker, this again is an amendment, and the reason that genuinely is being submitted for a suspension of the rules is to protect our citizens from crime and the exploitation of exposure of certain identifying numbers, and I think the average citizen on the street does not want to have various information exposed that they could result in being a victim of crime, whether it be ID theft or domestic violence or any other kind of crime. So I am asking for suspension of the rules.

Thank you, Mr. Speaker.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. I would oppose suspension of the rules.

The honorable gentleman's comments notwithstanding, there are voter registration rolls that the public has access to. You can Google anybody's name, almost, and come up with similar information – myspace.com, classmates.com, samsmith.com. The honorable floor leader and I were discussing that the other day. So I do not think we have the problems at the magnitude that the honorable gentleman indicates.

I do want him to know that in conversations with our honorable Senate colleague, Senator Pileggi, we discussed an identity theft piece of legislation that we could formulate, and the honorable gentleman, Mr. Baker, his name came up because I brought it up and indicated that he had had a challenge in this regard.

I think if we are going to move in the direction that the honorable gentleman wants to, which should be in a specific piece of identity theft legislation, I think that Senator Pileggi and his colleagues are amenable to that kind of discussion. I do not think we have to suspend the rules and do it in this open records setting.

So I would ask for a negative vote on suspension of the rules.

The SPEAKER. Representative Baker.

Mr. BAKER. Mr. Speaker, regarding the issues at hand regarding voter registration information, whether it be through the Department of State or through the various county election bureaus, the gentleman is very correct and accurate in his remarks. However, why should we not try to make every good-faith effort and additional due diligence to limit the exposure of that information in other venues and other public arenas? Why are we potentially exposing the risk of crime by not passing this, making this suspension, having further debate on final passage of this amendment?

And, Mr. Speaker, I am wondering if it would be appropriate for me to interrogate the gentleman from Greene County, momentarily?

The SPEAKER. The gentleman is indicating that he is refusing to stand for interrogation.

Mr. DeWEESE. Mr. Speaker, I will stand for interrogation on suspension, but we have had this same debate – if anybody looks at his amendments, they are almost identical. There is a change of a word here or a change of a word there. The Chair has been very generous in giving the man the same debate three or four times.

Mr. BAKER. Mr. Speaker, it is my understanding—

The SPEAKER. The Chair recognizes the gentleman, but again, the Chair will remind all members to confine their remarks on suspension to suspension. The underlying merits of the amendment will be considered later if the motion is sustained.

Mr. BAKER. On suspension, Mr. Speaker, protecting every Pennsylvanian from crime is worth the time to suspend this amendment and have further debate.

Mr. Speaker, under the gentleman's remarks previously, someone from the west coast could access that information and steal any number of Pennsylvanians' identities. We need to put added protection in this legislation, and I do not have any assurances yet that this legislation, this idea – protecting people from crime – is going to be immediately addressed in some future legislation.

The SPEAKER. The gentleman can make those remarks on concurrence.

Mr. BAKER. Would it be appropriate to—

The SPEAKER. Those in favor of the motion—

Mr. BAKER. Mr. Speaker, would it be appropriate to interrogate another, Mr. Mahoney for instance, concerning some of these issues?

The SPEAKER. The issue before the House is not the bill on concurrence and it is not the underlying amendment; it is merely on suspension, and the Chair feels the gentleman has vetted the purpose of the amendment, which is all that is required at this juncture.

Mr. BAKER. Thank you, Mr. Speaker.

I humbly ask for support of the suspension to protect our Pennsylvanians from crime. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Those in favor—

Mr. DeWEESE. Mr. Speaker, just so the honorable gentleman knows, we did discuss with Senator Pileggi an identity theft bill. This will not become law until January 1 of '09. It is very possible that working together, we can have a proposal on identity theft that would satisfy the gentleman's concerns, and it could be a law between now and July 1 of '09. So it belongs in that kind of setting, not in this kind of debate.

Thank you, Mr. Speaker.

The SPEAKER. Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I think the majority leader's point is interesting. He is now suggesting that we are going to have at least one follow-up bill, a trailer bill, on ID theft. We have already discussed a previous issue that I think many of the members, and I think, quite frankly, a vast majority of the members of this body, believe needs to be corrected, and that would be with the realtors. We are looking at two pieces of legislation.

When we look at the time and effort it takes to move a bill from the day it is introduced through the House, through the Senate, back to this body, dealing with all the peripheral issues that undoubtedly will compound it, I fail to see why that is more expeditious, is more responsible than suspending the rules, correcting this bill while we have it, thereby really adding one step to the legislative process, and that is why we should suspend the rules today to fix this bill.

It adds one step in the process, that step being the bill would go back to the Senate for their concurrence. To suggest that it would be easier and more prudent to introduce— We are up to, I believe, two bills that would have to go through the entire process. I think that is contradictory to how we should go about getting things done.

I would encourage the members to support the suspension of the rules in order that SB 1 can be the very best product that we can generate. Thank you, Mr. Speaker.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. I would suggest that the honorable gentleman vote in the negative. He has found so many things wrong with this open records bill. I hope he is as responsible on final passage and just votes "no."

I think a suspension of the rules is dilatory. I think my honorable colleagues are trying to delay this measure. Senator Pileggi in the Senate sent us a measure that was 50 to nothing. I do not find this to be a flawed bill, and I do not find it to be unusual that we might do an identity theft proposal if there had never come up an open records proposal. So to link them inextricably is just not necessarily appropriate.

I think we have a chance to pass open records legislation today, and I repeat, I think the honorable gentleman from Jefferson is trying to delay this procedure.

The SPEAKER. Representative Smith.

Mr. S. SMITH. Mr. Speaker, I am not trying to delay the procedure; I am trying to have this House do it right.

I would remind the majority leader of his comments before the Newspaper Publishers' Association just last Thursday where he proffered before them the very idea that we would work together over those last several days and asked me specifically if I would support him in coming up with an omnibus amendment to deal with some of these things that we are now trying to address. That was his offer that he gave to me in a public setting before the Newspaper Publishers' Association.

Now, I have to tell you, Mr. Speaker, there was a part of me that wanted to play the devil's advocate and be a little bit of a nasty guy and say, no, we want SB 1 exactly like it is with all of its warts and flaws. But I thought the responsible and honorable thing to do was to tell the gentleman there on the public record, in front of those individuals who are the largest advocates of this open records bill, that I would support him.

I stood up against my political instincts which said, geez, you cannot be against SB 1 because they are going to run all these votes and they are going to run these campaign fliers against

you saying, you voted against open records if you voted to nonconcur on SB 1. The gentleman asked me if I would support him; I said I would. He comes into this building the first of this week, the weekend; he changes his plan. He decides he is going to come back and he is going to make it political?

The SPEAKER. The gentleman will suspend.

Mr. S. SMITH. Mr. Speaker, Mr. Speaker, this is making this issue political. He is threatening me time after time: If I dare to vote to nonconcur, I somehow am voting against concurrence, and I am voting against open records. And that is just not the case, Mr. Speaker.

The SPEAKER. The House will come to order. The House will come to order. The House will come to order.

The issue before the House is the motion to suspend. Those in favor of suspending the rules will vote "aye"; those opposed, "nay."

Mr. BAKER. Mr. Speaker?

The SPEAKER. The gentleman has already spoken twice on the issue.

POINT OF ORDER

Mr. BAKER. Mr. Speaker, point of order.

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

Mr. BAKER. Thank you, Mr. Speaker.

Mr. Speaker, I have been informed that the clerk has me recognized as once.

The SPEAKER. The Chair is corrected. The gentleman has been recognized once.

Mr. BAKER. May I speak on suspension?

The SPEAKER. The gentleman is in order.

Mr. BAKER. Thank you, Mr. Speaker.

The SPEAKER. The Chair will remind the gentleman, Mr. Baker, and the floor leaders, the only issue before the House is the motion to suspend, not the issue of concurrence and not the underlying merits of the amendment.

Mr. BAKER. Mr. Speaker, in addition to the reasons that I enumerated earlier, there is nothing to prevent, under this current law, someone from California getting a hold of PENNDOT, getting an address, and trying to victimize a crime, a potential victim of crime.

We need to put protections in this legislation, if at all possible, to act now. I do not think anyone necessarily opposes this legislation; they just want to make it better, they want to make it complete, and they want to make it more comprehensive and all-encompassing. If we do it right and do it all at once, I really have a lot of confidence it could pass unanimously. But there are certain omissions, and it is incomplete. It needs a little bit more work. I am not going to say it is necessarily flawed; I just think it needs some additional amendments to make it better.

So I am asking on behalf of all citizens, crime victims and everybody in our district, to help protect against exposure to names, addresses, dates of birth, and personal identifiers, Mr. Speaker.

Thank you for your recognition.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—101

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Buxton	Hennessey	Mustio	Schroder
Cappelli	Hershey	Nailor	Smith, S.
Causar	Hess	Nickol	Sonney
Civera	Hickernell	O'Neill	Stairs
Clymer	Hutchinson	Payne	Steil
Cox	Kauffman	Peifer	Stern
Creighton	Keller, M.	Perry	Stevenson
Cutler	Kenney	Perzel	Swanger
Dally	Killion	Petri	Taylor, J.
Denlinger	Mackereth	Phillips	True
DiGirolamo	Maher	Pickett	Turzai
Ellis	Major	Pyle	Vereb
Evans, J.	Mantz	Quigley	Vulakovich
Everett	Marshall	Quinn	Watson
Fairchild			

NAYS—98

Belfanti	Galloway	Manderino	Shimkus
Bennington	George	Mann	Smith, K.
Bianucci	Gerber	Markosek	Smith, M.
Bishop	Gergely	McCall	Solobay
Blackwell	Gibbons	McGeehan	Staback
Brennan	Goodman	McI. Smith	Sturla
Caltagirone	Grucela	Melio	Surra
Carroll	Haluska	Mundy	Tangretti
Casorio	Hanna	Myers	Taylor, R.
Cohen	Harhai	O'Brien, M.	Thomas
Conklin	Harkins	Oliver	Vitali
Costa	Hornaman	Parker	Wagner
Cruz	James	Pashinski	Walko
Curry	Josephs	Payton	Wansacz
Daley	Keller, W.	Petrarca	Waters
DeLuca	Kessler	Petrone	Wheatley
DePasquale	King	Ramaley	White
Dermody	Kirkland	Readshaw	Williams
DeWeese	Kortz	Roebuck	Wojnaroski
Donatucci	Kotik	Sabatina	Yewcic
Eachus	Kula	Sainato	Youngblood
Evans, D.	Lentz	Samuelson	Yudichak
Fabrizio	Levdansky	Santoni	
Frankel	Longietti	Seip	O'Brien, D., Speaker
Freeman	Mahoney	Shapiro	

NOT VOTING—0

EXCUSED—4

Leach	Pallone	Preston	Siptroth
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments to House amendments?

The SPEAKER. The Chair is not aware of any other amendments that are filed to this bill.

On the question, will the House concur in the amendments made by the Senate to the House amendments? Those voting to concur will vote "aye"—

The Chair recognizes Representative Maher on concurrence.

Mr. MAHER. Thank you, Mr. Speaker. I certainly appreciate your recognizing me at this time.

I am hoping that I might ask whoever the chairman of the Legislative Audit Advisory Commission is to stand for interrogation.

The SPEAKER. The gentleman, Representative Shapiro, indicates that he will stand for interrogation, but the Chair will remind members that the issue before the House is concurrence in SB 1, and the Chair will respectfully ask members to limit their interrogation and their comments to that issue and only that issue.

Mr. MAHER. Thank you, Mr. Speaker, and I assure you I will.

And, in fact, to help me along on staying on the amendment, I have actually detached from my copy of the amendment the 55 pages that were eliminated in a gut-and-replace amendment without any public scrutiny and for this then subsequent corrective reprint, which I do not think any of us saw until perhaps today, perhaps it was yesterday. So I am speaking on only the language which was amended-in by the Senate, and I would like to ask the gentleman, as chairman of the Legislative Audit Advisory Commission, do you support keeping the legislative records of that commission secret?

Mr. SHAPIRO. Mr. Speaker, I would be more than happy to answer the gentleman's question. I would correct him; I am standing to answer interrogation on this legislation, not as chairman of that commission. Though I do serve as chairman of that commission, I would not be able to speak for the commission without the consent of the other members.

That said, I would be more than happy to answer the gentleman's question. And I would point the gentleman to page 60 of the bill in question and the definition of a "legislative record" – number 12, line 3, on page 60 to be specific – which discusses an audit prepared by the Legislative Audit Advisory Commission and makes it very clear that it is, in fact, a legislative record. Therefore, Mr. Speaker, that audit would, in fact, be public under this open records bill.

