Veto No. 2006-1

HB 1318 March 15, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 1318 without my approval.

Elements of this bill will cause significant interference with the fundamental right to vote and violate the U. S. Constitution as well as Article I, Section 5 of the Pennsylvania Constitution, which states: "Elections shall be free and equal; and no power *civil or military*, shall at any time interfere to prevent the free exercise of the right of suffrage." I, therefore, must veto this legislation.

At a time of growing apathy and cynicism among our citizens regarding elections, I believe that the government should be doing everything it can to *encourage* greater participation in the electoral process, not *discouraging* participation by placing additional limitations on the right to cast a vote. Moreover, without compelling evidence of a problem with the current system of voter identification in Pennsylvania, I see no reason to enact laws that will result in voter confusion and disenfranchise legitimately registered voters. Beyond the basic constitutional threshold, House Bill 1318 unnecessarily requires every voter to provide identification before casting a vote in every primary and general election.

Some proponents of the bill claim that no one is actually being denied the right to vote – that voters are merely being asked to comply with a simple requirement meant to reduce the instances of voter fraud. They point to the various acceptable forms of identification that are listed in the bill as support for their defense that the provision is not an attempt to suppress voter turnout. Regardless of how long the list of acceptable forms of identification is, there are people who may not be in a position to produce any of them; people who live in a household where the lease and utility bills are in someone else's name, people in nursing homes, and those who may have been temporarily displaced from their residences, to name just a few. As federal judge Harold Murphy very eloquently stated in a recent case discussing a similar bill enacted in Georgia, "For those citizens, the character and magnitude of their injury – the loss of the right to vote – is undeniably demoralizing and extreme, as those citizens are likely to have no other realistic or effective means of protecting their rights."

Others have suggested that this voter identification provision is needed to reduce the instances of voter fraud in Pennsylvania. However, I have not seen any evidence of widespread voter impersonation in Pennsylvania that would justify imposing this additional burden on voters. Elizabeth Milner, the Chair of the Pennsylvania League of Women Voters, agrees. In her letter urging a veto, Ms. Milner says, "Show us the fraud. Proponents of House

Bill 1318 have failed to document a single instance in which the outcome of a Pennsylvania election was affected by individuals posing as registered voters. Indeed, the National Commission on Election Reform found that there is no evidence that he fraudulent acts the voter ID provision seeks to address exists anywhere in the United States."

The Pennsylvania method of signing voters in and comparing their signatures to what is on file with the County Election Board has been in effect for more than 70 years. It is a tried and proven method of ensuring that a bona fide voter has appeared at the polling place to vote. In fact, the current voter identification system works so well that neither the poll workers, who manage our Election Day operations, nor our County Commissioners, to whom we entrust the oversight of the election process, believe that it needs to be changed.

This bill would also slow down the voting process and create longer waiting periods before citizens could cast their votes. During the 2004 election, we all saw many voters leave their polling places without casting votes because of the long lines they faced. As the Pennsylvania Chapter of the AARP said in their letter to me urging a veto: "Equally troubling is the negative impact this law would have on the voting process. Requiring voters to produce identification cards will significantly increase the time needed for overworked poll workers to process each voter. The end result will be longer lines and increased wait times to vote, which may serve to disenfranchise voters and lower voter turnout."

In making the decision to veto this bill, I reviewed the many letters I have received from well-respected organizations across the commonwealth. The spectrum of those who urge this veto – from the League of Women Voters to the Pennsylvania Council of Churches, from the AARP to the NAACP, from the Congreso de Latinos Unidos to VotePA and Pennsylvania Acorn – is evidence of the public concern regarding this unnecessarily burdensome act being imposed by this legislation.

While the voter identification provision is at the heart of the reason that I am vetoing this bill, there are other provisions that are also seriously problematic.

This legislation requires, by July of this year, the closing of hundreds of locations across the state currently serving as polling places, some of which have been the standard polling place for thousands of voters for decades. Again, without any evidence of a real problem, this legislation bans the use of certain types of buildings as polling locations. Of course, I believe that the best place to cast a vote is in a building generally accessible to the public. I also know that our County Commissioners do the best they can to find locations in which voters can feel confident that their vote is cast without undue influence. I urge that any restriction upon the type of locations used for polling places occur only after a competent study has been conducted of the existing polling places and of the options available for alternative locations, if such options are necessary. Moreover, if any future action is

taken to restrict locations, it is imperative that such action be defined in consultation with our County Boards of Election so that there is certainty that the timeframes for compliance can be achieved without any negative impact upon those seeking to exercise their franchise.

