

## **United Methodist Advocacy in Pennsylvania**

### **May 30, 2017**

Following is my UM Advocacy report for May 2017:

May is always a busy time for Pennsylvania politics. Of course, it is rush time for the state budget. Lawmakers are still attempting to renew legislation that was never completed during the last legislative cycle. And new issues arise. I have been thinking that I need to cut down the length of my monthly reports. But, not this month. Too much has occurred in the state.

I was on the road a good bit during May. I've been in Harrisburg, Camp Hill, Erie, Connellsville and Cranberry, on the job. From the guy in the pew to a senator's staffer, it seems that I've had a lot of conversations this month, with a wide range of people, on the subject of faith and politics.

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### **Senate Bill 554**

Pennsylvania Senate Bill 554 is titled “Safe Harbor.” Its purpose is to move children who have been sexually exploited or trafficked into the care of the Department of Human Service, instead of the being placed in the criminal justice system—as is presently the case.

The bill was passed in the Senate on April 25 by a vote of 50-0. It moved to the House where it is now under consideration in the Judiciary Committee. We are waiting for the bill to be reported out of committee and into the full House for action.

Last year this bill was designated SB 581. In the current session it has been re-designated SB 554.

More than a year ago, the three United Methodist bishops in Pennsylvania submitted a letter to Senator Greenleaf in support of this bill. There was a period of waiting before the time was right to introduce the bill in March 2017. To continue the momentum, it would be helpful to encourage the members of the House Judiciary Committee to move the bill out of committee.

If your representative sits on this committee, please contact him or her in support of the bill. Following is a list of House Judiciary Committee members by last name: Corbin, Delozier, English, Everett, Jozwiak, Klunk, Knowles, Marsico, Nesbit, Petrarca, Pyles, Saccone, Schemel, Stephens, Toohil, Topper, White.

### **GBC&S Health Care Initiative**

I have been cooperating with a team from the General Board of Church and Society in a health care initiative in Pennsylvania. We are seeking United Methodist churches and agencies engaged in any type of outreach or social ministry with which to partner. All three Pennsylvania bishops are onboard with this work.

It is the position of the United Methodist Church that health care is a human right. However, the present system in the USA is not conducive to this ideal. Using a model of sharing stories and engaging in conversation, the goal is to raise awareness and organize for advocacy for an improved health care system.

We have started in Western PA and are spreading east. We have conducted some local events and have already set up meetings with staff members of Sen. Pat. Toomey.

Please be aware of and on the lookout for this GBC&S initiative. Feel free to contact me for further information: [daimorgan@comcast.net](mailto:daimorgan@comcast.net)

### **Revenue Shortfall**

With one month to go before the end of the fiscal year, the Pennsylvania General Assembly will be focused on budgetmaking for 2017-18.

This task is complicated by the fact that the state Department of Revenue is reporting that it is running a deficit in excess of \$1 billion, eleven months into the current fiscal year. The Legislature's nonpartisan Independent Fiscal Office projects a shortfall of more than \$3 billion for the two fiscal years ending June 30, 2018. This problem is not unique to Pennsylvania, the National Association of State Budget Officers said 29 states have lowered their current fiscal year revenue estimates.

I regularly mention something about the state's budget or financial condition in my monthly briefings. I don't feel the need to go further into details regarding the complicated whys and wherefores of this matter.

But, it is worth noting that there is one simple solution that would solve Pennsylvania's financial deficit problem in one fell swoop. As mentioned, a year from now the budget shortfall is anticipated to be \$3

billion. Today, however, the state Revenue Department is owed \$3.47 billion in unpaid taxes from individuals and businesses. All that it would take to put Pennsylvania in the financial black would be for everyone who owes back-taxes to pay up!

Forget more gambling fees and taxes. Forget cutting programs. Forget new or increased taxes. Just pay what is owed. Can it happen? Naaa...are you kidding? However, the state is trying—Pennsylvania is conducting an amnesty program, until June 19, in which penalties on taxes owed are waived and interest halved.

## **More Opioid Legislation**

Pennsylvania lawmakers continue to address opioid usage. During the month of May, the House considered six bills:

**House Bill 1043** was approved unanimously. Its intent is to regulate pain management clinics by requiring them to register with the Department of Health and to fulfill the department's standards to receive a license. Rep. Matt Baker (R-Tioga), the bill's sponsor, said last month he hopes the legislation will curb "pill mills" from running rampant in communities.

**House Bill 118**, sponsored by Rep. Aaron Kaufer (R-Luzerne), would allow healthcare facilities licensed by the state Department of Health to apply to convert medical beds to detoxification beds for patients seeking treatment for drug addiction. Under current law, facilities interested in converting their medical beds are subject to a second health and safety inspection by the Department of Drug and Alcohol Programs. This bill would remove that provision. HB 118 was sent to the Senate on May 9.