Mr. MAHER. Thank you, Mr. Speaker.

So the audit product would be public. What about the other legislative records of the Legislative Audit Advisory Commission? And I might suggest the gentleman look at the definition of "legislative agency," which for inexplicable reasons excludes the Legislative Audit Advisory Commission from being deemed a legislative agency. Can you explain to me what makes you special?

Mr. SHAPIRO. Mr. Speaker, I would be happy to explain to the membership what makes me special, though that is not why we are here. We are here to try and address the bill in question.

Mr. MAHER. But you certainly are very special.

Mr. SHAPIRO. And it is very clear, Mr. Speaker—

The SPEAKER. The Chair will remind the gentlemen not to speak over each other.

Mr. SHAPIRO. It is very clear, Mr. Speaker, that a "legislative agency" is defined as the Senate and the House of Representatives. As the gentleman knows from his brief tenure, I guess, as chairman of the Legislative Audit Advisory

Commission, it is made up of members of the House and Senate. It is, in fact, a body created in law by the House and Senate and would fall under that definition of "legislative agency." Thank you, Mr. Speaker.

Mr. MAHER. Mr. Speaker, maybe you have got a different version of this bill than the rest of us have been provided with. Can you point to me where the Legislative Audit Advisory Commission is included as a legislative agency?

Mr. SHAPIRO. Mr. Speaker, I would be happy to answer the gentleman's question. In fact, I already had. The gentleman perhaps did not hear me. What I said was, when the gentleman questioned me as to the definition of a "legislative agency," I made it very clear that the House and the Senate are included in the definition of a "legislative agency." The Legislative Audit Advisory Commission, as the gentleman does know, falls underneath the House and Senate and, therefore, is considered a legislative agency. Thank you, Mr. Speaker.

Mr. MAHER. Mr. Speaker, that is very interesting. It is inaccurate. The Legislative Audit Advisory Commission is created by statute—

The SPEAKER. Is the gentleman finished with his interrogation?

Mr. MAHER. No; I am continuing with it, sir.

The SPEAKER. The gentleman will state his question.

Mr. MAHER. And hoping that with the benefit of the preamble information, the speaker may be better able to respond.

The Legislative Audit Advisory Commission, as I would expect he should understand as chairman, is created by statute as an independent agency that has members appointed by the House, by the Senate. Some are legislators, some are from the general public.

Now, you will notice, if you look at the definition of "legislative agency," a laundry list of what is included, and as I understand the principles of statutory construction, the specific trumps the general—

The SPEAKER. The gentleman will suspend his speech.

Mr. MAHER. —and consequently, I am asking the gentleman — who is an attorney and should understand such things — where does he find the Legislative Audit Advisory Commission on the list of 14 entities that comprise legislative agencies, and perhaps he could explain to me why they are excluded?

Mr. SHAPIRO. Mr. Speaker, I have answered this question now twice. I would also ask the Chair to admonish the gentleman for the condescending tone and the comments that he has made. I am more than happy to answer questions; I am not willing to stand up to that type of condescending tone in his discussion.

Mr. MAHER. I certainly apologize to the Chair if I hurt the gentleman's feelings. I just really thought that he, perhaps, had misunderstood the question.

The SPEAKER. The Chair—

Mr. MAHER. That concludes my interrogation of the gentleman, Mr. Speaker.

The SPEAKER. Does the gentleman wish to be recognized for comments on concurrence?

Mr. MAHER. I am maintaining my recognition on concurrence, Mr. Speaker, and I would like to ask if the majority leader or his designee would be able to respond to some questions, and perhaps the prime sponsor, Mr. Mahoney.

The SPEAKER. The prime sponsor is Senator Pileggi.

Mr. MAHER. I am sorry; I stand corrected.

Would the gentleman, Mr. DeWeese, or the gentleman, Mr. Mahoney, be able to respond to questions?

Mr. DeWEESE. The honorable gentleman did have a caucus earlier in the day. I assumed that all the technical questions were answered in the caucus. He is my friend, and I will be glad to discuss the general merits of the proposal. And he did have a very long caucus, in fact, we had extensions to their caucus. I do not know what the gentleman wants to discuss, but I guess I am available.

Mr. MAHER. Thank you, Mr. Speaker.

On page 94 of the bill, beginning on line 16, there is a provision that says certain information— I am going to summarize here. It is page 94, beginning — excuse me — on line 1 and continuing down through line 18. It says that "...COMPLEX AND EXTENSIVE DATA SETS,..." can be sold by government for a market value instead of the cost of duplication. And further, it then prohibits this data from being resold. Can the gentleman help me understand how market value is determined for something which cannot be sold?

Mr. DeWEESE. The young, dapper attorney from Montgomery County has been in touch with the realtors as recently as today. This is a very technical issue, Mr. Speaker. I am going to defer to Representative Shapiro to give the honorable gentleman from Upper St. Clair a more definitive response.

Mr. MAHER. And I thank the gentleman, but I would observe, I am not speaking about realtors; I am speaking about how this amendment provides that a market value can be charged by government for a product that cannot be sold — how that market value is determined.

The SPEAKER. The Chair recognizes Representative Shapiro.

Mr. SHAPIRO. Mr. Speaker, in response to the gentleman's question, I believe the gentleman is looking at one particular section — as he identified, line 16 — and also referencing a section above which talks about fees being reasonable and fees reflecting regional price differences, and I think the two need to be viewed together. And if the gentleman is referring to the resale of this information as a means to discuss the issue related to Pennsylvania realtors, I would be more than happy to engage in that and discuss the commercial value. If the gentleman is talking about the fees that can be charged, I would point him to section (2) above, or actually on the page preceding, which talks about the fees and that they be reasonable.

Mr. MAHER. Well, let me clarify again: I am not addressing the real estate issue. I think I said that a couple of times, and I know the Speaker encourages me not to be redundant, so let me just drill that in.

I am talking about this section (4), which is a different set of rules than the section (2) that you are referring to. Section (4), Roman numeral (I), talks about "...MARKET VALUE OF THE SAME OR CLOSELY RELATED DATA SETS," and Roman numeral (IV) says the information shall not be sold. So how does one determine the market value for information that cannot be sold?

Mr. SHAPIRO. Mr. Speaker, I thank the gentleman for his clarifications. Sometimes the questions tend to be a little bit more general, and I appreciate him pointing me to the specific text. The reasonable market value that would be set for those data sets would, in fact, be set within that market. If there is a question about the amount that was determined, that would

certainly be subject to appeal and would be determined in the appeals process as elucidated in this legislation.

Mr. MAHER. Well, I can tell I am not going to get an answer, and I would suggest the reason there is no answer is because it is badly written. But let me move on to another question.

Am I correct that this section, that same number (4), talks about "...GEOGRAPHIC INFORMATION SYSTEMS OR INTEGRATED PROPERTY ASSESSMENT LISTS," and then it continues under Roman numeral (IV) to say this information shall not be sold. And again, I am not speaking as to the realtors' concern; I am just making sure I am understanding that Roman numeral (IV) refers to the GIS (geographic information systems) and assessment information. Is that correct?

Mr. SHAPIRO. Mr. Speaker, it is correct but not complete in terms of the question you asked. It does, in fact, refer to the GIS information or integrated property assessment list, but it also refers to complex and extensive data sets. So therefore, Mr. Speaker, it is not just limited to those two items that the gentleman stated in his interrogation.

Mr. MAHER. Okay. So it goes beyond that then. So it is whatever complex and extensive data sets face that same prohibition. Is that correct?

Mr. SHAPIRO. As I just answered, Mr. Speaker, yes; that is correct.

Mr. MAHER. Thank you.

Now, the way this is written, a newspaper can acquire this data but they cannot print it in a newspaper that they sell. Why have you limited the public display of information and prohibited newspapers that have a newsstand or other subscription costs from being able to publish the data that they acquire?

Mr. SHAPIRO. Mr. Speaker, the gentleman's question is quite a stretch, I believe, and I will answer it as such: If the newspaper secures, for example, the GIS information and integrates it into a newspaper story or into the information they use to compile a newspaper story, that is not reselling the information. That would not run into section (4) or line 16 as the gentleman referred to.

If in fact – I am going to answer the gentleman's question – if, in fact, the newspaper bought that GIS information and then tried to go and sell that GIS information to some other entity, that would, in fact, run afoul of this legislation.

Mr. MAHER. But perhaps the gentleman can help me understand—

The SPEAKER. The gentleman will suspend.

The Chair will ask all members to please hold their conversations to a minimum. The noise level is entirely too loud. The gentleman is entitled to be heard. If your conversation is important, please adjourn to the anteroom.

Representative Maher.

Mr. MAHER. Thank you.

Perhaps the gentleman can help me understand his theory that newspapers do not sell information. What is it you suppose they do sell?

Mr. SHAPIRO. Mr. Speaker, I will answer the question. Again, if the newspaper secures GIS information for the purpose of writing their story, which is, in fact, what newspapers do, that would not be considered a resale of that information. It is integrated and—

Mr. MAHER. And that exception is where?

Mr. SHAPIRO. Mr. Speaker, if I can just answer the question.

The SPEAKER. The Chair will remind the gentlemen not to speak over each other.

Mr. SHAPIRO. If the newspaper chooses to use that information to be able to write their stories, that is not reselling the information. I have now answered that question twice.

Mr. MAHER. And where is the exception that you are asserting to be found in this amendment?

Mr. SHAPIRO. Mr. Speaker, I am not even sure I understand what the gentleman is asking. If he could perhaps rephrase the question into an understandable question.

Mr. MAHER. Well, the gentleman is asserting that newspapers are exempt from this provision, and I am asking where he finds the exemption in the bill? And if he believes there is such an exemption, would it not be preferable to spell that exemption out in the bill?

Mr. SHAPIRO. Mr. Speaker, I never said that newspapers were exempt. What I said, very clearly, was that if the newspaper wished to purchase GIS information and take that GIS data set – I should say, not information; that data set – and then sell that data set, that would not be permissible. I never once said that newspapers were exempt.

Mr. MAHER. It does not say "data set," sir; it says "information."

Mr. SHAPIRO. Mr. Speaker—

Mr. MAHER. It does not talk about a complete set of information; it talks about "INFORMATION OBTAINED...SHALL NOT BE SOLD OR OTHERWISE PROVIDED TO ANOTHER PERSON FOR COMMERCIAL PURPOSES."

Mr. SHAPIRO. Mr. Speaker, the gentleman only read part of that; it is "INFORMATION OBTAINED UNDER THIS PARAGRAPH..."—

Mr. MAHER. Yes.

Mr. SHAPIRO. —and it refers to the complex and extensive data sets, including GIS systems or integrated property assessment lists.

Mr. MAHER. That is correct, sir, and it says it cannot "...BE SOLD OR OTHERWISE PROVIDED TO ANOTHER PERSON..." It does not speak to the entirety of the information; it speaks to the information obtained.

Now, if the information is obtained under this paragraph, it cannot be sold. Now, maybe the gentleman is not familiar that there are some counties that have had concerns about assessments in recent years, and a variety of news outlets have gone to the extent of acquiring the entire database of assessment and publishing extensive parts of that. So they are publishing and selling information obtained under this paragraph – today. They are allowed to do that. I am asking why the prohibition is being put on them here.

Mr. SHAPIRO. Mr. Speaker, I have answered this question three or four different times in three or four different ways to try and help the gentleman get his mind around this language. If the gentleman is unsatisfied with this language, the gentleman can vote against the bill. This is the opportunity to vote for it or against it. If the gentleman does not like it, I would encourage him to vote "no" on the underlying legislation.

Mr. MAHER. Well, I certainly appreciate your coaching.

I will ask, while staying on this same page, how much does it cost the public to get this information, under the existing law? It is my understanding, having been the prime sponsor of the

existing law about access, that they can have this data for the cost of a floppy disk or a CD (compact disc) or whatever the media cost to copy the information. Why do you propose to make it more expensive for the public to access public records?

Mr. SHAPIRO. Mr. Speaker, the fees have yet to be determined, and there is nothing in this bill that would suggest the fees would be more. Perhaps the fees could be less than they are currently today, so I think the gentleman is taking a leap in terms of a statement that he is suggesting is fact about the cost. The costs will not necessarily go up; in fact, the costs could go down, Mr. Speaker.