While this bill offers limited improvements to the voting methods for overseas voters, I must point out that this bill does not afford any of the improvements to Pennsylvanians in the military who may be deployed within the borders of the United States. Moreover, the *key* improvements for all overseas and military voters that will ensure their ability to cast an absentee vote are not included in this legislation. Among those key elements not included are: permitting computer electronic transmissions for absentee ballot applications; earlier filing deadlines for independent candidates so that ballots can be printed earlier and sent overseas in time for the voter to return the ballot before the deadline; and clear deadlines for county absentee ballot preparation so that every appropriately cast vote can be counted. I note that on December 12, 2005, the House of Representatives passed House Bill 544, which I proposed last Memorial Day and which includes all of these protections for our military and overseas voters. If we are serious about protecting the rights of our military and overseas citizens, the Senate should pass this bill immediately so that it can become law.

House Bill 1318 amends the Pennsylvania Election Code in ways that impose new requirements on voters and counties – some of which I believe violate the U.S. and Pennsylvania Constitutions. Other provisions require much more debate, understanding, and most certainly refinement before they can be enacted. Finally, this bill does not provide for the critical elements necessary to ensure that our overseas and military voters have a chance to vote – and to have their votes counted – in every election.

For all these reasons, I must withhold my signature from House Bill 1318.

EDWARD G. RENDELL

Veto No. 2006-2

HB 1467 March 17, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 1467 without my approval.

I do so because the Attorney General has determined that, as written, this bill does not comport with the Constitution of the Commonwealth of Pennsylvania. The Office of General Counsel concurs in his opinion, and I believe his opinion is based on sound interpretation and reasoning. I have attached General Corbett's opinion to this message.

I also return this bill because I have seen no evidence, in Pennsylvania, of a present problem with homebuilder liability insurance costs that would require a bill so far-reaching in scope and effect. The proponents of this bill suggest that it would afford both contractors and consumers equal opportunity to resolve their disputes without having to resort to expensive litigation. In fact, I believe this bill has the potential to cause both parties to become more involved in litigation, requiring them to pay unnecessary legal bills and, ultimately, driving up the cost of builders' insurance and new homes as a result.

While I am concerned about the Constitutional issues discussed in General Corbett's opinion, I also spent many hours studying the issues presented to me by those who proposed the bill, as well as those who asked me not to sign it. I listened carefully to the views of the representatives of the homebuilding industry who came to see me. I read their documents and examined the data they provided. I found that while some homebuilders, in fact, are facing increases in insurance liability costs, these increases are not a result of increased numbers of lawsuits – at least not in our state. Rather, they are a result of trends in the insurance and housing industry that are not addressed by House Bill 1467. Moreover, those who attempted to persuade me of the merits of this bill acknowledged that those homebuilders who have mandatory arbitration clauses in their contracts are afforded the same, if not greater, protections as those outlined in House Bill 1467. Thus, each homebuilder could include mandatory arbitration language in every contract and thereby accomplish as much, if not more, than this bill does.

I also considered the views of citizens who wrote to me on this issue, particularly those who are dealing with loss of equity due to the actions of the few unscrupulous contractors who prey on the unwary. In fact, in this review, I became convinced that a law to register contractors and homebuilders, accompanied by appropriate public reporting requirements, is critical to boosting the protection our citizens expect and deserve their government to provide. I also believe we need to legislatively establish a fund to compensate victims for damages caused by unscrupulous builders

who do not have insurance and cannot, or will not, pay for the full value of the problems they create.

Pennsylvania's homebuilders bring pride to our state and, of course, their great craftsmanship and productivity have been key ingredients in our recent economic turnaround. I remain willing and open to addressing real barriers to progress faced by this great industry. Likewise, I took an oath to ensure that Pennsylvanians are protected from the vagaries of our laws and our processes when either serves narrow interests. Pennsylvanians would be well served by legislation that addresses many of the legitimate concerns raised by homebuilders, and that creates a balance by imposing a registration and reporting requirement, and a victim's compensation fund. I look forward to working with our fine homebuilders and consumer organizations to help such a law become a reality.

EDWARD G. RENDELL

Veto No. 2006-3

SB 435 March 24, 2006

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I am returning Senate Bill 435 without my approval.

The doctrine of joint and several liability has been handed down to us from English common law and has prevailed in this country for over 200 years. But it has become apparent in our industrialized society that this doctrine has produced inequitable and unfair results that have had a detrimental impact on businesses. Several years ago, a Pennsylvania company, Crown Cork & Seal, was held responsible for 100 percent of the damages in an asbestos class action when it had caused less than three percent of the injuries. The other companies that had caused the vast majority of harm were bankrupt and out of business, leaving Crown Cork & Seal with the responsibility of paying nearly $250 million in damages. This is not an isolated example by any means. A business leader for whom I have the utmost respect, Alan Miller of Universal Health Systems, sent me several examples of hospitals that were forced to pay 100 percent of significant damage claims where the hospital liability was nominal.[1]

For these reasons, I said in my campaign for Governor that I believed Pennsylvania must enact some limits on the doctrine of joint and several liability to protect Pennsylvania businesses from such unfair and inequitable results.