**House Bill 454**, sponsored by Rep. Anthony DeLuca (D-Allegheny), would require pharmacy technicians to register with the State Board of Pharmacy. To do so, technicians would need to hold a high school diploma, submit to a criminal background check and complete a board-approved training program. Pennsylvania currently has no licensing requirements for the technicians, who assist pharmacists in filling prescriptions. HB 454 was sent to the Senate on May 9.

**House Bill 119**, sponsored also by Rep. Kaufer, would create a certification process and inspection standards for drug and alcohol recovery houses that receive state and federal funding. The Department of Drug and Alcohol Programs would be tasked with granting the certificates and overseeing their compliance.

**House Bill 122**, sponsored also by Rep. Kaufer, would establish a commission of lawmakers and officials from Gov. Tom Wolf's administration to develop a model for counties to utilize when creating opioid programs. The "Project Lazarus Commission" would hold hearings and issue a report to the Legislature within a year.

**House Bill 713**, sponsored also by Rep. Baker, would allow individuals to involuntarily commit a person who has overdosed, to a drug treatment program for at least 72 hours. "Family members are really desperate for intervention to try to save their loved ones. And they see this as yet another tool to try to help their loved ones to not die," Baker said. The House delayed consideration of the bill. Steve Miskin, spokesman for House Majority Leader Dave Reed (R-Indiana), said House members have follow-up questions regarding this legislation.

## **Berks Ruling**

The Pennsylvania Department of Human Services' legal battle to shut down the Berks County Family Detention Center continues even though, in April, a ruling was handed down by an administrative court judge allowing the facility to continue to operate without a valid state license.

DHS's appeal of that decision extends the Wolf administration's long-running effort to revoke the license of the Berks facility. The facility is run by the county under a contract with U.S. Immigration and Customs Enforcement to incarcerate immigrant families while they pursue claims for asylum.

A decision granting or denying the state's petition to reconsider the matter is due the first week in June. Since January 2016, when it revoked the center's license, DHS has maintained that it permits only "residential treatment for delinquent children," not imprisonment of foreign families seeking protection.

The Berks Detention Center maintains that the revocation was "arbitrary," citing the fact that it routinely received license renewals for more than a decade. In its petition for reconsideration, DHS wrote, "The fact that the department could or should have taken [earlier] action" to revoke the license "does not prevent the department from doing so now."

The 96-bed Berks center is the oldest and smallest of the nation's three detention centers for parents, generally mothers, and their children who enter the United States without papers. The other two centers, in Texas, have a combined capacity of 3,000. Critics of family detention say the women and children could just as easily be released on bail, or be placed under monitoring supervision to ensure they report to court for their immigration cases.

Some advocates for the detainees are calling for the governor to close the facility with an emergency executive order. However, this in turn would be open to an appeal by Berks, complicating the matter. Governor Wolf has chosen to let the process play out, one step at a time. I believe this to be the best approach.

### **Sen. Casey Decries Deportations**

Using a technique of President Trump, U.S. Sen. Bob Casey unleashed a series of tweets on May 3, after learning the Trump administration was deporting a Honduran mother and her small son, who took refuge in the United States because they were endangered in their home country. "That's the tone @realDonaldTrump has set--one in which pushing out a 5yo and his mother is somehow a good idea," Mr. Casey tweeted.

The woman was being pursued by gang members in Honduras because she was a witness to her cousin's murder. Casey live-tweeted the family's deportation. The mother and son were being held at the Berks County Family Detention Center. [We have been following events at this place for the last ten months.]

An attorney for the boy was arguing for special juvenile immigration status when federal agents forced him and his mother onto a plane. The mother and child were deported.

Mr. Casey tweeted, "The gangs will target this mother and her child the moment they land in Honduras, yet Trump admin insists on this cruel policy." "This 5yo and his mother aren't 'bad hombres,'" he wrote, "They aren't in a gang, they're running from death--vulnerable and scared." Casey said he supports tighter border security, but won't stand by silently as a vulnerable boy and his mother are deported.

The previous day, Mr. Casey pleaded the case in a letter to Secretary of Homeland Security John Kelly. He asked for the release of the woman, her son and three other mothers with children held for a year-and-a-half at the Berks County Center.

"The Department of Homeland Security should be focused on apprehending and deporting violent felons and maintaining a secure border, rather than expelling young mothers and children fleeing near certain death in their home countries," he wrote in the letter. Twenty-one other members of Congress signed on to Casey's letter.

### **Immigrant Rights Meeting**

On May 7 and 8, the Pennsylvania Immigration and Citizenship Coalition (PICC) held a convention in the state capital, at the Harrisburg Hilton Hotel. The topic of the convention was Immigrant and Refugee Rights. The stated purpose of the event was to provide an opportunity to share skills, network, and strategize to build a stronger statewide movement for immigrant and refugee rights.