Mr. MAHER. Then why, sir, have you replaced the provisions that allow the public, individuals from the public, to obtain this sort of information for the cost of a floppy disk and replace that very strict requirement with the provision that the government can charge some market value that you cannot explain how it will be determined? You are certainly relieving the restraint on the governments and exposing the public to higher costs, and I am asking why?

Mr. SHAPIRO. Mr. Speaker, we are not necessarily exposing the public to higher costs, and in fact, Mr. Speaker, we have made significant changes to current law. That is because we are attempting to go from having one of the worst open records laws in the country to one of the best, and if the gentleman wishes to stay with one of the worst open records laws in the country, he can vote "no" on the bill. If he wishes to have a great open records law, he should vote "yes."

Mr. MAHER. And I suppose that is intended as a response to a very specific technical question. But I thank the gentleman, and a little bit later I will read you something from the Pennsylvania Newspaper Association. But I will continue with my interrogation, assuming you are still standing in for the majority leader. Is that correct?

The constituent correspondence—

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

The SPEAKER. For what purpose does the majority leader rise?

Mr. DeWEESE. The honorable gentleman was already politely admonished for his perpetual condescension and smugness. If the Chair is going to allow this, if the Chair is going to allow this, then I want it on the record that I am quite vexed.

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. The Chair will remind the members, personal comment about other members is not appropriate. The gentleman's interrogation will be limited to concurrence and no commentary on the motives of the legislation or the person standing for interrogation.

Representative Smith.

Mr. S. SMITH. Mr. Speaker, I appreciate your recognizing me, and I mean that literally. I question whether the majority leader is in order to jump up and start yelling into the mike when he was not recognized by the Speaker just a moment ago, and I think perhaps the Speaker should admonish the gentleman that he needs to be recognized by the Speaker before he speaks.

The SPEAKER. The Chair will inform the members the purpose of interrogation is to ask questions that they do not know the answer to and to pause while that individual standing for interrogation responds. Other comments are not in order and will not be tolerated by the Chair. The gentleman may resume his interrogation.

Mr. MAHER. Thank you, Mr. Speaker.

I am going to ask some questions about concrete, real-life examples of what our neighbors' interactions with government involve and hope that the gentleman can provide guidance to me as to if this information, very personal to our neighbors, is public or not, under this amendment.

A 95-year-old widow living alone, who has challenges getting about and has applied to the local area agency on aging, which is a component of a local county, and is receiving home-delivered meals – not health care; home-delivered meals – if an individual wanted to obtain a list from that area agency on aging of all those on the roster receiving home-delivered meals, where in this amendment would that information be protected from being revealed?

Mr. SHAPIRO. Mr. Speaker, it would depend upon the circumstances of the request and the nature of the direction that the gentleman is going. Perhaps— I prefer not to engage in hypotheticals with the gentleman; he is quite astute at asking them. But if the gentleman has a specific question relating to that fictitious 95-year-old woman or someone else, I would be more than happy to try and answer that within the exceptions. But the question is simply too broad. There are multiple exceptions that could apply.

Mr. MAHER. Well, educate me. Which exception would protect that information, Mr. Speaker?

Mr. SHAPIRO. Again, Mr. Speaker, the gentleman would have to ask a specific question, and I would be more than happy to respond to it.

Mr. MAHER. It could not be more specific, Mr. Speaker, but if you do not want to answer, I certainly can understand why.

Mr. SHAPIRO. Mr. Speaker, I have submitted to interrogation now for quite some time. I am pleased to stay here as long as the gentleman would like to answer his questions. I would just ask that he frame it in a specific question as it relates to one of these exceptions, and I would be pleased to try to answer it.

Mr. MAHER. Well, Mr. Speaker, widows receiving Meals on Wheels are not hypothetical where I come from; they are real people, and that is what I am trying to drag back to, is let us remember the people we are supposed to serve. And if you will not answer that question, let me move on to another.

The SPEAKER. The gentleman will suspend.

The purpose of interrogation is to ask a question and wait for the gentleman to respond.

Mr. MAHER. I did, Mr. Speaker.

The SPEAKER. If members wish to make comment, they will signify to the Chair they have ended their interrogation and they can debate on concurrence.

Mr. MAHER. Thank you, Mr. Speaker. And I did allow the gentleman to nonrespond before continuing, and I will ask another question.

A local community has a recreation center where young children spend hours enjoying structured play in the summer. If some creep spied on that playground and wanted to know the names of those children, where in this bill is that information protected, as amended?

Mr. SHAPIRO. Mr. Speaker, thank you for asking more of a specific question. I would direct the gentleman to section 708 (B)(1), Roman numeral (II), and I would be happy to explain that to the members who perhaps do not have that language in front of them.

Mr. MAHER. Can you provide a page number?

Mr. SHAPIRO. It is on page 74, Mr. Speaker.

Mr. Speaker, what the gentleman has done with these various hypotheticals about the young person or perhaps the old lady or gentleman that the gentleman was referring to was to try to suggest, I believe, that this person would be somehow put in harm's way as a result of disclosure of this information. That is why, Mr. Speaker, we have written, literally, the second exception, or the first exception that says, "THE FOLLOWING ARE EXEMPT FROM ACCESS BY A REQUESTER UNDER THIS ACT:...A RECORD THE DISCLOSURE OF WHICH:...WOULD BE REASONABLY LIKELY TO RESULT IN A SUBSTANTIAL AND DEMONSTRABLE RISK OF PHYSICAL HARM TO AN INDIVIDUAL." We make it very clear here, Mr. Speaker, that we are not interested in having an individual's identity or information shared, under the hypotheticals that the gentleman raised, if it in any way would cause this person harm. And that exception is written as the first exception, and I believe, given the generalities that the gentleman raised, would address his point, Mr. Speaker.

Mr. MAHER. Thank you, Mr. Speaker, and I expected that is where you would be pointing to, and I will ask this question: What is the demonstrable risk of physical harm to an individual from a vendor of playground equipment asking for the names of the children enrolled in the township's recreation program?

Mr. SHAPIRO. Mr. Speaker, I would suggest that if a vendor of playground equipment is interested in knowing where the children of Pennsylvania live, that should tip off the lights in someone's head to suggest that those children might be at risk.

Mr. Speaker, again, I am pleased to answer the gentleman's questions, but these hypotheticals that are going on and on and on and not asking about specific passages in this legislation, I do not think are helpful. If the gentleman does not prefer to make our open records law in this Commonwealth better, he can vote "no."

Mr. MAHER. Mr. Speaker, would you ask the gentleman to stick to the question? And I will ask a follow-up, which I find it a bit surprising that you think vendors of playground equipment present demonstrable risk of harm to individuals. Is that your position?

The SPEAKER. The Chair again will remind the member of the purpose of interrogation. That is to ask a question and then appropriately wait until the gentleman responds. The Chair will ask the gentleman to respect the rules of the House.

Mr. MAHER. And, Mr. Speaker, I certainly respect that. I would ask that you would encourage the gentleman responding. He has already offered his advice on how we should vote—

The SPEAKER. The gentleman can ask a question. If he is not satisfied with the answer, he can ask another question.

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

The SPEAKER. But the Chair will ask the gentleman not to comment on the quality of that response. It is inappropriate in the House.

Mr. DeWEESE. Mr. Speaker?

Mr. MAHER. Thank you, Mr. Speaker. And I am not yielding, my good friend.

The SPEAKER. The gentleman will suspend.

Mr. MAHER. I have the floor.

The SPEAKER. The gentleman will suspend.

For what purpose does the majority leader rise?

Mr. DeWEESE. I am not going to rise. My honorable colleague will not yield to me. I wanted to yield to him and ask him approximately how long the interrogation was going to last in case we have to order dinner. I just wanted to ask him approximately, so thanks for sort of yielding.

The SPEAKER. The gentleman, Representative Maher, is in order and may continue his interrogation.

Mr. MAHER. Mr. Speaker, I would like to remind the Speaker and the majority leader of rule 11, and while the gentleman's concerns about his supper are interesting, rule 11 prohibits interruption of a member who has the floor. It has happened repeatedly now, and I would just say, Mr. Majority Leader, do not order supper for me.

The SPEAKER. The gentleman will suspend.

When the majority leader or minority leader rise and ask to be recognized, as any other member, the Chair asks the gentleman who is making comments to suspend and asks the gentleman who is requesting recognition "For what purpose does the gentleman rise?" The gentleman will continue his interrogation, and the Chair will act accordingly.

Mr. MAHER. Thank you, Mr. Speaker.

If an individual writes to a local school board member and asserts their views on any subject whatsoever, as amended, does that correspondence become a public record?

Mr. SHAPIRO. If the gentleman could repeat the question, I was not able to hear it.

Mr. MAHER. If a resident of Pennsylvania sends a letter to a local school board member expressing that individual's views on an issue, does that correspondence become a public record, under this bill as amended in the Senate?

Mr. SHAPIRO. Mr. Speaker, not knowing what would be contained in that letter and not knowing the circumstances of the correspondence between the school board and the individual or the individual to the school board or whatever direction that was going in, that would certainly, I think, be something left up to the open records officer within that agency to make that determination.

Mr. MAHER. Well, let me offer a more concrete example, Mr. Speaker: Many school board members received many, many letters from constituents asking that the school board oppose Act 72's adoption a couple years back. Would the correspondence that was sent by those individuals to those school board members be a public record, under this bill as amended in the Senate?

Mr. SHAPIRO. Mr. Speaker, again, should that request come in, it would be up to the open records officer of that agency to make that determination.

Mr. MAHER. So you are saying that the presumption of a public record does not apply here? Is there an exemption that this falls into?

Mr. SHAPIRO. Mr. Speaker, there is not an exemption that this falls into.

Mr. MAHER. Thank you. That was not so hard.

Now, let us think about another one. Let us think about, someone writes their township commissioner and says, my neighbor has got a dog that barks all night; is there not something you can do about that; is that not against the law? Now, is that letter a public record, under this bill as amended?

Mr. SHAPIRO. Mr. Speaker, again, there is a presumption that that document would be open. Not knowing what would be contained in that document, not knowing if, for example, there is personal information about the writer or a neighbor or

something like that in the document, it would be impossible, Mr. Speaker, to be able to state with certainty, today, standing at this podium, whether it would be open. What I can state with certainty, Mr. Speaker, is that that document would be presumed open and it would be up to the open records officer within that agency to make that determination, Mr. Speaker.

Mr. MAHER. Now, if an individual who works for a social services agency in Pennsylvania helping mentally challenged citizens and is a registered lobbyist writes to the county assistance office or to the county and says, "Here are all the health problems—" Excuse me; strike that. Writes a letter and says, "I want Meals on Wheels for my mom." Is that letter a public record?

Mr. SHAPIRO. Mr. Speaker, I believe the same analysis would apply. With the gentleman starting and ending and then restarting his question, it is impossible to know exactly where he was going with that. But again, I would state that my answer to the previous interrogatories would apply, Mr. Speaker.

Mr. MAHER. Thank you.

Pennsylvania has hundreds of thousands of individuals who hold professional licenses. Most of those professional licenses involve submitting school transcripts. Would the school transcripts of the general public that are on file with the Department of State be public records on this bill, Mr. Speaker, if that person is not a government employee? I do see that for some reason, government employees are protected, but I do not see that the public is protected. Am I missing something, or are those public records?

Mr. SHAPIRO. Mr. Speaker, my apologies. If the gentleman could just briefly restate the question.

Mr. MAHER. Any of the hundreds of thousands, perhaps millions of individuals in Pennsylvania who hold professional licenses, in connection with obtaining their license, it is typical that transcripts from their education are provided. This bill exempts disclosure of transcripts for government employees. I am asking, is there a similar exemption for the public?

Mr. SHAPIRO. Mr. Speaker, there is, and it is governed by Federal law. The Family Educational Rights and Privacy Act is a Federal law that protects the privacy of student education records, and it applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

Mr. MAHER. Thank you, Mr. Speaker. And I think if you were more familiar with that act, you would understand that that applies to educational institutions and not the Pennsylvania Department of State. I am asking about the college transcripts on file at the Pennsylvania Department of State for the hundreds of thousands of Pennsylvanians who hold professional licenses but are not government employees.

Mr. SHAPIRO. Mr. Speaker, I am not willing to cede the ground that suggests that the gentleman is the only one who knows what that Federal statute is and what it applies to, and I believe that my answer correctly answers the question which you asked.

If the gentleman has another question on another topic, I would be pleased to continue to stand for interrogation, but I would encourage the member, for the good of the entire body, to move on. If the gentleman has already made up his mind on how he is going to vote, he should just state how he is going to vote.

Mr. MAHER. Mr. Speaker, is this an appropriate response?