I still believe that we need these limits. But I am vetoing Senate Bill 435 because it does not effectively balance the critical needs of victims who should be adequately compensated for their injuries with the reasonable needs of businesses to limit their exposure to liability for damages caused by other parties.

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[1]I also note that while Senate Bill 435 could benefit some businesses with substantial resources, it would put many other businesses - particularly smaller companies - at risk. In fact, this bill offers sophisticated, well-financed corporations defending themselves against negligence claims a strong incentive to join smaller companies who have fewer financial resources as parties to the litigation. By joining a smaller business, the large corporation can limit its exposure because the presence of the joined party as a defendant will likely reduce the joining corporation's liability under the 60 percent threshold set by Senate Bill 435 for assignment of joint and several liability. As a result, while the larger corporation's exposure may be limited, the smaller business is trapped in a lawsuit that it may have never been party to if Senate Bill 435 were not law. Senate Bill 435 also ignores the needs of small businesses in another way. It fails to protect responsible retailers and suppliers who unwittingly sell a defective product. Proposed amendments to the bill would have shielded such suppliers and retailers from liability, but these amendments were defeated. Without these important protections, I believe that Pennsylvania's independent retailers and suppliers will continue to suffer from unfair lawsuits at perhaps an even higher rate because large manufacturers will increasingly join retailers in an effort to ensure no one entity is assigned more than 60 percent of the liability.

In the days since the passage of Senate Bill 435, I have received letters from many business associations and business leaders whom I greatly respect all urging me to sign this legislation into law. I have also received many letters from union and consumer groups (such as the American Association of Retired Persons and Mothers Against Drunk Driving) all urging me to veto this legislation. Just as our businesses have given me telling examples of the unfairness and harm that is caused to them by the current law, consumer organizations have given me just as telling examples of how victims – many times the children of parents killed by negligent actions – would be left without adequate compensation for their loss.

I believe we must find a better way – a law that will balance the equities between our businesses and the victims of negligence. During the debate on this issue, there were bipartisan attempts in both chambers of the General Assembly to achieve an appropriate balance, but both failed narrowly. Senator Stewart Greenleaf, and Representative Thomas Gannon, both thoughtful Republican legislators, championed these efforts. Though these proposals were not perfect, they sought to achieve a fair balance.

Too often in today's society we are faced with two sides dramatically opposed that are totally polarized and unwilling to work together to resolve differences. While I am vetoing Senate Bill 435, I believe that legislative leaders and I should convene a meeting of business leaders, union leaders, representatives of consumer groups, legal associations and other interested parties to work out legislation that will resolve these differences and strike the appropriate balance.

EDWARD G. RENDELL

Veto No. 2006-4

SB 997 May 16, 2006

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, Senate Bill 997.

This bill, if enacted, would have severe fiscal consequences for the FY 2006-07 Budget. By signing this legislation independent of a FY 2006-07 budget agreement, state spending could be increased well above anticipated levels.

Senate Bill 997 effectively reverses an agreement that was one of the foundations of the FY 2005-06 Budget. This change could potentially cost the commonwealth an additional $103 million above what has been contemplated in my proposed FY 2006-07 Budget. It could increase reimbursement rates for one class of providers – nursing homes – well above the 4% increase proposed for all other Medicaid providers, such as physicians and hospitals.

Clearly, nursing homes are an important component of our long term living system. Pennsylvania has treated its skilled nursing facilities very well, particularly when compared to other states. Between 2000 and 2005, nursing facility per diem payment rates in the commonwealth increased an average of 4.9% per year for a total increase over that time of nearly 30%. National comparative surveys have consistently ranked Pennsylvania nursing home payments among the highest in the nation. For example, in a 2004 AARP Policy Institute Study, Pennsylvania per diem payment rates for nursing homes were the eighth highest in the country. While my administration has proposed a 4% increase in rates here in Pennsylvania in this year's budget, the federal government has actually frozen payment rates and only one state of 23 that responded to a recent survey was proposing a higher percentage increase than what I proposed. In fact, 11 states are proposing a nursing home rate freeze or rate reduction for FY 2006-07.