PICC describes itself as, "A diverse coalition of over 50 member organizations and hundreds of individual members. Our mission is to advance immigrants' rights and promote immigrants' full

integration into society by advocating with a unified voice for greater public understanding and welcoming public policies throughout Pennsylvania.”

### **Marijuana Acceptance Increasing**

Pennsylvania voters are changing their minds regarding marijuana, with 56 percent now saying the drug should be legal, according to a Franklin & Marshall poll, released May 11.

Two years ago, 54 percent of F&M poll respondents were opposed to legalizing marijuana, with 40 percent in favor. And when the college first asked about the issue in a 2006 poll, only 22 percent thought recreational marijuana use should be permitted.

Eight states and the District of Columbia have eliminated penalties for personal use and possession of small amounts of marijuana. Nineteen states have decriminalized the drug by reducing punishments. Twenty-nine states, including Pennsylvania, have legalized cannabis for medical use.

### **Police Body Cams**

Legislation intended to allow police officers to use body cameras in homes received support in the state Senate on May 10, despite transparency concerns from the chamber’s Democratic leadership and some advocacy groups.

Senate Bill 560, would allow police officers to use body cameras in residential homes—an act currently prohibited under the state wiretap law—eliminate the requirement that officers announce they are recording footage to everyone in a public space, and allow corrections personnel to record inmates’ communications, excluding conversations with attorneys.

The bill also details the procedures for requesting body cam recordings from law enforcement agencies. Though recordings made inside a facility operated by a law enforcement agency would be barred from public requests, as would any footage of communications between officers and the Attorney General or district attorneys.

SB560 was unanimously approved by the Senate, regardless of concerns by advocacy groups like the American Civil Liberties Union of Pennsylvania, that support the purpose of the bill, but take issue with the hurdles the public will face in attempting to access the body cam recordings.

The bill moves on to the House of Representatives.

Gov. Tom Wolf supports the use of police body cams “to promote transparency and increase public safety,” wrote J.J. Abbott, the governor’s press secretary. His office will “monitor the bill as it moves through the legislative process.”

### **Police Identity Bill**

A bipartisan vote in the Senate Law and Justice committee on May 9 moved House Bill 27 to the full Senate. The move came just seven months after Wolf vetoed an identical bill.

This time around, the Democratic governor might propose changes that would make him more inclined to sign the bill, said his spokesman, J.J. Abbott. “We are considering an amendment, but that process is still ongoing,” wrote Abbott.

The bill, introduced by Rep. Martina White (R-Philadelphia), would prohibit law enforcement agencies and public officials from releasing the information of a police officer who has killed or severely injured another person until the officer is either charged with a crime or 30 days have lapsed since the incident. Under the legislation, those who prematurely release the information would be charged with a second-degree misdemeanor, though the law would not apply to district attorneys or the Office of Attorney General.

The bill's supporters have characterized the bill as a "police protection" bill. Its opponents label it a "police secrecy" bill that threatens to erode community-police trust.

### **Mrs. Stack**

Tonya Stack, the wife of Lt. Gov. Mike Stack, has begun in-patient treatment for a mental health issue, following the investigation and public controversy in April, resulting from accusations that Mr. and Mrs. Stack verbally abused and mistreated employees who worked for them. [See my April report]

Mrs. Stack, 47, checked into a treatment facility to receive help for a mental health problem, reported Marty Marks on May 11. Marks was a former campaign manager for Mr. Stack. Marks would not describe the health problem, the treatment she is receiving, or the location. Marks referred to the situation as "a deeply personal matter."

Matt Franchak, Mike Stack's chief of staff said, "The Lieutenant Governor will not be discussing the particulars of his wife's treatment and has nothing further to add at this point other than that he loves his wife, admires her courage and believes they will emerge from this experience as a more compassionate and loving family."

The Stacks have been married since 2001.

### **Lt. Gov. Selection**

One state lawmaker sees the current disturbance at the Lieutenant Governor's office as a reason to push for a change in the way the office is filled. Senator David Argall—a United Methodist—says this situation is an example why gubernatorial nominees should be able to pick their own running mates. Mr. Argall said, "My constitutional amendment would essentially say that after a primary election the governor candidate gets to select the lieutenant governor candidate." Under the present system, candidates for lieutenant governor run independently in the primary.

### **DNC Funding Audit**

At the request of Democratic Governor Tom Wolf and some senate Republicans, the state Auditor General, Eugene DePasquale, will conduct a formal review of how the Democratic National Convention's host committee spent state money. The state gave the DNC committee a \$10 million grant last summer to help fund its event, which was held in Philadelphia.