Mr. SHAPIRO. Otherwise, if he has a specific question, he should ask it, and if he does not like the answer, he can use that

in determining the outcome and the determination of how he votes, Mr. Speaker.

Mr. MAHER. Mr. Speaker, I certainly do not mind these colloquies myself, but it seems inappropriate when you permit them to be one-sided. So I would ask that you encourage the gentleman to stick to his responses to the questions.

The SPEAKER. The Chair will encourage the members, interrogation is generally very specific to the legislation at hand. Hypotheticals are not contained in the specific language, and the discretion of standing for interrogation is up to the person who has agreed to stand for interrogation.

Mr. MAHER. Then are not their responses, Mr. Speaker, supposed to be responses to the questions rather than advice on how members should be voting?

The SPEAKER. The gentleman will suspend and not interrupt the Speaker.

The Chair is asking the members to be mindful of the purpose of interrogation; that is, to ask a question. If the responder has answered that question, it may not be satisfactory, but it is an answer.

Mr. MAHER. Thank you, Mr. Speaker.

If the gentleman's assertion about this Federal standard applying to Pennsylvania government is correct, can the gentleman explain to me why government employees are specifically protected from having their college transcripts disclosed? Why do we protect government employees, specifically, and not the general public?

Mr. SHAPIRO. The gentleman is asking about the intent of the insertion of this language in the legislation. That language was inserted by the Senate, and if the gentleman is seeking to understand their intention, I would encourage the gentleman to reach out to Senator Pileggi to try and understand his intention.

Mr. MAHER. Thanks, Mr. Speaker.

I conclude my interrogation.

The SPEAKER. The gentleman has concluded his interrogation. The gentleman is in order to comment on concurrence.

Mr. MAHER. Thank you, Mr. Speaker.

From the time I entered this chamber, I was an advocate for open records, and I continue to be a strong supporter of putting sunlight on government, because it serves to inspire better behavior. But putting the sunlight on government, it should be a very different thing than opening the blinds on our neighbors and peeking in their windows.

This bill, as amended in the Senate, is a curious thing. It builds in a secret set of legislative records for the recent Speaker's commission, and of all places on the Audit Commission. And at the same time, while protecting his commission from having its legislative records revealed, the bill makes available, for a dime, the college or high school transcripts of any Pennsylvanian who has them on file with the State, unless, of course, they are a government employee. What is a better roadmap for identity theft than allowing, for the cost of a copy, individuals' very personal and specific information to be made available to anyone who requests it anonymously?

I go further and say, as crafted, perhaps unwittingly, this bill does not prevent PENNDOT from choosing to release driver's license photos of every Pennsylvanian. This bill does not prevent would-be stalkers from spotting the license plate of somebody and deciding that they want to know where that person lives.

This bill allows the unpublished lecture notes and manuscripts, articles and creative works, of our public schoolteachers to be public records. This bill, as drafted, allows the grades on every test offered in every public school in Pennsylvania to be released as public records.

This bill raises the cost of obtaining complex data on the public, it waives the cost for newspapers, but then, because it is so poorly drafted at this point, it actually prohibits newspapers from publishing if they are charging for their newspaper.

This bill keeps performance audits secret if they are done in the legislature.

This bill puts seniors at risk for their social services that are not included in the "social services" definition, and that is a wide range of services that your area agencies on aging provide.

This bill allows people, for whatever motives – because remember, it prohibits people from asking motives – but it allows information like the rosters, the working schedule of a State hospital, to be public record; the names of children enrolled in recreation programs to be public record.

It allows those who receive vocational assistance, aid to the blind to actually work, or those who have other physical challenges and the State steps in and provides vocational assistance, that experience is public record.

The name and employer and job title of every Pennsylvanian who is employed would be a public record.

I am very excited that we have come so far in working on the public record bill and the public's right to know, but it is not done. These are real problems, and I can understand the newspaper association saying they are satisfied; that is great, but we also have a solemn duty to the people. And we have to make sure that the personal information about Pennsylvanians, the vast expanse of personal information about Pennsylvanians, is protected. Because otherwise, we will become the capital of identity theft, we will become the capital of stalking, and those are not desirable things for us to pursue.

Now, every one of these issues can be resolved. In fact, I have been told that most of these problems were actually just drafting errors. Well, let us repair them. Let us fix those problems before we impose new problems in Pennsylvania. So much work has been invested in this bill, it would be a terrible shame that you would actually injure your constituents by moving forward with it as it is.

BILL ON CONCURRENCE PLACED ON POSTPONED CALENDAR

Mr. MAHER. Consequently, Mr. Speaker, I am making a motion that we postpone consideration of SB 1 over the weekend and bring it up on Tuesday. So my motion, Mr. Speaker, is to postpone further consideration of SB 1 until Tuesday.

The SPEAKER. The House will be at ease.

The gentleman moves that SB 1 be postponed on concurrence until Tuesday, February 12. Is that correct?

Mr. MAHER. That is correct.

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

The SPEAKER. On the motion, those in favor of postponing will vote "aye"—

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. Representative Smith, on the motion to postpone.

Mr. S. SMITH. Thank you, Mr. Speaker. Briefly, on the motion to postpone.

I would just like to note on the record that as the earlier amendments were presented for a suspension of the rules, there was one that dealt with the realtors, and 109 members – a majority of this House – voted to suspend the rules, which would suggest that they supported the concern raised by that amendment.

On an amendment that was moved to suspend the rules that dealt with the 911 emergency response issues, 108 members of this House voted to suspend the rules, which would indicate they value or they believe there is a concern and that that amendment had merit.

On ID theft and domestic violence, protecting Pennsylvanians from crime, majorities of 108 and 106 people in this House voted to suspend the rules.

The other issues that have been raised, dealing with information that perhaps the senior citizen that is receiving Meals on Wheels through the area agency on aging, the issues that deal with school transcripts, the fact that investment advice that the pension systems receive would be made public, under the current measure of SB 1 – Mr. Speaker, for all of these reasons I would ask the members to vote to postpone this to a date certain, to next Tuesday, Mr. Speaker, so that this body could do what was asked of me by the majority leader less than a week ago, and that is to try to prepare a corrective amendment, one amendment, Mr. Speaker, that could easily address all of these issues that have been enumerated here today.

Mr. Speaker, this was not my initiative. Mr. Speaker, this was the majority leader's initiative that he set forth before the Newspaper Publishers' Association just last Thursday morning in their public forum.

Mr. Speaker, I agreed with him at that point in time that that was a worthwhile direction to go. Mr. Speaker, I will be sticking to my word and going in that direction. I urge the members to postpone and allow us to make SB 1 a good open records bill, make it a much better open records bill, Mr. Speaker. Thank you.

The SPEAKER. The Chair recognizes Representative Shapiro on the motion to postpone.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I rise to strongly oppose the gentleman's motion to postpone. I believe that a vote to postpone is a vote against bettering our open records law in this State. A "yes" vote is a vote against open records, if you vote in favor of the Maher motion.

Mr. Speaker, the minority leader raised several issues, issues that were raised by members of the minority party and their attempts to suspend the rules, and I would like to address those. For if any member wishes to hang his or her hat on a vote to postpone on these issues, I think it is important to clarify the record that the gentleman, the minority leader, had laid out.

First, as it relates to the realtors, a group that I know many in this chamber support and many of us understand the important economic energy that they bring to the Commonwealth of Pennsylvania. I, too, am very supportive of the realtors. But I fundamentally believe, Mr. Speaker, that this legislation does

not present an issue for the realtors. I believe, Mr. Speaker, that this legislation does not harm the realtors.

Mr. Speaker, I based that conclusion because—

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. For what purpose does the minority leader rise?

Mr. S. SMITH. Thank you, Mr. Speaker.

Just to ask that the gentleman stay on the reason why we should or should not postpone SB 1 till next Tuesday.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman, the minority leader, exercised his due latitude to express the reasons why he and his members should vote to postpone and based that on at least three specifics, and I want to address those three specifics, and that is what I seek to do, Mr. Speaker, as a reason not to postpone, Mr. Speaker.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. The gentleman will suspend.

For what purpose does the minority leader rise?

Mr. S. SMITH. Unless I am mistaken, I thought that the general rule in the House was that the leaders were generally allowed a little extra latitude, but that that was not necessary afforded to every member.

The SPEAKER. The minority leader and the majority leader are extended some latitude.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, as it relates to the realtors, I do not believe that we ought to postpone consideration of this legislation with using that as a reason because frankly, Mr. Speaker, I do not believe this legislation, as it is written, applies to the concerns that the realtors have articulated to many in this chamber. I suggest that, Mr. Speaker, because, as the gentleman from Upper St. Clair had indicated in some of his interrogation earlier, talking about complex and extensive data sets, the complex and extensive data set section, I believe, does not apply to the data that the realtors seek from counties each and every day. I also base that upon the *Inkpen v. Roberts* decision where, in 2004, the Pennsylvania Commonwealth Court ruled that, for example, deeds and mortgages are not considered open records.

You see, Mr. Speaker, I do not believe that realtors are accessing this data that they are concerned about based upon the premise of the Right-to-Know Law as it is currently constructed or the Right-to-Know Law as it would be constructed under SB 1. I believe the realtors' issue has been addressed. I have spoken directly to them. Even they are vague as to whether or not this applies to them. I believe it does not, and I believe we are all on firm ground pushing forward today in supporting SB 1 and denying the gentleman's motion to postpone.

I would also suggest, Mr. Speaker, to the gentleman who offered an amendment earlier – and it was articulated by the minority leader again as a reason to postpone – the issue of identity theft and in protecting the citizens of Pennsylvania. Mr. Speaker, in order to steal one's identity, at least four types of information are necessary: A birth date, a home address, a name, all of which in different ways could be secured under this legislation. However, the fourth thing that is necessary for identity theft is that one gets a Social Security number. And section 708(B)(6)(I)(A) makes it clear that a Social Security number is not provided. Therefore, it minimizes the risk of identity theft, something I think we all ought to be concerned about.

Mr. Speaker, in sum, the reasons that have been proffered to postpone consideration of this legislation are reasons that I think have been addressed in this legislation. Therefore, as I stated at the outset of my remarks, I will conclude that if one votes to postpone this legislation, it is a vote against open records; it is a vote against open records. If one is for bettering our open records, they should vote "no" on the Maher motion.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. First to respond to the honorable gentleman from Jefferson, the minority leader, his revisionist history reminds me of an anecdote I was told many years ago about a divorce. There is always his side, her side, and the truth.

At the Newspaper Publishers' event, I certainly did welcome Mr. Smith's encouraging help as we would try to forge language that we could all agree with. I am still waiting on him to drop by the office for that conversation. I left a message on his cell phone last night. I am not bereft of friendship or enthusiasms for my honorable colleague, but as has been manifest in the property tax debate and a variety of other things and as being manifest here today in this bare-knuckled effort to obstruct, this undiluted effort to hammer against Mr. Pileggi's open records proposal.

Our honorable Republican leader in the Senate – warm, affable Dominic Pileggi – has engineered this proposal into our midst with a 50-to-nothing vote after 13 months of dialectic and debate and sharing on this issue, with meeting after meeting with Mahoney and Shapiro and others. It is time to put up or shut up.

We have a chance to send this proposal to the Governor forthwith. If you postpone it, in my view, Mr. Shapiro is correct, you are trying to drive a stake in the heart of open records. The delaying tactics of the minority leader and the minority leadership team and the minority party are certainly suspect for debate. But this action, if successful, to postpone an open records proposal that has been vetted for 13 months, passed the Senate with a 50-to-nothing vote and is anticipated by the Governor, is anticipated by Senator Pileggi and his Republican colleagues, would be an obvious, obvious delaying tactic.

I would ask that we vote against any postponement. I would ask that we vote against the gentleman from Upper St. Clair.

The SPEAKER. Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

I rise in support of the motion to postpone and find it very interesting the comments of the majority leader. We are talking about a bill that does not take effect for 10 months. And he mentions today on the House floor, as he did earlier today in the Rules Committee, he laments the fact about, geez, the Senate voted 50 to nothing for this bill. Interestingly, one of the cochairman of the Reform Commission gets up as a cheerleader for this bill, once again talking about the Senate, passing this bill 50 to nothing.

Well, what happened over in the Senate? What happened over in the Senate is that this bill was amended twice and voted on and passed in less than 24 hours. The more things change, the more they stay the same.

So this same group of people – now the great reformers of this chamber – are saying, we have to rush this bill through, a bill that there are a lot of questions about, including those that are the victims of domestic violence. Their perpetrators can now

find where they live. The personal information of all our constituents, all at risk now for identity theft.