The Executive Branch has honored the agreement negotiated last year to develop changes to the payment formula, consistent with the timeline set in the budget legislation, and in time to achieve needed savings in the upcoming FY 2006-07 Budget. If the revised Department of Public Welfare (DPW) regulations are not adopted by July 1, 2006, or if some other legislative solution is not forthcoming, it may be necessary to add more than $103 million in state funds to the long-term care appropriation in the FY 2006-07 Budget. As AARP of Pennsylvania noted recently in a letter requesting that I veto this legislation, "We are particularly concerned that nursing home funding increases that would occur as a result of Senate Bill 997 may come at the expense of home- and community-based care programs. . . ." Senate Bill 997 also would prevent implementation of changes designed to

rebalance the long term care system, consistent with the clear preference of consumers to receive needed services in their homes and communities.

In addition, this bill places at risk up to $290 million in supplemental Medicaid contributions from the County Intergovernmental Transfer (IGT), which is used to provide an array of services for seniors. The language in Senate Bill 997 would limit state payments to nursing homes to those covered by the extant regulations of the department and the state Medicaid Plan. The supplemental IGT payments are distributed pursuant to a contract between the counties and the commonwealth and are not covered by either the regulations or the state plan. Senate Bill 997, if enacted, could impair the commonwealth from entering into an Intergovernmental Transfer agreement with the counties.

Moreover, in a May 11, 2006, letter, the County Commissioners Association of Pennsylvania expressed its reluctance to commit to the Intergovernmental Transfer if certain changes proposed in the regulations developed by DPW are not adopted. "Once again, if the passage of Senate Bill 997 ultimately prevents a county carve-out, it will certainly make the IGT process more difficult." Obviously, enacting Senate Bill 997 into law would prevent DPW from implementing this proposed regulatory change before the next IGT agreement would be negotiated.

On November 30, 2004, when I vetoed House Bill 176, I wrote: "I intend to enforce a 'pay as you go' budget process for Pennsylvania. I will not sign legislation that either significantly increases spending or reduces revenue without a specific plan to pay for it." And I have repeated this admonition several times since that veto, namely that I cannot agree to legislation that increases spending without identifying the source to pay for that increased spending. For all of these reasons, I cannot sign Senate Bill 997.

EDWARD G. RENDELL

Veto No. 2006-5

HB 1195 July 11, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, House Bill 1195.

I take this action because I believe that the current law more appropriately targets limited state resources to underground storage tanks that pose environmental hazards in our communities. This bill expands the purview of this program in a manner that may add little to our efforts to improve environmental quality, and may result in substantial fee increases on our service stations and other entities' assessed fees under the Storage Tank and Spill Prevention Act in connection with the Underground Storage Tank Indemnification Fund (USTIF).

Current law provides that the purpose of the USTIF is to prevent pollution by reimbursing storage tank owners for removing regulated substances from substandard underground storage tanks and sealing these tanks. Given the limited funds in the USTIF, the expansion as provided for in House Bill 1195 may cause a backlog in remediation of truly hazardous tanks.

More troublesome is the expansion of benefits under the USTIF program to retroactively increase the $1,000,000 limit for remediation costs that was in effect until December 2001. Without revenue to support this expense there are serious financial implications for existing claimants. Identifying which tanks may be eligible and the amount of funding assigned for each tank will also be costly and, perhaps, litigious.

House Bill 1195 also removes the word "underground" from Section 710 of the Act. As a result, the bill includes aboveground heating oil storage tanks under the Underground Storage Tank Environmental Cleanup Program. The expansive new language will mean that those paying the fees to the underground tank fund could now be supporting efforts to remediate aboveground tanks that currently are not regulated, and whose owners are not contributing fees to the fund. Not only would this change require creation of an entirely new program, including significant alterations to the current administrative operations of DEP and possibly USTIF, it may have the unintended consequence of making every home fuel tank eligible for USTIF remediation resources.

The USTIF is required to assess fees in a manner that ensures that the fund is actuarially sound. Removal of funds for any purpose other than those approved when the annual actuarial review is conducted could lead to the USTIF being under-funded, potentially resulting in increased fees for underground storage tank owners and decreased funding for other programs funded at USTIF's discretion. To ensure there is no disruption in other USTIF programs, and to meet the requirements of House Bill 1195 should it

become law, the USTIF Board may have to increase assessments on gasoline and diesel fuel, which will be borne by the tank owners, operators, installers and, ultimately, the public through increased fuel costs. As gas prices are extremely unstable, I cannot in good conscience sign this legislation, which will potentially drive the price of fuel even higher.

For the reasons set forth above, I am withholding my signature from House Bill 1195.

EDWARD G. RENDELL

Veto No. 2006-6

HB 1928 July 11, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, House Bill 1928.

Under current law, the Pennsylvania Department of Transportation and local authorities have discretionary authority to issue special permits to move modular housing undercarriages subject to statutory limitations, which expressly prohibit movement of these undercarriages at night. The Vehicle Code provides that modular housing undercarriages may only drive our roads between 9:00 am and sunset Monday through Thursday, and between 9:00 am and noon Friday.