The 2016 Philadelphia host committee, chaired by former Governor Ed Rendell, ended up with a \$4 million surplus. State Republicans argue that any extra money should have gone back to the state. They contend that without the \$10 million state grant, the committee, a state-registered nonprofit, wouldn't have had a surplus. They have criticized the committee's use of the surplus money.

The committee raised \$86 million, \$10 million of which was the state grant and the rest came from corporations and individuals. Three months after the convention ended, with most bills paid, the committee repaid the city \$520,000 for municipal services used during the convention. It also gave away \$1.2 million to various nonprofits—including \$750,000 to the city school district and \$75,000 to the Rendell Center for Civics and Civic Engagement—and rewarded its staff and volunteers with bonuses and stipends totaling another \$1.2 million.

Auditor General Eugene DePasquale said his investigation has two possible outcomes: either the DNC misused funds by spending the surplus, or the state simply didn't make its grant terms strict enough. "If you don't like the rules of the grant agreement, then they should have been changed up front," DePasquale said.

Mr. DePasquale said further, “No matter what the use of state funds – whether for schools, for a state agency operation, or for support of a major national event that generates economic benefits – the public has a right to know that those funds were spent appropriately and lawfully.” But, he was noncommittal when asked whether it’s possible for the state to recoup any of the money.

DePasquale said if he finds the grant agreement was not adequate to ensure the proper use of state funds, he will recommend changes to state contracting and grant procedures. “We must ensure that there are adequate procedures up-front in any contract or grant agreement to ensure that all parties know the rules. Such procedures not only protect the taxpayer, but they also afford protections for recipients of state funds.”

## **Recycling**

The Pennsylvania Senate is exploring the future of the state’s trash recycling program. The question is whether to simply maintain the recycling fee that supports the program, or to reformulate the legislation. A bill to renew the recycling fee is now before the Senate Appropriations Committee.

The \$2-per-ton recycling fee is collected on trash disposed in landfills and waste-to-energy facilities and will generate an estimated \$38 million in revenue this fiscal year. The fee is set to expire January 1, 2020. The renewal legislation, Senate Bill 646, sponsored by Sen. Tom Killion (R-Delaware), would simply eliminate the sunset date.

The issue is whether to make sure the recycling fee remains in place, or to more broadly change the 1988 Municipal Waste Planning Recycling and Waste Reduction Act. The act in question was one of several enacted in the 1980s that created greater state and local regulation of trash disposal, better managed landfills and a reduction in the flow of trash to landfills through household and commercial recycling. Pennsylvania became the first large state to mandate recycling for its residents.

Today, about 94 percent of the state's residents have access to recycling. Killion aide Mike Stoll said it's not too early to renew the recycling fee, the revenue of which is distributed to municipalities and counties to help run local recycling programs. There is support among both senate Republicans and Democrats to pass the fee renewal bill.

But, after three decades the recycling law needs to be updated, said Rep. John Maher (R-Allegheny), chairman of the House Environmental Resources and Energy Committee. Maher observed that changes in technology and recycling markets warrant an update. According to Rep. Maher, the sunset of the recycling fee provides urgency to have a larger debate about the future of waste management, with the issues ranging from the lack of a market for recycled glass to fixing problems with a law mandating recycling of electronic waste.

## **Governor Supports Paris Climate Agreement**

Pennsylvania Gov. Tom Wolf was one of 12 Democratic governors who signed a letter, May 3, asking that the Trump administration not pull out of the Paris Climate Agreement. The letter states, “Given the progress our states have made in reducing greenhouse gas emissions, we are convinced that the United States’ goal of 26-28 percent below 2005 levels is readily achievable.”

President Obama signed the Paris agreement in 2015. The non-binding agreement seeks to limit global temperature rise. For its part, the U.S. agreed to a 26 to 28 percent reduction in greenhouse gas emissions by 2025. The agreement has been ratified by 144 countries.

The other states represented in the letter are California, Colorado, Connecticut, Delaware, Hawaii, Minnesota, New York, Oregon, Rhode Island, Virginia, and Washington.

## **Candidate Mango**

Paul Mango, a former healthcare systems consultant and a political newcomer, will run for governor in 2018, as a Republican. Mr. Mango formally announced his candidacy on May 18 at Soldiers and Sailors Memorial Hall and Museum in Pittsburgh.

Mango launched his campaign website the same day. In a video on the website, Mango takes aim at Pennsylvania's political class. "I think the last thing Pennsylvania can afford is another politician who doesn't know what he's doing," Mango says. "Where have the politicians led Pennsylvania? ... The only thing we seem to lead the nation in is politicians going to jail."