Our local area agencies on aging could be forced to reveal those of our most vulnerable in our society that receive Meals on Wheels. I wonder what a criminal could do with that information?

All this motion to postpone does is postpone this to a date certain when we can hopefully have an amendment that can resolve these problems. No one here is against open records. That is a specious argument, and they know it. All of us have voted for open records in the past. What we are looking for is an amendment to fix the problems of this bill; it is as simple as that. And we are not alone in this cause – Common Cause, League of Women Voters – those groups are both opposed, as written.

So it is time we end the political rhetoric and theater in this place, and get down to doing the people's business and do it right the first time. As the majority leader said earlier today, he has admitted this thing has to be fixed before we even pass it. So now we are going to be responsible legislators in passing legislation that has to be fixed? They said, oh, we do that all the time. Maybe under his watch.

I urge the membership on both sides of the aisle to do the responsible thing and vote to postpone this matter until a date certain. Thank you.

The SPEAKER. Representative Scavello.

Mr. SCAVELLO. Thank you, Mr. Speaker.

I also rise to support the postponement, and I would like to state some facts. Earlier in the week I met with the deputy whip, Representative Shapiro from Montgomery, and questioned that particular fact with the realtors, and he said, in front of his brain trust, that there is a problem that we are going to do an amendment to correct it. This was on Monday. So I did not draft the amendment. I felt that this was going to be taken care of. And here we are now and I am hearing that everything is fine, and it is his interpretation, but there is a problem.

But besides that, Mr. Speaker, let us talk about one main, to me, the most vulnerable piece of our society, where women's resources protect women. And we are going to actually pass a bill that we know there is something wrong with it, and we are going to send to the Governor's Office? It is absolutely ridiculous. There is no way in the world that that bill should be leaving this body unless it is correct and proper.

I have watched the majority leader continually move away from the mic every time he said that there is nothing wrong with this piece of legislation. Was it because his nose was growing and it was going to hit the microphone?

I urge the members, vote "no." Vote "yes" on postponement.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. The animated gentleman previously at the microphone should read the bill. There is a section where if harm would be caused, physical harm would be caused, the information would not be released. His comments on domestic violence were hyperbolic and inaccurate.

The SPEAKER. Representative Benninghoff.

Representative Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I can understand that when we are so close to the finish line that we can practically reach right out and touch it, that there is the strong desire on the part of many – frankly, on the part of myself – to just say, we are so close, let us just

take the plunge and leap right over, and we will worry about the consequences later.

But, Mr. Speaker, although it does pain me to say otherwise, I really do not think that is the way we should go today. I would remind members that the motion before us is not an indefinite postponement of this legislation. The motion before us is a postponement to a date certain, which means that we will be bringing it up. And I believe that the leaders, our Republican leader and I believe that the leaders on the other side of the aisle, will work in good faith between now and then to correct some of these items that have been brought to our attention.

Mr. Speaker, I would remind everyone to just take a step back and look at the changes that we have made this year and how that really plays into what we are doing right now. Mr. Speaker, the rule changes that we have made in this body, a part of the purpose of those changes in the legislative process is so that bills are not enacted with provisions that are either not understood or that might be clearly harmful if enacted.

Mr. Speaker, I believe that it is incumbent upon us to be responsible in our legislating duties today. Yes, we will probably take a few knocks, we will probably take a few criticisms from some advocates for this legislation. But, Mr. Speaker, I do believe that "caution" is the word of the day. And I also think that in light of the fact that some of our members did try to offer constructive amendments in good faith to deal with such issues as the domestic violence issue, as the objections being raised by the realtors, it has been suggested that these are easily fixed. Let us take some time between now and next Tuesday to correct this bill.

We had a really good, solid bill when it passed this House. The Senate made some changes. We do not know or understand why they made all the changes they did. It has been suggested to us that we should vote for it because they passed it 50 to nothing and, therefore, it must be okay.

Well, Mr. Speaker, I cannot help it if, apparently, much of the Senate did not read or consider the changes that they actually made that they put into bill. It seems to me now that these issues have been brought to our attention, let us do the responsible thing. Let us not rush. Let us take a measured approach. Let us come back next Tuesday and hopefully address an amendment that will solve these problems.

And I will just say one last thing, Mr. Speaker: This issue has not been brought up yet, but I happen to think it is very serious. One of the changes that the Senate made was that there were provisions in there that would allow the public to have access to information on discretionary grants made in the General Assembly. The Senate stripped those provisions out of the bill. Mr. Speaker, I think that is very harmful to any effort, I think it is very harmful to any effort to really shed some light on how the General Assembly works. People need to know and understand where the money is going and what impact that process has on the legislative process.

So, Mr. Speaker, I would strongly urge that for this reason as well, and I would urge the leaders on both sides of the aisle, both sides of the aisle, to put those provisions back in this bill before we vote on it again Tuesday.

So, Mr. Speaker, for all those reasons, I join with Mr. Maher in urging a "yes" vote. Thank you.

The SPEAKER. Representative Benninghoff.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

And to the members, I am sure there is nothing magical I am going to say to convince you one way or another, but I would

ask that you give me 30 seconds to digress to our earlier proposal.

I am somewhat dismayed that this whole issue has become such a political football. It does not need to be that way. It is not a Republican issue or Democrat issue. But I will say, early on as one who served on the Reform Commission, I was pretty encouraged by a young man named Representative Mahoney, in his early few months here, who offered a proposal – obviously he has as much interest in pride of authorship – but was willing, for some of us who had concerns, to take those suggestions and say, I am willing to work with you on that, and I am willing to address those things.

Let us progress a little farther up. If you remember the debate on the House floor regarding the Mahoney proposal – which I actually still support and think is a better proposal than SB 1, but we are in a chamber that eventually has to compromise – that bill was delayed in committee, postponed. And why did we do that? Because people had suggestions to make it better. They did not want it rammed through at 4 o'clock in the afternoon or 9 o'clock or whatever time it was we left one of those meetings. Madam Chairman decided to hold that.

Let us do the right thing. No one talked about Republicans or Democrats. No one talked about how they were going to try to embarrass the other side and force them into some vote. They talked about trying to do what was best for Pennsylvania. We have been embarrassed as a Commonwealth as one of the few States for not having good open records law. We may not get the House version through, and we all know the game of pride of authorship, but if a young, new member could have the professional courtesy to give senior members the right to improve a bill, then why cannot some of us have the same insight to do the same thing today?

We are not asking to delay it; we are asking to make a better product. We have not stuffed it in some committee to make it disappear. We are talking about making a better end product.

I believe in my heart that the people out in TV land, and including the Newspaper Association, are smart enough to see the parliamentary gymnastics that are going on today. So do not be fearful if you want to stick up and stand up for what you believe is right and do what the people sent you to do here, and that is vote on good public policy, good legislation, and by making it improved by waiting 2 or 3 days. That is what your public wants you to do. That is what they have voted for you for. And frankly, though they may be frustrated with Harrisburg at times, they say, my member does a good job.

My past realtor sees this as a problem. My 911 guy who calls me and says, you have got a serious problem in there. The gentleman spoke earlier about people's privacy and confidentiality. We can have a strong open records law and a smart one, but we do not have to rush it through today just so one side can try to embarrass the other.

I will close with, again, thanking Representative Mahoney for at least having the courage and the class to step aside and allow people to make amendments to a good bill and make it better. And we postponed that not only in committee, but we postponed it here on the House floor. There is no reason not every one of us can support Representative Maher's motion to hold this for a couple days, come back, make a better bill for Pennsylvania, and do what the public is paying us for.

Thank you very much.

The SPEAKER. Representative Mahoney.

Mr. MAHONEY. Thank you, Mr. Speaker.

This has been a long process. It started 13 months ago as Leader DeWeese said, but no, it has not, it started 52 years ago. The people of Pennsylvania deserve an open records law, and that is why I am opposing Maher's postponement, because we need to do it, and we need to do it today. We need to give it to the Governor, and we need to get it signed.

For all the new legislators that came up here with me this year, we came up here to reform and make change. This is the first step of it. This is where we have got to start, and this is how we have to go.

So I urge everyone to oppose Maher's postponement.

The SPEAKER. Representative Steil.

Mr. STEIL. Thank you, Mr. Speaker.

As the Republican cochair of the Speaker's Reform Commission, there is no one who is more interested and more concerned about passing an open records act. In fact, that piece of legislation is the only piece of legislation that has been taken up from the many, many recommendations that were made by the Reform Commission.

So there is obviously a great desire on all of our parts to see that piece of legislation move. But never have I ever proposed moving legislation that had flaws. We do not do that kind of work, and I would challenge anyone who has truly read this piece of legislation not to have questions about it.

Those questions can be addressed with a relatively simple amendment. All of the reasons why this should be postponed have already been stated, and I am not going to state them again, but the fixes for these are minor. There are a few words that have to change in one place or another. It is not a problem to hold the bill to ensure that the members can go home and say we did an open records bill that protects the people who elect us, protects the government agencies, and protects the rights of all citizens of Pennsylvania.

We are not asking for any type of permanent postponement. We are not opposing this bill. I am not opposing it. And there is no one that I have greater respect for than my Democrat cochair of the Reform Commission, but on this issue we disagree. We are going to have to pass legislation which we can all accept and which we can all agree on the language.

So humor us. We can make this a bill that can be agreed upon. It is only going to take a few days.

Vote to postpone. Thank you.

The SPEAKER. Representative Harper.

Ms. HARPER. Thank you, Mr. Speaker.

On the motion?

The SPEAKER. The lady is in order.

Ms. HARPER. I know two things about my colleagues here in the House: One is that each and every one of us wants to vote for a good open records bill. I believe that, and I question no members' motives in that regard. But I know something else. I know there is not one among us who wants to be responsible for the victim of domestic violence who fears picking up the phone and dialing 911 because of a flaw in this bill that may allow her tormentor to know who she is and where she is. None of us wants to be responsible for the hesitation that my cause her her life.

We can fix this bill. We can fix the 911 problem. We could have fixed it this afternoon. We had an amendment that would have done that, but we were denied a suspension of the rules to do it.

This bill is 103 pages long. We are all anxious to see it passed. That it should have some ambiguities, that it should have some things that need to be tuned up and tightened up is not surprising. A 3-day delay, which will allow us to fix the bill, will not affect the date when it is effective, which is January of '09. None of us wants to be responsible for any victim failing to call 911 because of what we do today.

I would ask my colleagues, please, let us fix the bill. Let us get it done right. It is that important that we should get it done right. Thank you, Mr. Speaker.

The SPEAKER. Representative Fairchild.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I rise to support that we postpone SB 1 until we can make the corrections that are necessary. I am going to be brief and give you the reasons why I believe, as Republican chairman of the veterans and emergency response committee, that this is absolutely necessary.

First, both bills, HB 443 and 2072, did have the exception to the 911 records in it. We passed it unanimously out of this House. As was testified to earlier, no one knows who changed the language in this bill that is before us today.

The major change in the bill was that it added three words: "Time response logs" are now required. The problem, Mr. Speaker, is I defy anyone, anyone in this House to find a definition of what a "time response log" is. It is a failure on the part of those who were responsible for drafting the amendment to put a definition in SB 1. If our purpose here is to enact clear laws that the public understands, then indeed we have failed, and you will fail if you vote for this.

The 911 centers could accidentally release local State and police investigative information. You tell me how a 911 operator is going to know if there is an undercover operation going on in your community. Tell me how that operator is going to know that information, but yet he or she will be required to have that information listed on the time response log, perhaps because no one knows what in the world a time response log is.

There are many forms that our 911 centers use. These forms contain a variety of information that could and will compromise the safety of the citizens in your district. Criminals, believe it or not, criminals could request these time response logs. But why would a criminal want to request that information? Because then they could figure out how long it takes to respond in a certain area of your municipality, your city, whatever. Pretty slick move. Criminals are not stupid today.

What we need, Mr. Speaker, is a well-thought-out— And I thought you and I together, with the prior amendment that clarified this issue that every one of you voted for, had taken care of that.

So I just want to say, please do the right thing. We have it in our ability to make these types of changes, to come back here in very short order and pass a good law because I guarantee you what, we will be back at this again, and that is what those who want to run this bill today keep trying to tell you, but we have the opportunity to make it right, and we owe it to our citizens to do so.

Thank you, Mr. Speaker.

The SPEAKER. Representative Swanger. The gentlelady waives off.

Representative Cohen.