House Bill 1928 would allow for permits to be issued for movement of modular housing undercarriages 24 hours a day, seven days a week, except that permits could not be issued for movement during a holiday period or during inclement weather. The bill also permits the carrying of up to three empty modular housing undercarriages stacked on top of another empty modular housing undercarriage if securely fastened.

Signing this bill into law, and thereby allowing by statute the movement of oversized modular housing undercarriages at night, is simply a threat to public safety. Currently, modular housing undercarriages are not subject to Vehicle Code requirements for lighting, safety equipment, or safety inspections; therefore, movement of modular housing undercarriages in darkness, without adherence to established lighting requirements, would be especially dangerous. Additionally, the width of these vehicles, which is approximately 14 to 16 feet, makes them particularly hazardous since they exceed standard lane width. This may result in modular housing undercarriages infringing on the travel lane of opposing traffic and creating an unexpected incursion. It should be noted that current commonwealth law ***does not*** permit any other vehicle of this size or width to be operated at night under these circumstances.

For the reasons set forth above, I am withholding my signature from House Bill 1928.

EDWARD G. RENDELL

Veto No. 2006-7

HB 1813 October 27, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 1813 without my approval.

I am vetoing this bill because, without regard for fluctuations in state revenues or growth in other, mandated obligations, the legislation establishes an annual increase in the obligation of state funds for reimbursement to mental health and mental retardation providers. Enactment of this bill will increase state expenditures by $75 million in the first year and cumulatively by $1.2 billion over five years. None of this funding is included in our current budget projections.

The providers impacted by House Bill 1813 have received a 2% cost of living increase in their grants in each of the last three years, resulting in an actual increase in the level of these grants of 6.1% since July 1, 2004. The annual 2% cost of living increase is entirely consistent with the annual increase level paid to these providers in the second term of the Ridge/Schweiker Administration.

Overall, between the base funding increase and increase in funds to enable the expansion of services, providers of mental health and mental retardation services have received a 19.24% increase in funding—$338 million in new funds—since July 1, 2003. These funding increases have enabled providers to remove almost 3,000 individuals from the waiting lists. In spite of these improvements, I remain concerned that waiting lists for these critical services persist, and I believe a more substantial increase in the grants is warranted. In the coming year, if our revenues and other expenditure demands permit us to increase the reimbursement rate more than 2% next year, I will propose doing so.

I am entirely sympathetic to the plight of these providers and very much value the extraordinary work they do. But, I do find it perplexing that so many members of the legislature who advocated for the passage of legislation imposing annual caps on state spending voted for this automatic five year growth in state expenditures of more than $1 billion in the middle of the fiscal year.

I have proven over the past four years that the commonwealth can be fiscally responsible, maintain a balanced budget, and still make steady progress toward meeting the needs of the most vulnerable Pennsylvanians. I have, in the past, and will continue, in the future, to provide additional funding for vital human services. But, I have consistently enforced a "pay as you go policy" when it comes to the state budget—expenditure increases must not be legislated on an ad-hoc basis during the fiscal year. I will not sign legislation that either significantly increases spending or reduces

revenue without a specific plan to pay for it. Such legislation should be passed in the disciplined context of building our annual comprehensive balanced budget.

For these reasons I must withhold my signature for House Bill 1813. I reiterate that I remain hopeful we can achieve progress toward this goal in our next budget.

EDWARD G. RENDELL

Veto No. 2006-8

HB 2545 October 27, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning, without my approval, House Bill 2545, which amends certain provisions of the parking authorities' law primarily relating to the regulation of taxicabs and limousines in cities of the first class.

One of the most troubling aspects of the bill is the provision that allows the Philadelphia Parking Authority to depart from the standard administrative law practice of setting forth clear and understandable reasons why a particular decision, following a hearing to contest the Authority's action with respect to the rights or obligations of a taxicab or limousine owner, was made. The grounds upon which a taxicab or limousine owner may appeal a decision are limited, so how is the owner supposed to know if he or she has grounds for an appeal if the Authority's hearing officer doesn't have to include his or her reasons in the decision? Because such a decision could involve taking away an owner's right to make a living, this seems to be patently unfair and bordering on a violation of due process for the taxicab or limousine owner. At the very least, it will mean that everyone who receives an unfavorable decision will automatically have to file an appeal—and, most likely, spend some amount of money to hire a lawyer to do so—even before they know whether they have any chance of being successful.