Mango, 58, is a suburban Pittsburgh resident. He is critical of Wolf's fiscal policy and handling of the state's economy. He opposes abortion rights and public funding for Planned Parenthood, calls former President Barack Obama's health care law a "disaster" and says he's a National Rifle Association member who believes the government has gone far enough in infringing on the rights of gun owners. He is a graduate of West Point Military Academy and served five years in the U.S. Army.

Little is known about Mr. Mango's personal wealth or his ability to raise campaign cash. A winning campaign could cost \$30 million, and Republican political consultants privately predict that Wolf will be tough to beat.

## **Turzai for Governor?**

Pennsylvania House Speaker Mike Turzai (R-Allegheny), has begun pitching for GOP support to challenge Democratic Governor Tom Wolf in 2018. Rep. Turzai intends to make a formal announcement of his candidacy in the coming months.

Mr. Wolf will be running for a second four-year term in next year's election. Rep. Turzai will be facing at least two other candidates in the Republican primary for governor, state Sen. Scott Wagner of York County and Paul Mango (see entry above).

Mr. Turzai, 57, is a lawyer and former prosecutor in Allegheny County. He was first elected to the House in 2001.

## **Sen. Wagner Confronts a Tracker**

A "tracker" is someone, working for an opposing campaign or organization, who follows a political candidate hoping to record a misstatement, poor behavior, or an embarrassing moment. Trackers have become common in high-profile campaigns.

State Senator Scott Wagner (York) a Republican 2018 gubernatorial candidate, confronted a tracker on May 2. A couple of videos of the encounter have been widely viewed on YouTube.

The tracker was working for a super PAC, American Bridge 21st Century, a self-described progressive organization committed to holding Republican candidates accountable for the promises they make to voters.

The location was the Country Club of York in Spring Garden Township. Wagner was addressing a group of accountants, lawyers and estate planners.

When Mr. Wagner spotted the tracker in the back of the room recording the event, he said, "You're about to see your senator in action." He then unhitched his lapel microphone and strode over to the tracker, as the audience applauded. Wagner attempted to confiscate the camera. The tracker says, "You just assaulted me." Wagner says, "No, I didn't assault you."

Mr. Wagner felt that the tracker was trespassing and that Wagner was within his rights. He later challenged American Bridge to take the matter to court. American Bridge communications director, Lizzy Price, said of the incident, "Scott Wagner's actions today show how unhinged he truly is. If he can't handle the pressure of the campaign, what makes him think he can handle leading the state?" Price would not identify the tracker, who she said got his video camera and tripod back.

Heads butted. Wagner became a hero to some and a bully to others. This appears to be the end of the incident.

## **AG Healthcare Suit**

On May 18, Attorney General Josh Shapiro joined 15 other Attorneys General in taking legal action to intervene in a lawsuit that was filed by the U.S. House of Representatives over the legality of ongoing cost-sharing payments under the Affordable Care Act (ACA).

The legal action is a Motion to Intervene and was filed in the U.S. Court of Appeals for the District of Columbia. In addition to Attorney General Shapiro, the motion was joined by the attorneys general of Connecticut, Delaware, Hawaii, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, New Mexico, Vermont, Washington State and the District of Columbia. The motion was filed by California Attorney General Xavier Becerra and New York Attorney General Eric Schneiderman.

In the underlying legal case, the U.S. House of Representatives sued the Secretary of the Department of Health and Human Services (HHS) during the Obama Administration, challenging the legality of ongoing cost-sharing subsidies under the ACA. A district court judge ruled in favor of the House, but that ruling was appealed in order to protect Americans' access to health care. Payments were permitted to continue during the appeal.

The threat to end this funding could destabilize the health care market and increase premiums by as much as 21 percent. In Pennsylvania, officials estimate that eliminating this funding would impact more than 1 million Pennsylvanians' health insurance policies.

Governor Tom Wolf publicly expressed his support for the action.

Millions of Pennsylvanians have benefited from the ACA's ban on annual and lifetime limits and expanded access to free preventive care services. Under the ACA, 5.4 million Pennsylvanians with pre-existing conditions—half of all Pennsylvanians under age 65—cannot be denied coverage or charged higher premiums due to their medical history.

## **Capitol Gun Rally**

Hundreds of gun rights supporters gathered at the state Capitol on May 22, to support an agenda that includes looser rules for carrying concealed weapons. The "Make the Second Amendment Great Again" rally in the Rotunda brought together state lawmakers, sheriffs and gun rights enthusiasts.

"The right to defend yourself is a God-given right. It is not even given by man," said Rosco Bickel, a 65-year-old retired machinist from Oil City. House Speaker Mike Turzai (R-Allegheny) told attendees he and his allies have been able to beat back anti-gun proposals. "Think about all the stuff we have held off, in terms of taking away your rights," Turzai said.