Mr. COHEN. Mr. Speaker, about 13 months ago I had the opportunity to meet with Mr. Mahoney as he was beginning to

draft the process of this legislation, and we discussed bills in many States, and I talked to him about the tendency in other States for this kind of legislation to be indefinitely postponed and for enormous amounts of work to be put in and nothing to happen. And Mr. Mahoney, to his credit, has worked enormously hard over the past 13 months and has done everything he possibly could to see that something meaningful happens with this legislation.

We can see that this legislation is enacted into law and that the benefits of open records are achieved for all Pennsylvanians if we defeat this motion to postpone and any other motions that are similarly filed.

It is true if the delays merely go on till Tuesday, no harm will be caused. However, we have had numerous delays already, and I, personally, have no confidence that a delay till Tuesday means that the bill will be passed on Tuesday. All sorts of things can happen. All sorts of other delays can occur. All sorts of new objections can be found. I just do not have the confidence that a vote on Tuesday will actually occur, nor do I have the confidence that if all these amendments are added to the bill, the Senate will quickly accept it.

It is quite possible the Senate will say, well, some of these amendments are meritorious. Let us study it for 3 weeks and then let us make some more changes and come back. And sometimes bills just become Ping-Pong games or tennis matches in which bills go back and forth and back and forth and back and forth, on and on and on. And that is what I fear is going to happen here, and that is why I strongly urge that the motion to postpone be defeated.

THE SPEAKER PRO TEMPORE (MICHAEL P. MCGEEHAN) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of postponement, the Chair recognizes the gentleman, Representative Boyd.

Mr. BOYD. Thank you, Mr. Speaker. I will be very brief.

I just rise real quickly to support the motion to postpone. And I just want to articulate that if we vote in a positive for this bill, this thing goes straight to the Governor's desk. Oftentimes we talk a lot about moving the process forward, sending something over to the Senate where we know that things can be amended and changed if there is a little problem with a detailed piece of legislation. This thing is a very, very intricate and long piece of legislation, and there have been a number of issues that have been brought up – the issue with the realtors, the issue with domestic violence – they can be taken care of very, very simply, and we do not have another shot at this. And I want to point out that if this ends up on the Governor's desk with what we believe are even potentially small flaws in it, ultimately this legislation will probably end up being challenged in court, and it could end up being tied up for years, and we would not have an open records law as it worked its way through the litigation process.

I remind my colleagues of the lobbyist disclosure bill that was passed many, many years by this chamber and ended up being overturned through a long court process, and it took us years and years again, hours and hours of work. We worked in a bipartisan way to finally come up with another lobbyist disclosure bill.

So I just would support the motion to postpone. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of postponement, the Chair recognizes the gentleman, Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I have listened very attentively to the various comments in reference to why we should postpone. And, Mr. Speaker, this is February. I was a part of the Speaker's Reform Commission. I know how long we have had this conversation about open records, and, Mr. Speaker, I am somewhat troubled that in 2008 Pennsylvania does not have a proactive open records law.

Many other States have moved from darkness into light and put in place a progressive and proactive open records law. And, Mr. Speaker, as I see the situation before us, if we reject the proposal to postpone and affirmatively vote for SB 1 and send this bill to the Governor's desk, following the Governor's signature, there is an implementation process. There is a regulatory scheme that will come about as we deal with implementation.

And so, Mr. Speaker, the concerns as it relates to domestic violence are concerns that I am confident that our Excellency coupled with our various departments will address that if, in fact, that is real. Mr. Speaker, I am confident that the concerns that have been raised about realtors is something that can and will be addressed during that regulatory process following the Governor's signature. And thirdly, Mr. Speaker, I am confident that Meals on Wheels, however they are impacted, if there is an issue, that issue can be dealt with during the regulatory process.

Mr. Speaker, I know most of my colleagues, but, Mr. Speaker, I doubt very seriously whether there is anybody in the Pennsylvania Senate, in the Pennsylvania House, or a part of the executive branch of government that is going to allow a law to be implemented that threatens the privacy of those victims of domestic violence, that threatens or interferes with the good work of Meals on Wheels, or interferes with any of the other concerns that have been raised.

I caution members to take due notice that out of all the conversations, I have not been referenced one time with where in SB 1 there is a problem as it relates to existing law or as it relates to facts that we have before us.

Mr. Speaker, I doubt whether the honorable gentleman from Delaware County, Senator Pileggi, or I doubt whether the 50 members of the Pennsylvania Senate would send a bill to the House that threatens victims of domestic violence. I doubt that very seriously, Mr. Speaker.

And so I have to treat, I have to treat this minimum opposition to moving SB 1 forward, I have to look at it with a jaundiced eye. And as I look at it with a jaundiced eye, I have to question whether or not we are all on the same page in bringing Pennsylvania from darkness into light by putting forth a progressive and proactive public records law.

So, Mr. Speaker, in essence, what I am saying is, that whatever concerns that we have, especially concerns as it relates to victims of domestic violence, as it relates to Meals on Wheels or as it relates to the other concerns that have been raised, I am sure that if that is a factual issue as it relates to SB 1, then I am confident that the Governor's Office, in conjunction with the General Assembly, in conjunction with this Executive Cabinet will deal with that prior to enforcement and/or implementation of SB 1.

So, Mr. Speaker, I am not prepared, I am not prepared to put Pennsylvanians off another day from having access to public records. I am not prepared to do that. And so, Mr. Speaker, I urge my colleagues on both sides of the aisle— Because open records is not a Democrat nor is it a Republican issue, it is a people's issue. We should not even in 2008 be discussing whether or not the public should have access to certain records. That should be a moot issue in 2008, but here we are. And because we are where we are, let us not delay. Let us not delay providing the public with access to public records any longer.

Mr. Speaker, I urge my colleagues to vote "no" to postponement and "yes" to passage of an open records law in the Commonwealth of Pennsylvania. Thank you.

THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the majority whip, who requests that Representative FRANKEL be placed on leave for the remainder of the day. The Chair sees no objection. The leave will be granted.

CONSIDERATION OF SB 1 CONTINUED

The SPEAKER. Representative Maher.
Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

At Thanksgiving the Republican Party successfully maneuvered to keep us from voting an open records proposal. Subsequent to that, on a second occasion when Representative Curtis Thomas and the Intergovernmental Affairs Committee tried to project an additional proposal on open records, the Republican House chamber decided to contravene that effort.

There are four caucuses in the State legislature. The Democrats in the Senate have seen fit to support this measure. The Republican leadership team – the Senate Republicans led by Dominic Pileggi, whose name is affixed as the prime sponsor of this proposal – are steadfast and square in their support of this proposal. The House Democrats are in favor of this open records law being sent to the Governor forthwith tonight. Thirteen months; 13 months.

Unequivocally, the Republican Party is trying to delay again and again and again, stall tactics after stall tactics. The idea that we would want victims of domestic violence to have their names available is sheer folly. The language in the proposal disallows that, and that should not be allowed to remain on the record.

This is a solid proposal, which has been repeated several times 50 to nothing from the Senate, and to delay is obviously to obstruct. I would ask that a negative vote be rendered for the Maher proposition.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Let us go ahead and vote and come back Tuesday with an amendment that we can all embrace and solve these problems that I think most of us recognize are real problems. So let us just go ahead, postpone till Tuesday, come

back, get it done right, protect the people in Pennsylvania, and have a great open records law.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—98

Belfanti	Galloway	Manderino	Shimkus
Bennington	George	Mann	Smith, K.
Bianucci	Gerber	Markosek	Smith, M.
Bishop	Gergely	McCall	Solobay
Blackwell	Gibbons	McGeehan	Staback
Brennan	Goodman	McI. Smith	Sturla
Buxton	Grucela	Melio	Surra
Caltagirone	Haluska	Mundy	Tangretti
Carroll	Hanna	Myers	Taylor, R.
Casorio	Harhai	O'Brien, M.	Thomas
Cohen	Harkins	Oliver	Vitali
Conklin	Hornaman	Parker	Wagner
Costa	James	Pashinski	Walko
Cruz	Josephs	Payton	Wansacz
Curry	Keller, W.	Petrarca	Waters
Daley	Kessler	Petrone	Wheatley
DeLuca	King	Ramaley	White
DePasquale	Kirkland	Readshaw	Williams
Dermody	Kortz	Roebuck	Wojnaroski
DeWeese	Kotik	Sabatina	Yewcic
Donatucci	Kula	Sainato	Youngblood
Eachus	Lentz	Samuelson	Yudichak
Evans, D.	Levdansky	Santoni	
Fabrizio	Longietti	Seip	O'Brien, D., Speaker
Freeman	Mahoney	Shapiro	

NOT VOTING—0

EXCUSED—5

Frankel	Pallone	Preston	Siptroth
Leach			

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

The SPEAKER. The House will be at ease.

The House will come to order.

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1742, PN 3091**, entitled:

An Act requiring scrap processors and recycling facility operators to collect certain information relating to the purchase of scrap material; requiring commercial accounts; and restricting scrap processors and recycling facility operators from purchasing certain materials.

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

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentlelady from Northampton County, Representative Beyer, who moves to suspend the rules for the purpose of offering amendment A05481, which the clerk will read.

The clerk read the following amendment No. **A05481**:

- Amend Sec. 3, page 4, line 9, by striking out "A" and inserting
Except as provided in subsection (c), a
- Amend Sec. 3, page 4, line 13, by striking out "\$100" and inserting
\$250
- Amend Sec. 3, page 4, lines 23 through 27, by striking out all of said lines
- Amend Sec. 3, page 4, line 28, by striking out "(5)" and inserting
(4)
- Amend Sec. 3, page 4, line 30, by striking out "(6)" and inserting
(5)
- Amend Sec. 3, page 5, by inserting between lines 8 and 9
(c) Unique identification number.—Any scrap processor and recycling facility operator who establishes a unique identification number for every seller based on the initial collection of the seller's information required under subsection (a) that is documented on each seller's receipt shall only be required to set forth the information that is required under subsection (b) for subsequent transactions.
- Amend Sec. 3, page 5, line 9, by striking out "(c)" and inserting
(d)
- Amend Sec. 3, page 5, line 15, by striking out "(d)" and inserting
(e)
- Amend Sec. 3, page 5, line 27, by striking out "three business days" and inserting
24 hours
- Amend Sec. 3, page 6, line 4, by striking out "three business days" and inserting
24 hours
- Amend Sec. 3, page 6, line 7, by striking out "three days" and inserting
24 hours
- Amend Sec. 3, page 6, line 11, by striking out "(e)" and inserting
(f)

Civera	Hershey	O'Brien, M.	Stevenson
Clymer	Hess	O'Neill	Sturla
Cohen	Hickernell	Oliver	Surra
Conklin	Hornaman	Pallone	Swanger
Costa	Hutchinson	Parker	Tangretti
Cox	James	Pashinski	Taylor, R.
Creighton	Josephs	Payne	Thomas
Cruz	Kauffman	Payton	True
Curry	Keller, M.	Peifer	Turzai
Cutler	Keller, W.	Perry	Vereb
Daley	Kenney	Petrarca	Vitali
Dally	Kessler	Petri	Vulakovich
DeLuca	Killion	Petrone	Wagner
Denlinger	King	Phillips	Walko
DePasquale	Kirkland	Pickett	Wansacz
Dermody	Kortz	Preston	Waters
DeWeese	Kotik	Pyle	Watson
DiGirolamo	Kula	Quigley	Wheatley
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnaroski
Evans, D.	Longietti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Harper	Perzel	Shimkus	Taylor, J.
Micozzie			

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

CALENDAR CONTINUED

BILL ON CONCURRENCE IN SENATE AMENDMENTS TO HOUSE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to House amendments to **SB 1, PN 1726**, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for the Office of Open Records; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

On the question recurring,

Will the House concur in Senate amendments to House amendments?

RULES SUSPENDED

The SPEAKER. On the question of concurrence, the Chair recognizes the gentleman, Representative King of Bucks County, who moves that the rules of the House be suspended so that he can offer amendment A05848, which the clerk will read.

The clerk read the following amendment No. **A05848**:

Amend Sec. 102, page 57, line 24, by striking out "INCLUDES:" and inserting

Any of the following:

Amend Sec. 102, page 58, line 3, by striking out all of said line and inserting

(3) A financial audit report. The term does not include work papers underlying an audit.

Amend Sec. 102, page 59, by inserting between lines 11 and 12

(15) The Legislative Audit Advisory Commission.