Moreover, the bill is fraught with provisions that are confusing and seem not to serve the interests of the Parking Authority or the citizens it was created to serve. For example, the bill exempts limousines and taxicabs that operate in Philadelphia, but are "based outside" of the city from the oversight of the Authority. Besides the fact that the bill does not define what being "based outside" of the city means, it seems that this gives suburban taxicab and limousine services a distinct advantage over those that are located in the city for no apparent good reason. It also may induce companies that are already located in Philadelphia to move out of the city, which obviously is not good for the city's overall economy. In addition, House Bill 2545 exempts all parking authorities from compliance with the most important provisions of the Commonwealth Procurement Code—those relating to the openness with which contracts must be bid and awarded. This can only result in the loss of faith by the public in the integrity of these authorities.

Finally, the bill exempts wheelchair accessible taxicabs from the prohibition in the current statute that a taxicab cannot be more than eight years old. There does not seem to be a good reason for this exemption.

For all these reasons, I must withhold my approval from House Bill 2545.

EDWARD G. RENDELL

Veto 2006-9

HB 236 November 3, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 236 without my approval. This bill would amend the Regulatory Review Act to place additional requirements on commonwealth agencies in the promulgation of regulations.

This legislation would increase the cost of operating the government unnecessarily. Our estimates suggest that the cost of processing the more than 200 regulations that are proposed or revised annually could increase by as much as $1 million as a result of this bill. The bill purports to protect small businesses, but, in fact, it will place new burdens on our agencies and commissions and, thus, will drive up the cost of their regulatory duties as well as further drag out an already long process unnecessarily.

Last spring, Governor's Office staff offered to meet with any small business operator or group of operators who sought the passage of this bill because they needed changes to an existing regulation or proposed regulation. However, not one group supporting the passage of this legislation took us up on that offer. Consequently, I do not believe the burden that this legislation will place on our agencies and commissions warrants the time or increased cost to the taxpayers or the industries affected by such changes.

Since taking office in 2003, I have directed every agency to review what can be done to assist small businesses. As a result, my administration has removed numerous hurdles for small businesses that had been ignored for decades. These changes include:

- One of the few sectors to specifically propose regulatory changes in 2003 was small foundry operators. Iron and steel foundries for years have had very limited options for the disposal of waste sand. We now have a new general permit to relieve the financial burden on foundries and provide alternate beneficial uses for clean, spent foundry sand. The permit encourages the development of new markets that will provide both financial and environmental benefits while removing useable materials from the waste stream.

- Pennsylvania farmers sought relief from local efforts to pass ordinances that illegally restricted farming operations. As a result, we led the efforts to draft and pass the ACRE legislation that ensures our farmers do not have to comply with inappropriate local ordinances that infringe on their legal operations.

- The Department of Environmental Protection cut the time for issuance of air quality permits to 119 days. We are now processing these requests 32% faster than ever before in the State's history.

- We also proposed the Keystone Innovation Zone (KIZ) program with up to $25 million of tax credits for businesses that are working in partnership with our universities to foster growth in high-technology start-ups, typically small businesses.

- Our insurance department has streamlined the process of approving insurers. As a result, since January 2003, we have enabled 76 new small corporate insurance entities to sell policies in the commonwealth. To decrease reporting burdens, which, or course, weigh most heavily on small businesses, the Insurance Department has enhanced and expanded its Web site making it more cost-effective for insurers, large and small, to communicate with the Department and understand marketplace requirements.

- Marked improvements have been made in the administration of the State Workers' Compensation Fund. As a result, $200 million has been saved, enabling a 10% reduction in workers' compensation premiums paid by businesses.

- Finally, the $1 billion in enacted business tax cuts since 2003 make all Pennsylvania businesses more competitive, particularly those who are small businesses.

I would like to remind those members of the legislature who sought enactment of this bill that regulations promulgated by an executive agency are reviewed by the Independent Regulatory Review Commission, which includes representatives from the four caucuses of the General Assembly. The review process requires public comment as well as review by standing committees of the General Assembly. The standing committees may comment on the regulations at any time until the regulation becomes final. By the use of this process, regulations have regularly been modified prior to reaching the final form stage as a result of public or committee comments regarding burdens placed upon businesses or individuals within the commonwealth.

The process also requires review of final form regulations by the Independent Regulatory Review Commission and the standing committees of the General Assembly. In fact, a standing committee of the General Assembly may disapprove a final form regulation. If the General Assembly passes a concurrent resolution agreeing with the disapproval and the Governor approves this resolution, the regulation is permanently barred from publication. If the Governor vetoes this concurrent resolution, the General

Assembly may override it, which would also permanently bar the regulation from publication.

The regulatory review process affords ample opportunity to individuals or members of the General Assembly to raise any objection to a regulation that would place an undue burden on an individual or a business in the commonwealth.

In addition to the opportunities that all businesses have to address their concerns through our existing regulatory processes, a small business may pursue an agency hearing to seek waiver or repeal of a regulation, can voice its concerns to its State Representative and Senator, and may seek independent redress in Commonwealth Court.