Republican leaders have stopped proposals to require reporting of lost or stolen guns or to require background checks for private sales of long guns, said Shira Goodman, executive director of CeaseFirePA, an advocacy group working to reduce gun violence. She said Pennsylvania has about 1,400 gun deaths a year.

Speakers advocated eliminating Pennsylvania's criminal background checks system for gun buyers in favor of participation in a national checks system. They voiced support for a bill that would make it easier for people to challenge the legality of local gun ordinances that are stricter than state laws. And they spoke in favor of letting people carry concealed weapons without permits—which are now required.

The sponsor of a "constitutional carry" bill, Rep. Rick Saccone (R-Allegheny)—a U.S. Senatorial candidate—told those at the rally not to become complacent. His bill would allow anyone eligible to own a gun to carry it secretly, doing away with the permits that are currently required. "While we sleep, the other side works night and day to try and take away our constitutional rights," Saccone warned the crowd.

## **Sen. Toomey Background Checks**

During a gun-safety advocacy event in downtown Washington D.C., May 3, Sen. Pat Toomey referred to his 2013 background check bill that stalled in the Senate. "We have not been successful yet, but my determination has not diminished and one day we're going to succeed on this bill."

The event was part of a two-day summit organized by the Brady Campaign to Prevent Gun Violence and Americans for Responsible Solutions, a group founded by former Congresswoman Gabby Giffords, who was severely wounded in a 2011 shooting.

Sen. Toomey was preceded at the microphone by Democrats who urged pushing for tougher background checks and advocacy to fight against a proposal for concealed-carry reciprocity. Such legislation would require states to recognize concealed-carry permits from other states. In an interview later, Toomey said he has generally supported the reciprocity idea, but understands concern from gun-control advocates about states that have fewer requirements.

As for further movement of his background bill, Toomey acknowledged that it won't be easy. He said that he is unsure of where to find other Republican support. Because of the background bill, the National Rifle Association dropped their rating of Toomey from "A" to "C."

## **Sanctuary Sanctions?**

In an apparent retreat on the war against municipalities that refuse to cooperate with demands from immigration enforcement, the Trump administration has settled on a narrow definition of what it means to be a "sanctuary city." The definition, and consequences, were defined in a memo by Attorney General Jeff Sessions, signed on May 22. The consequences are that sanctuary jurisdictions could lose grants from the Justice Department and the Homeland Security Department.

In the opening days of the Trump administration, the President and the Attorney General attacked cities, counties and law enforcement agencies that refused to cooperate with immigration authorities. Five days after taking office, Mr. Trump signed an executive order that "sanctuary jurisdictions" were not eligible to receive federal grants. The Justice Department sent letters to nine jurisdictions to tell them that they were at risk of losing grants from that department.

However, U.S. District Judge William Orrick blocked enforcement of Trump's executive order. Trump called the ruling "ridiculous" and threatened, "See you in the Supreme Court."

As it were, the Trump administration had never spelled out what it meant to be a sanctuary city.

Sessions' memo was a reaction to Orrick's ruling. Sanctuary cities, according to Sessions, are places that "willfully refuse to comply" with a 1996 federal law that requires federal, state and local governments to share information about someone's immigration status. The thing is, cities and counties that accept Justice Department grants *already* agree to this provision. It never was an issue.

This means that Trump's executive order will not apply to municipalities, cities and counties that refuse to honor "detainer" requests to hold undocumented people for arrest on immigration charges—which is the one thing that sanctuary cities do.

Immigration rights lawyers see Sessions' memo as a realization by the Justice Department that the law was not on its side. However, Sessions' memo makes it clear that the administration has not given up on its goals of using the power of federal funding in the future of immigration policy. "Going forward, the (Justice) Department, where authorized, may seek to tailor grants to promote a lawful system of immigration," Sessions wrote.

## **Senate Advances Gambling**

The Pennsylvania Senate approved a major gambling expansion bill on May 24. The Senate voted 38-12 to pass House Bill 271, that legalizes 1) internet-online gambling run by casinos, 2) daily fantasy sports games, 3) airport tablet gambling and 4) gives the Pennsylvania Lottery authority to sell its games on-line (an unexpected development). The bill would fix the local share assessment on casino slot machine revenue that was declared unconstitutional by the state Supreme Court. It would also create a new casino marketing and capital development account, intended to help casinos stay competitive—casinos would pay a daily assessment based on their gross terminal revenue to the account and could apply for grants to fund projects.

Reaching agreement between the two chambers, on gambling matters, has been difficult. This bill was passed from the House to the Senate, where it was modified. Consequently, it needs to go back to the House. House Republican spokesman Steve Miskin said, “We will be glad to get a gaming bill from the Senate and look forward to reviewing it.” Miskin said the review would take some time. House Majority Leader Dave Reed (R-Indiana), on the other hand, expressed the desire for a quick conclusion.