Amend Sec. 102, page 60, line 3, by inserting after "AUDIT" report

Amend Sec. 102, page 61, line 11, by inserting after "PRIVILEGE" where it appears the second time, the speech and debate privilege

Amend Sec. 102, page 61, line 14, by inserting after "RECORD" where it appears the second time

, including a financial record,

Amend Sec. 102, page 62, line 7, by striking out "AND" where it appears the second time and inserting

services and training,

Amend Sec. 102, page 62, line 10, by inserting after "SERVICES" where it appears the second time

, services for the elderly, services for individuals with disabilities

Amend Sec. 102, page 62, line 11, by inserting after "CRIMES" and domestic violence

Amend Sec. 701, page 74, line 13, by inserting after "TO"

or the personal security of

Amend Sec. 708, page 78, line 21, by inserting after "RECORD" which is not otherwise exempt from access under this act and which is

Amend Sec. 708, page 79, lines 22 through 25, by striking out all of said lines and inserting

(15) (i) Academic transcripts.

(ii) Examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.

Amend Sec. 708, page 82, line 5, by inserting a comma after "RECORDING" where it appears the second time

Amend Sec. 708, page 84, by inserting between lines 25 and 26

(30) A record identifying the name, home address or date of birth of a child 17 years of age or younger.

Amend Sec. 708, page 84, lines 27 and 28, by striking out "FOR FINANCIAL RECORDS" and inserting

that an agency may redact that portion of a financial record

Amend Sec. 708, page 84, lines 29 and 30; page 85, line 1, by striking out all of said lines on said pages and inserting

(4), (5), (6), (16) or (17). An agency shall

Amend Sec. 708, page 85, line 3, by inserting a period after "ACTIVITY"

Amend Sec. 708, page 85, lines 3 through 5, by striking out "OR OTHER" in line 3 and all of lines 4 and 5

Amend Sec. 708, page 85, by inserting between lines 9 and 10 (e) Construction.—In determining whether a record is exempt from access under this section, an agency shall consider and apply each exemption separately.

Amend Sec. 1307, page 94, line 7, by inserting after "BY" where it appears the second time

or connected with

Amend Sec. 1307, page 94, line 9, by striking out "NEWSPAPER" and inserting publication

Amend Sec. 1307, page 94, lines 16 through 18, by striking out all of said lines

Amend Sec. 1707, page 100, line 11, by striking out "OBLIGATION" and inserting contract

Amend Bill, page 102, lines 11 through 21, by striking out all of said lines and inserting

This act shall apply to requests for information made after December 31, 2008.

Section 3101.1. Relation to other laws.

If the provisions of this act regarding access to records conflict with any other Federal or State law, the provisions of this act shall not apply.

Amend Sec. 3103, page 103, lines 9 and 10, by striking out all of line 9 and "DECREE" in line 10 and inserting

Notwithstanding 1 Pa.C.S. § 1937(b), a reference in a statute or regulation

Amend Sec. 3104, page 103, line 19, by striking out all of said line and inserting

(2) Chapters 15 and 17 and sections 3102(1)(i) and 3102(2)(i) shall take effect July 1, 2008.

(3) The remainder of this act shall take effect January

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

The following roll call was recorded:

YEAS—198

Table listing names of members who voted 'YEAS' (198 total). Includes Adolph, Argall, Baker, Barrar, Bastian, Bear, Belfanti, Benninghoff, Bennington, Beyer, Biancucci, Bishop, Blackwell, Boback, Boyd, Brennan, Brooks, Buxton, Caltagirone, Cappelli, Carroll, Casorio, Causer, Civera, Clymer, Cohen, Conklin, Costa, Cox, Creighton, Cruz, Frankel, Freeman, Gabig, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Goodman, Grell, Grucela, Haluska, Hanna, Harhai, Harhart, Harkins, Harris, Helm, Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, James, Josephs, Kauffman, Mann, Mantz, Markosek, Marshall, Marsico, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Mensch, Metcalfe, Millard, Miller, Milne, Moul, Moyer, Mundy, Murt, Mustio, Myers, Nailor, Nickol, O'Brien, M., O'Neill, Oliver, Pallone, Parker, Pashinski, Payne, Payton, Roebuck, Rohrer, Ross, Rubley, Sabatina, Sainato, Samuelson, Santoni, Saylor, Scavello, Schroder, Seip, Shapiro, Siptroth, Smith, K., Smith, M., Smith, S., Solobay, Sonney, Staback, Stairs, Steil, Stern, Stevenson, Sturla, Surra, Swanger, Tangretti, Taylor, R., Thomas, True.

Table listing names of members who did not vote 'YEAS'. Includes Curry, Cutler, Daley, Dally, DeLuca, Denlinger, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Evans, J., Everett, Fabrizio, Fairchild, Fleck, Keller, M., Keller, W., Kenney, Kessler, Killion, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longietti, Mackereth, Maher, Mahoney, Major, Manderino, Peifer, Perry, Petrarca, Petri, Petrone, Phillips, Pickett, Preston, Pyle, Quigley, Quinn, Ramaley, Rapp, Raymond, Readshaw, Reed, Reichley, Roae, Rock, Turzai, Vereb, Vitali, Vulakovich, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, White, Williams, Wojnaroski, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker.

NAYS—0

NOT VOTING—0

EXCUSED—5

Table listing names of members who were excused: Harper, Micozzie, Perzel, Shimkus, Taylor, J.

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring, Will the House concur in Senate amendments to House amendments?

Mr. KING offered the following amendment No. A05848:

Amend Sec. 102, page 57, line 24, by striking out "INCLUDES:" and inserting

Any of the following:

Amend Sec. 102, page 58, line 3, by striking out all of said line and inserting

(3) A financial audit report. The term does not include work papers underlying an audit.

Amend Sec. 102, page 59, by inserting between lines 11 and 12

(15) The Legislative Audit Advisory Commission.

Amend Sec. 102, page 60, line 3, by inserting after "AUDIT" report

Amend Sec. 102, page 61, line 11, by inserting after "PRIVILEGE" where it appears the second time, the speech and debate privilege

Amend Sec. 102, page 61, line 14, by inserting after "RECORD" where it appears the second time, including a financial record,

Amend Sec. 102, page 62, line 7, by striking out "AND" where it appears the second time and inserting services and training,

Amend Sec. 102, page 62, line 10, by inserting after "SERVICES" where it appears the second time, services for the elderly, services for individuals with disabilities

Amend Sec. 102, page 62, line 11, by inserting after "CRIMES" and domestic violence

Amend Sec. 701, page 74, line 13, by inserting after "TO" or the personal security of

Amend Sec. 708, page 78, line 21, by inserting after "RECORD" which is not otherwise exempt from access under this act and which is

Amend Sec. 708, page 79, lines 22 through 25, by striking out all of said lines and inserting

- (15) (i) Academic transcripts.
- (ii) Examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.

Amend Sec. 708, page 82, line 5, by inserting a comma after "RECORDING" where it appears the second time

Amend Sec. 708, page 84, by inserting between lines 25 and 26

- (30) A record identifying the name, home address or date of birth of a child 17 years of age or younger.

Amend Sec. 708, page 84, lines 27 and 28, by striking out "FOR FINANCIAL RECORDS" and inserting
that an agency may redact that portion of a financial record

Amend Sec. 708, page 84, lines 29 and 30; page 85, line 1, by striking out all of said lines on said pages and inserting

- (4), (5), (6), (16) or (17). An agency shall

Amend Sec. 708, page 85, line 3, by inserting a period after "ACTIVITY"

Amend Sec. 708, page 85, lines 3 through 5, by striking out "OR OTHER" in line 3 and all of lines 4 and 5

Amend Sec. 708, page 85, by inserting between lines 9 and 10

(e) Construction.—In determining whether a record is exempt from access under this section, an agency shall consider and apply each exemption separately.

Amend Sec. 1307, page 94, line 7, by inserting after "BY" where it appears the second time

or connected with

Amend Sec. 1307, page 94, line 9, by striking out "NEWSPAPER" and inserting

publication

Amend Sec. 1307, page 94, lines 16 through 18, by striking out all of said lines

Amend Sec. 1707, page 100, line 11, by striking out "OBLIGATION" and inserting

contract

Amend Bill, page 102, lines 11 through 21, by striking out all of said lines and inserting

This act shall apply to requests for information made after December 31, 2008.

Section 3101.1. Relation to other laws.

If the provisions of this act regarding access to records conflict with any other Federal or State law, the provisions of this act shall not apply.

Amend Sec. 3103, page 103, lines 9 and 10, by striking out all of line 9 and "DECREE" in line 10 and inserting

Notwithstanding 1 Pa.C.S. § 1937(b), a reference in a statute or regulation

Amend Sec. 3104, page 103, line 19, by striking out all of said line and inserting

- (2) Chapters 15 and 17 and sections 3102(1)(i) and 3102(2)(i) shall take effect July 1, 2008.

- (3) The remainder of this act shall take effect January

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative DeWeese.

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

Very briefly, tonight's effort will be to clarify what we believe is an already good open records proposal. Senator Pileggi and his team as well as the Democrats in the Senate sent us a proposal that was voted 50 to nothing out of the Senate. It had some exciting debate last week. We have in the best spirit of compromise been working over the weekend and throughout the day with our Republican colleagues here in the chamber, and we have made several visits back and forth to the State Senate, and we have met with Senator Pileggi as recently as a few minutes ago.

If this legislation is passed tonight, it will indeed be the result of a bicameral and bipartisan effort that has been engendered by preeminently this House, our own chamber. We probably with 102 members could have jammed this thing through to the Governor's desk, but that probably would not have been a good idea. We did not want to leave a sour taste in anybody's mouth. We wanted to go for a bicameral, bipartisan proposal, and with the help of Senator Pileggi and our experts on the legal teams in all of the caucuses, we have that.

So I would ask for an affirmative vote on the King amendment.

The SPEAKER. The Chair recognizes Representative King for an explanation of the amendment.

Mr. KING. Thank you, Mr. Speaker.

Mr. Speaker, amendment 5848 provides for some technical clarifications and further provides for some protections of information in SB 1.

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

This is a happy day for Pennsylvania. The long, long road towards expanding the public's access to government records is about to be a journey completed. The amendment before us serves to add protections of seniors across Pennsylvania who receive services from governments so that their personal information would not be revealed to those who might exploit it. It adds protections for children in Pennsylvania so that their names, addresses, dates of birth will not be just generally available. It improves 911 protections for victims and whistleblowers. It ensures that public records that once are made available, they are public, and if somebody wishes to repackage that information in some creative fashion to make it more easily available to the public, that they have every right to do that.

It also recognizes that the Legislative Audit Advisory Commission's activities should be open to the public, just as any other aspect of the legislature. But most importantly in a nutshell, all of the concerns that were raised on this side of the aisle, many of which meant that we simply needed to improve the drafting because it had real-world reproductions, have been addressed, and senior citizens and children who are at risk will not be at risk, and I want to thank the members of this chamber for taking a deep breath and understanding that this very good proposal could proceed without injuring the innocent, and today this amendment will cure those defects.

Thank you, Mr. Speaker

The SPEAKER. Representative Scavello.

Mr. SCAVELLO. Thank you, Mr. Speaker.

I was at this microphone Wednesday and really upset about some issues, and I want to thank the majority leader and thank the gentleman for coming forward with this amendment to

clarify some of those issues, all of those issues, and I think we have a good piece of legislation here that we can live with. Thank you.

The SPEAKER. Representative Fairchild.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

Will the gentleman from Bucks County just submit to a short interrogation on the amendment, please?

The SPEAKER. The gentleman, Representative King, indicates that he will stand for interrogation. The gentleman, Representative Fairchild, is in order and may proceed.

Mr. FAIRCHILD. Thank you, Mr. Speaker, and thank you for bringing together this amendment. I think it goes a long way, and I applaud all those on both sides of the aisle here and both sides of the aisle in the Senate for working to bring us where we are this evening.

I do have a question on legislative intent. I notice the amendment did not take out the time response logs information, and for legislative intent, I visualize the time response logs as a log of when a call comes into a 911 center, when action is taken and when it is complete. Is that your interpretation, or what is your definition or intent as far as a time response log?

Mr. KING. Mr. Speaker, I would say that is a fair interpretation of legislative intent.

Mr. FAIRCHILD. Thank you.

Then just to solidify here, it is not the incident log itself, which has all the detailed information of a caller – the address, the telephone number, the date of birth, all that stuff?

Mr. KING. Mr. Speaker, that is correct.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I would like to say, and I will say it now if you will just give me leeway.

The SPEAKER. If the gentleman has concluded his interrogation, he is in order and may proceed with his comments.

Mr. FAIRCHILD. Yes, Mr. Speaker.