Finally, I want to be sure that those members of the legislature who sought enactment of this bill understand that our current laws require much of the review that this legislation aims to require:

In submitting regulations, agencies must submit to IRRC and the legislative committees the following:

- Estimates of the direct *and indirect* costs to the commonwealth, to its political subdivisions, and *to the private sector.*

- An identification of the types of persons, businesses, and organizations which would be affected by the regulation.

- An identification of the financial, economic and social impact of the regulation on individuals, *business* and labor communities, and other public and private organizations and, when practicable, an evaluation of the benefits expected as a result of the regulation.

- A description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

While advocates for House Bill 236 have suggested that the bill will establish a ***new*** threshold for review of regulatory impact on small businesses, the definition in the bill encompasses almost 98% of all companies doing business in this commonwealth. As a result, the existing requirements in law and regulations already require agencies to evaluate the impact of regulations on small businesses as defined in this bill. This bill, however, would require a separate and onerous review that, in my estimation, accomplishes nothing more than is provided for in the current process.

Given the protections for businesses in our current laws, this bill will only create another layer of red tape for the government and slow our agencies'

responsiveness at a time when we have been, and must continue to be, nimble if we are to ensure the continued competitiveness of our economy.

EDWARD G. RENDELL

Veto No. 2006-10

HB 2202 November 9, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 2202 without my approval. Pennsylvania already pays for home infusion therapy for over 52,000 commonwealth residents. For the bulk of those receiving Medicaid-based services, the commonwealth covers the cost of the drugs and the cost of the nurse to come to the home to assist the patient and monitor the therapy. With respect to those Medicaid recipients who are covered in the fee-for-service system, this bill would require the commonwealth to absorb the cost of a new service offered by pharmacies *regardless of whether the pharmacy service is medically appropriate or necessary.* There is also the potential that as drafted this bill will result in cost shifting from the federal government to the commonwealth for the home infusion services provided to those individuals known as "dual eligibles."

The Department of Public Welfare manages regulatory and administrative processes that establish Medicaid payment protocols. This legislation is an attempt to go around those established systems and add a new unfunded mandated payment to the budget and thus a new unfunded obligation for the taxpayers of the commonwealth. Throughout the drafting of this bill the Department of Public Welfare urged the parties to engage in the commonwealth's routine administrative processes to determine the appropriate payment protocols for these medical services. I am disappointed that this offer was refused and as a result there may be instances where the pharmacy services may be warranted but payment for those services will still not be appropriately defined and paid.

Finally, this bill includes a troubling drafting error that, were it to become law, would have the unfortunate consequence of making it illegal for the Department of Public Welfare to pay for home infusion therapy for some of the sickest residents who are under 65 years old and destitute. Under current eligibility rules, not all Medical Assistance recipients are eligible for prescription drug coverage. However, the language in Section 443.9 of the bill could be interpreted to prohibit the payment for home nursing services required for home infusion therapy since the commonwealth is not also the payer for the prescribed medicine.

I have proven over the past four years that the Commonwealth can be fiscally responsible, maintain a balanced budget and still make steady progress toward meeting the needs of our most vulnerable Pennsylvanians.

This bill will result in a $7 million increase in costs to the Department of Public Welfare without the identification of a compensating cut or provision of additional revenue to pay for this increase in expenditures. I have in the

past, and will continue, in the future to provide additional funding for critically needed health care. But I have consistently enforced a "pay as you go policy" when it comes to the state budget – expenditure increases must not be legislated on an ad-hoc basis during the fiscal year. I will not sign legislation that either significantly increases spending or reduces revenue without a specific plan to pay for it.

For these reasons I must withhold my signature from House Bill 2202.

EDWARD G. RENDELL

Veto No. 2006-11

HB 2282 November 9, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 2282 without my approval. I regret doing so since this bill offers a tax benefit to National Guard members enabling them to exempt from their income active duty pay earned during the period of deployment for national or international emergencies. This element of the bill was part of my original Support Our Troops package that I proposed on Memorial Day in 2005. Unfortunately, the bill that provided this benefit for our National Guard members was hijacked as a vehicle to resolve litigation pending between internet hotel booking services and the City of Philadelphia.

In addition to using a bill intended to benefit the National Guard to respond to the request of internet hotel reservation services seeking to cap what they must pay for local hotel taxes, this bill also includes substantive drafting errors which would require, if House Bill 2282 were enacted, new corrective legislation or costly litigation to resolve. I am attaching a memo from the Chief Counsel for the Pennsylvania Department of Revenue that confirms that as written the bill may be understood to cap the hotel occupancy tax rate and/or it may mean to narrow the base of the locally defined hotel room rental tax rate – it's impossible to know what the intent or impact of the bill will really be. Beyond my substantive opposition to measures that would roll-back the hotel tax in the two major tourism centers of our state, the lack of precision of the language alone gives me cause to veto this bill.