The Senate Appropriations Committee estimated that the amended bill would generate between \$109 million and \$147 million. Online gaming is expected to bring in somewhere between \$100 to \$135 million. Daily fantasy sports games are projected to earn up to \$2 million. Airport tablet gambling revenue is estimated at \$5 to \$12 million. The expanded Lottery is expected to bring up to \$19 million.

Lawmakers agreed last July, as part of the fiscal 2016-17 budget, to generate \$100 million in new gambling revenue. That never got off the ground. But, with the fiscal year nearly over, that revenue can now only be attached to the fiscal 2017-18 budget, said Senate Appropriations Chairman Pat Browne (R-Lehigh). Lawmakers must find another revenue source to fill the current hole, Browne said.

Regarding online gambling, there will be an age limit of 21. There are two categories of online gambling: peer-to-peer games, such as poker, with a 16 percent tax; and non-peer-to-peer games, such as slots and banked table games, with a 54 percent tax.

Regarding daily fantasy sports gambling, players must be at least 18 years old—the difference in age limits between this an online gambling is the recognition that fantasy sports are popular among college students. Operators cannot host contests based on collegiate or high school sports. The use of computer scripts to manage bets is prohibited and operators must maintain a self-exclusion list for compulsive gamblers. Operators will pay the state 12 percent of adjusted revenues.

Regarding airport gambling tablets, Pennsylvania's six international airports, including Harrisburg, and two regional airports with at least 50,000 passengers each year will be able to install interactive computer gaming devices. The daily gross revenues from those games will be taxed at 34 percent.

Regarding the Pennsylvania Lottery, going online (iLottery) is a move, in part, to bolster lottery sales. Sen. Browne stressed the importance of helping what he described as a “stressed” Lottery Fund, that supports senior citizen benefit programs. The Lottery is faced with declining receipts and increasing obligations, he added. “We have to keep it solvent,” said Browne. Both Senate Minority Leader Jay Costa (D-Allegheny), and House Minority Leader Frank Dermody (D-Allegheny), also declared the critical importance of maintaining the Lottery.

The state Supreme Court set May 26 as the (extended) deadline for the legislature to create a local share assessment that meets Constitutional requirements—local share assessments are funds provided to municipalities and counties that host casinos. Last fall the court ruled that the existing assessment system was unconstitutional, because it wasn't levied uniformly on casinos. HB 271 would have casinos pay an annual flat assessment of \$10 million. “It's a uniform platform,” said Sen. Browne. “We expect the courts will honor this as the solution.” Sen. John Yudichak (D-Luzerne) noted, “I hope the courts will give us an opportunity to complete this by the end of June.”

## **Real ID Passes**

On May 24, the Pennsylvania House voted overwhelmingly in favor of the “Real ID” bill, designed to comply with federal identification standards for people who want to fly or enter federal facilities. The House passed the bill, 190-1.

The Senate passed the bill 49-1, the day before. “The restrictions our constituents are facing if we continue to not comply with the Federal government are truly burdensome,” said bill sponsor, Sen. Kim Ward (R-Hempfield).

Governor Wolf signed the bill into law on May 26.

As I mentioned in my report for March, the Real ID issue has been a long-running feud of the Pennsylvania legislature with the federal government. The U.S. Congress passed the REAL ID Act in 2005, to establish security standards for state-issued driver’s licenses and identification cards. In 2012, Pennsylvania lawmakers passed a law that prohibited participation in the REAL ID program, citing an estimated \$140 million cost to come into compliance and calling it an unfunded federal mandate.

The federal government, in turn, beginning January 2018, was going to stop accepting PA driver’s licenses for ID purposes. But, that situation has been averted.

The new law will allow PennDOT to negotiate terms with the Department of Homeland Security. Under the law, Pennsylvanians will have the option to obtain a standard-issue driver’s license, or one that meets the REAL ID requirements. However, residents without a REAL ID-compliant card will need to show alternative identification, such as a passport, for domestic flights or to access military bases and other federal property.

Many House conservatives, who had led the initial revolt against the federal requirements, said they backed the new bill because it gave individuals the choice of whether to take the enhanced identification, or not. The bill also specifies that the cost of a Real ID driver’s license must be borne by those who want it.

According to the federal Department of Homeland Security, 25 states and the District of Columbia are compliant with Real ID requirements

The Governor’s office said PennDOT estimates REAL ID-compliant driver’s licenses and identification cards will be ready by March 2019. State officials anticipate Pennsylvania will be granted an extension until the compliance plan is in place.

## **Religious Freedom Executive Order**

On May 4, The National Day of Prayer, President Donald Trump signed an executive order “Promoting Free Speech and Religious Liberty.”