This does have to do with the amendment and the bill. Then I will not get up on the bill. But again, thank you. We have come a long way. We probably have to tweak a couple things here a little bit, and I think if we continue to work in a bipartisan manner, we can do that.

Finally, there was a very terrible incident that happened in Bucks County recently, and I want to just make all the members aware that the Speaker of the House, Speaker O'Brien, is going to be holding an event on April 7. It is backed and supported by all your 911, your emergency services people, and it is going to be a great enhancement to our system, and I would like to thank you, Mr. Speaker.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative John Taylor on the floor. His name will be added to the master roll.

CONSIDERATION OF SB 1 CONTINUED

The SPEAKER. The Chair recognizes the minority leader, Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Very briefly, the majority leader noted that possibly with a 102 votes they could have rammed SB 1 through as it came back to this House recently, and I would say that with 102 votes, he definitely could have rammed this bill through. I think that would have been wrong, and I appreciate that the majority leader was willing to work with us to put together this amendment that I believe goes a long way in putting a proper balance between the public's right to know and the public's expectation of personal privacy protection.

I appreciate the work that has gone into this over the last 24 hours or so, in particular to bring us to this point. I think given where we were last Tuesday or Wednesday night and the controversy on the floor, that we have come a long way in improving SB 1, and I want to thank and appreciate the majority leader's support and help in that regard as well as the members of this House.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—199

Adolph	Freeman	Mantz	Rohrer
Argall	Gabig	Markosek	Ross
Baker	Galloway	Marshall	Rubley
Barrar	Geist	Marsico	Sabatina
Bastian	George	McCall	Sainato
Bear	Gerber	McGeehan	Samuelson
Belfanti	Gergely	McI. Smith	Santoni
Benninghoff	Gibbons	McIlhattan	Saylor
Bennington	Gillespie	Melio	Scavello
Beyer	Gingrich	Mensch	Schroder
Bianucci	Godshall	Metcalf	Seip
Bishop	Goodman	Millard	Shapiro
Blackwell	Grell	Miller	Siproth
Boback	Grucela	Milne	Smith, K.
Boyd	Haluska	Moul	Smith, M.
Brennan	Hanna	Moyer	Smith, S.
Brooks	Harhai	Mundy	Solobay
Buxton	Harhart	Murt	Sonney
Caltagirone	Harkins	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causer	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Pallone	Swanger
Conklin	Hutchinson	Parker	Tangretti
Costa	James	Pashinski	Taylor, J.
Cox	Josephs	Payne	Taylor, R.
Creighton	Kauffman	Payton	Thomas
Cruz	Keller, M.	Peifer	True
Curry	Keller, W.	Perry	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic

Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel			

NAYS—0

NOT VOTING—0

EXCUSED—4

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

On the question,

Will the House concur in Senate amendments to House amendments as amended?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—199

Adolph	Freeman	Mantz	Rohrer
Argall	Gabig	Markosek	Ross
Baker	Galloway	Marshall	Rubley
Barrar	Geist	Marsico	Sabatina
Bastian	George	McCall	Sainato
Bear	Gerber	McGeehan	Samuelson
Belfanti	Gergely	McI. Smith	Santoni
Benninghoff	Gibbons	McIlhattan	Saylor
Bennington	Gillespie	Melio	Scavello
Beyer	Gingrich	Mensch	Schroder
Biancucci	Godshall	Metcalfe	Seip
Bishop	Goodman	Millard	Shapiro
Blackwell	Grell	Miller	Siptroth
Boback	Grucela	Milne	Smith, K.
Boyd	Haluska	Moul	Smith, M.
Brennan	Hanna	Moyer	Smith, S.
Brooks	Harhai	Mundy	Solobay
Buxton	Harhart	Murt	Sonney
Caltagirone	Harkins	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causer	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Pallone	Swanger
Conklin	Hutchinson	Parker	Tangretti
Costa	James	Pashinski	Taylor, J.
Cox	Josephs	Payne	Taylor, R.
Creighton	Kauffman	Payton	Thomas
Cruz	Keller, M.	Peifer	True
Curry	Keller, W.	Perry	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White

Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel			

NAYS—0

NOT VOTING—0

EXCUSED—4

Harper	Micozzie	Perzel	Shimkus
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments to House amendments as amended were concurred in.

Ordered, That the clerk inform the Senate accordingly.

The SPEAKER. It is the intention of the Chair to recess regular session and go into special session at 8:21.

The House rescinds its announcement.

The Chair renews its announcement of its intention to recess regular session and go into special session at 8:22.

RECESS

The SPEAKER. Regular session of the House is now in recess.

AFTER RECESS

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

STATEMENT BY MAJORITY LEADER

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Mr. Speaker, are we concluded with our other enterprises for the evening?

The SPEAKER. As far as the Chair—

Mr. DeWEESE. Just for a matter of scheduling, we will launch at 11 o'clock tomorrow.

I did not want to belabor the House chamber during the debate, but as the majority leader and minority leader are occasionally given the opportunity, I wanted to share four quick points. I think I can do it in 60 seconds.

The SPEAKER. The gentleman is in order and may proceed.

Mr. DeWEESE. Relative to our open records law that we worked together on in a bipartisan way, four quick points: One, the presumption of openness is now flipped and government documents will be available, and it will be up to the government to prove why they should not be made open. Number two, for the first time in history, thanks to a bipartisan, bicameral arrangement, the Pennsylvania legislature will be incorporated into the open records proposal. Number three, due to the

financial accountability activities that are prescribed in this measure, the public will know exactly how their tax dollars are being spent. Fourth and finally, a State Office of Open Records will be created. There will be an appeals process, and I think that our Commonwealth will go to the forefront among the 50 States for a very aggressive and successful open records law.

The Senate, and especially Senator Pileggi, deserves congratulations, but again, I think tonight's work product is certainly an example of when a bipartisan effort is a more healthy effort.

Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Are there any other announcements?

BILLS AND RESOLUTIONS PASSED OVER

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

ADJOURNMENT

The SPEAKER. The Chair recognizes Representative Pashinski from Luzerne County, who moves that the House do now adjourn until Tuesday, February 12, 2008, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 8:25 p.m., e.s.t., the House adjourned.

On the question,
Will the Senate advise and consent to the nomination?

The yeas and nays were required by Senator ROBBINS and were as follows, viz:

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earl	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

Senator ROBBINS. Madam President, I move that the Executive Session do now rise.

The motion was agreed to by voice vote.

**UNFINISHED BUSINESS
BILL REPORTED FROM COMMITTEE**

Senator PILEGGI, from the Committee on Rules and Executive Nominations, reported the following bill:

SB 1 (Pr. No. 1763) (Rereported) (Concurrence)

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for the Office of Open Records; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

HB 363 AND HB 1152 TAKEN FROM THE TABLE

Senator PILEGGI. Madam President, I move that House Bill No. 363, Printer's No. 427, and House Bill No. 1152, Printer's No. 1400, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.

The PRESIDENT. The bills will be placed on the Calendar.

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 1**

**SENATE CONCURS IN HOUSE AMENDMENTS
TO SENATE AMENDMENTS**

SB 1 (Pr. No. 1763) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for the Office of Open Records; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

On the question,

Will the Senate concur in the amendments made by the House to Senate amendments, as further amended by the House, to Senate Bill No. 1?

Senator PILEGGI. Madam President, I move that the Senate do concur in the amendments made by the House to Senate amendments, as further amended by the House, to Senate Bill No. 1.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Madam President, I have a simple question for the Majority Leader, if I may.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, if I could make some brief comments, then I would be happy to stand for interrogation.

The PRESIDENT. Then Senator Fumo will ask questions.

Senator PILEGGI. Madam President, I again rise to ask my colleagues to support Senate Bill No. 1, a comprehensive rewrite of Pennsylvania's open records law. I do not intend to repeat the comments I made when the Senate first passed this bill on November 28 or the comments made when the Senate made further changes on January 30.

Last night, February 11, the House adopted an amendment to Senate Bill No. 1. That amendment clarifies a number of provisions in the bill which had caused some confusion, and it makes a series of technical changes.

Madam President, I ask that the Senate do concur in House amendments to Senate amendments to Senate Bill No. 1.

Thank you, Madam President.

Senator FUMO. Madam President, I have a brief question for the Majority Leader, if I may.

The PRESIDENT. Senator Pileggi, will you accept questions?

Senator PILEGGI. Yes, Madam President.

The PRESIDENT. He indicates he will.

Senator FUMO. Madam President, for the purpose of clarifying the legislative intention of this bill, I would like to confirm that documents that are presently and routinely released as part of an agency adjudication will continue to be released as part of an adjudication, and this act does not change how such documents are treated. Is that correct?

Senator PILEGGI. Yes, Madam President, that is correct. This bill only covers what must be made available upon request to a member of the public. It does not alter the introduction of evidence in any administrative proceedings.

Senator FUMO. Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Madam President, will the sponsor of the bill stand for brief interrogation?

The PRESIDENT. Will the gentleman accept more questions?

Senator PILEGGI. Yes, Madam President.

The PRESIDENT. He indicates he will.

Senator ORIE. Madam President, some concerns have been raised that section 708 (b) 30, which deals with the name, home address, and birth date of children 17 years of age and under, might somehow prevent school districts from releasing their honor rolls for publication in local newspapers. Is this the intent of the legislation?

Senator PILEGGI. No, Madam President, it is not. The open records law does not control what an agency may provide to the public. It only governs what agencies are mandated to provide. There are many reasons an agency might want to go beyond the mandates contained in Senate Bill No. 1, and I believe that many agencies will do that regularly.

In addition, section 506 (c) of the bill specifically gives each agency, including school districts, the ability to release records which otherwise would be nonpublic records, as long as those records are not protected by Federal or State law or a privilege, such as the doctor-patient or attorney-client privilege. The agency can release those records if the agency head determines that the public interest in releasing those records outweighs any individual agency or public interest which may favor restriction of access. Schools have long provided honor roll lists and similar information, such as sports awards and graduation lists, to newspapers, with no legal requirement that they do so. In effect, school districts have been doing so under the same balancing test now contained in section 506 (c) of the bill. I do not believe this should change the past practice.

Speaking generally, Senate Bill No. 1 does not preclude the release of any information. Section 708 (b) 30, which was added in the House last night, merely says that a government agency cannot be forced to release the names, home addresses, and birth dates of children 17 years of age and under. If the agency believes that the public interest is best served by releasing that information, the agency is free to release it.

Thank you, Madam President.

The PRESIDENT. Does this answer your question, Senator Orié?

Senator ORIE. Yes, Madam President.

One further question. Madam President, would a school district have to make the decision every time it comes up, or could it implement a policy to, for example, release the honor rolls in the newspaper every time one is available?

Senator PILEGGI. Madam President, there is nothing in Senate Bill No. 1 that would preclude an agency, including a school district, from adopting a general rule of disclosure for such lists.

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, this is indeed a historic day for Pennsylvania, and this reform is one which could lead to many other reforms. Much has already been said. I would just like to add one thing, and that is a sincere thank you and congratulations to the distinguished Majority Leader, Senator Pileggi,

and the staff who worked so hard. I understand they included Kathy Eakin and Erik Arneson, and on our side, Senator Mellow, Senator Anthony Williams, and our old faithful here, C.J. Hafner. Also, congratulations to a very skilled negotiator from the Pennsylvania Newspaper Association, Deborah Musselman.

What this proves is that when House and Senate, Democrat and Republican, get together and put their heads together instead of banging their heads against one another, anything is possible. We hope that this bodes well for other major pieces of legislation, such as the economic stimulus package, the Governor's budget, and improving access to healthcare. We can do it. We must do it. When working together, anything is possible.

Thank you, Madam President.

And the question recurring,
Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	Mcllhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Mr. and Mrs. Donald Mahoney, Mr. and Mrs. Tom Hicks, Dmytro Dylan Slobodjian, Jeffrey C. Rutt, Bradley H. Hershey, Floyd L. Hershey and to Tabor Community Services, Inc., of Lancaster by Senator Armstrong.

Congratulations of the Senate were extended to Mr. and Mrs. Glenn Custer, Mr. and Mrs. Eugene Fiorini, Mr. and Mrs. George Burkhardt, Mr. and Mrs. Keith Rollison, Mr. and Mrs. Thomas Martin Owens, Mr. and Mrs. Frank Snyder, Nathan M. Hill, Zachary John Kosak, Raymond Yagloski, Jr., Bessie Kleintob, Raymond John Hofmeister, John McGovern, Jewish Family Service of Greater Wilkes-Barre, Woodloch Pines Resort of Hawley, Tunkhannock Township Police Department and to the Hawley American Legion Auxiliary by Senator Baker.