Finally I veto this bill, and would do so if subsequent legislation came to me again, because it will result in a substantial loss of revenue to localities. In Philadelphia, over the next five years the City could have to forgo anywhere from $55 million to more than $200 million depending on how the bill is interpreted. Likewise, Allegheny County could lose at least $28 million in local revenues in the same time period. In both counties the proceeds of these taxes are pledged to pay the debt on their convention center bonds. As such, rolling back and capping this tax will require each municipality to tap other revenues that are pledged to local services, their school districts and other capital expenditures to pay the shortfall in hotel taxes caused by this bill.

I recognize that the introduction of internet hotel reservation services raised new questions for our state and local tax codes. I strongly believe that we must ensure that local and state government as well as Pennsylvania businesses are not adversely affected by internet based companies who seek legislation to avoid duly imposed taxes.

For the reasons stated above I am returning HB 2282 without my signature. I urge the legislature to pass legislation that offers our active duty National Guard members the tax benefits intended for them when this bill was first introduced on December 5th, 2005. If that legislation comes to me without other objectionable and unrelated provisions I will sign it immediately.

EDWARD G. RENDELL

Veto No. 2006-12

SB 157 November 9, 2006

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I am returning Senate Bill 157 without my approval. I regret doing so since this bill provides for the installment payments of the Local Services Tax. This tax which is capped at $52 is collected by employers. Under this bill, employers would be required to apportion the deduction of the $52 over the full period of employment, thereby decreasing the one time impact of the deduction on the taxpayer. I strongly support the installment requirement provided for in this bill. I also believe that the standard requirement that those earning under $12,000 per year be exempted from this tax is good public policy and effectively mirrors the state's progressive Tax Back program for the payment of Personal Income Tax.

Notwithstanding the improvements provided for in this bill, the timeline for implementation of these changes is simply not reasonable. The bill, sent to me on October 30, requires that every municipality that currently collects the Emergency Municipal Services Tax at a rate higher than $10 advertise its intention to pass an ordinance to comply with this legislation no later than November 24, and pass the ordinance by December 31. The bill also requires municipalities that intend to begin collecting this tax in 2007 for the first time to advertise their intention to pass an ordinance by November 17, and to pass the ordinance by December 1. Likewise, businesses across the state will have very little time to adjust their payroll systems to ensure the appropriate collection of this tax.

I am also deeply concerned that due to the short window permitted for the passage of these local ordinances municipalities across the state will lose revenues already planned for in their annual budgets, which have already been adopted. My concerns are echoed by the Pennsylvania League of Cities and Municipalities, the Pennsylvania Association of Township Supervisors, and the Pennsylvania Association of Boroughs in their letter urging a veto which is attached. In addition to their letter and the seven others I received from localities and associations urging a veto, I received the attached letter from the City of Altoona which provided clear evidence of the problems this bill will create for municipal budgets in the current fiscal year. As a result, I am returning this legislation without my signature. I urge the legislature to pass legislation that permits the important taxpayer benefits provided for in SB 157 in a bill that also ensures reasonable time periods for implementation of these changes.

EDWARD G. RENDELL

Veto No. 2006-13

HB 471 November 29, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning House Bill 471 without my approval. I regret doing so as there are provisions in the bill – the continuing education requirements for renewal of licenses for volunteer health services and the extension of the application and expiration date for the Merchant Marine World War II bonus – that I do support.

However, this bill, which amends the Administrative Code of 1929, places unreasonable and unnecessary restrictions on the transfer of appropriations and on inter-fund transfers and loans that are just not good policy. The General Assembly in several statutes has already recognized the need for this flexibility and the Pennsylvania Constitution acknowledges that loans from the Motor License Fund may be necessary from time to time.

The provisions of House Bill 471 that seek to limit transfers between appropriations are especially troubling. The Executive Branch is charged with the day-to-day operation of state government. To carry out that charge effectively, and to do so in a timely manner, it is from time to time necessary to transfer appropriated funds between agencies so long as the original purpose of the appropriation is adhered to. For example, it may be more efficient and cost effective for a department or agency to help administer a program that initially was the responsibility of a different department or agency. Losing that flexibility could result in the delay or denial of the deliver of services to our citizens.

In addition, the requirement in the bill that transfers must be approved by the Attorney General would unnecessarily complicate the efficient administration of state government even further – for example, it would significantly impair the process established in the Fiscal Code that allows for the transfer of funds between several Department of Public Welfare appropriations to provide child care for low income families. These families are not in a position to suffer the delay in payments that this requirement could cause.

For these reasons I must withhold my signature from House Bill 471.

EDWARD G. RENDELL