The order appears to be an effort by the President to fulfill a promise he made at the National Prayer Breakfast in February to “totally destroy” the Johnson Amendment. Of course, repealing the Johnson Amendment would require congressional action.

The Johnson Amendment is a 1954 law that prohibits tax-exempt 501(c)(3) organizations, including churches and nonprofits, from publicly endorsing or opposing political candidates. However, it does not prohibit churches from engaging in political activity or taking a stance on issues.

An idea being expressed is that the order eases IRS enforcement of the Johnson Amendment. But, the Johnson Amendment has rarely been called on and only one church has ever lost its nonprofit status. In practical terms, the religious liberty executive order doesn’t seem to change anything. It instructs federal agencies “to the greatest extent . . .permitted by law, respect and protect the freedom of persons and organizations to engage in religious and political speech.” This is nothing new or unusual.

It instructs the Department of the Treasury to not take any adverse action against religious groups or people who “speaks or has spoken about moral or political issues from a religious perspective.” This also is nothing new or unusual.

Section 3 of the order calls upon certain federal departments to amend regulations regarding conscience protections (for employers) with respect to “preventive-care” (birth control). Under the Affordable Care Act, insurance plans must include coverage for birth control. Churches were always exempt. After

protests, the rules were bent to exempt religiously-based institutions. After the Hobby Lobby Supreme Court ruling, exemption was extended to some religiously motivated companies.

It is not clear how the executive order adds anything. It says that the departments “shall consider issuing amended regulations, consistent with applicable law, to address conscience-based objections to the preventive-care mandate...” The term “consistent with applicable law” doesn’t really allow much change.

Over all, President Trump’s religious liberty executive order of May 4, 2017 is more rhetoric than source of change or action. But, I could be wrong. Let’s wait and see.

### **Another Take on Religious Liberty Executive Order**

Following is the perspective of Michael Geer, President and CEO of the Pennsylvania Family Institute. Mr. Geer obviously saw deeper meaning than did I, in the President’s religious liberty executive order:

Religious freedom and rights of conscience have been severely undermined in America in recent years. The Executive Order signed today by President Donald Trump represents a good first step towards restoring needed protection for those precious rights, and the beginning of fulfillment of his campaign promises to protect the religious freedoms of Americans. But it is only a step.

The previous administration created a climate of hostility towards religion and the right of Americans to freely live out their faith. Right here in Pennsylvania employers and faith-based schools and charities were forced to choose between their faith and continuing to operate for the good of our economy and society.

While we welcome the signing of today’s Executive Order, we call on President Trump and his administration to work towards fully fulfilling his pledge to protect religious freedom. As he said in the Rose Garden this morning, "For too long the Federal government has used the power of the state as a weapon against people of faith, bullying and even punishing Americans for following their religious beliefs."

Today’s actions represent a start towards reversing this unwarranted government discrimination, and the Pennsylvania Family Institute will continue to work for a Pennsylvania and America where religious freedom flourishes and families thrive.

Following is the Family Institute’s self-described purpose: The Mission of the Pennsylvania Family Institute is to strengthen families by restoring to public life the traditional, foundational principles and values essential for the well-being of society. We are the only full-time, professionally staffed non-profit organization representing family values—*your values*—in the state capitol. We encourage responsible citizenship and involvement in civic affairs to promote respect for life, family, marriage and religious liberty.

### **Wolf on LTGB Discrimination**

An early draft, leaked in February, of President Trump’s religious liberty executive order reportedly would have let federal contractors discriminate against LGBT employees based on faith beliefs. However, the order that the President signed on May 4 did not include such a provision.

However, before the actual signing took place, Gov. Tom Wolf responded to the early report, thinking that the content of the executive order might have opened the door to discrimination against LGBT Americans. According to a May 3 press release, Gov. Wolf made the following statement urging President Trump to refrain from signing such an order: “Freedom of religion is already protected under the Constitution and it is unconscionable to open the door for national discrimination of LGBT citizens and women under the guise of furthering what is already protected. If the President is even considering signing this executive order, I urge him to stop and focus on protecting all Americans, rather than further

dividing the country. ...This is not who we are and the President should not cause real distress for LGBT Americans and women just to score political points.”

### **LGBT Fairness**

A Pennsylvania lawmaker says he'll reintroduce long-stalled legislation to outlaw discrimination based on a person's sexual orientation or gender identity. Rep. Dan Frankel (D-Allegheny) said his proposal would prohibit discrimination against people who are lesbian, gay, bisexual or transgender in the workplace, in housing, and in public accommodations such as restaurants and hotels.

“Pennsylvania polls for the past eight years have shown consistent 70-percent support for providing our LGBT relatives, friends, neighbors and co-workers with the same protections as the rest of us,” Frankel said in a statement. Frankel said more than 40 local governments across the state have added protections for the LGBT community.