

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LAW AND GOVERNMENT

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, September 28, 2011
10:10 a.m.

PRESENT:

COUNCILMAN WILLIAM K. GREENLEE, CHAIR
COUNCILMAN FRANK DiCICCO
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN JACK KELLY
COUNCILMAN JAMES KENNEY

BILL 110498 - An ordinance amending Section
9-804 of The Philadelphia Code, entitled
"Unfair Rental Practices," by requiring that
every lease provide that a landlord shall be
prohibited from terminating the lease based
upon a tenant's status as a domestic violence
victim...

BILL 110556 - An ordinance amending Chapter
20-1200 of The Philadelphia Code, entitled
"Lobbying," by modifying certain definitions,
provisions, and exemptions...

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1
2 COUNCILMAN GREENLEE: Good
3 morning, everyone. This is the Committee
4 on Law and Government. For the record,
5 we have a quorum with myself, Bill
6 Greenlee; Councilman Kenney, the
7 Vice-Chair of the Committee; Councilman
8 DiCicco; and Councilman Kelly.

9 Ms. Marconi, will you please
10 read the title of the first bill before
11 us today.

12 THE CLERK: Bill No. 110498, an
13 ordinance amending Section 9-804 of The
14 Philadelphia Code, entitled "Unfair
15 Rental Practices," by requiring that
16 every lease provide that a landlord shall
17 be prohibited from terminating the lease
18 based upon a tenant's status as a
19 domestic violence victim, and shall be
20 required to terminate the lease upon the
21 request of a tenant victim of domestic
22 violence, or may bifurcate the lease if
23 such victim requests bifurcation, all
24 under certain terms and conditions.

25 COUNCILMAN GREENLEE: Thank

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2 you.

3 Before we hear from the
4 witnesses, I just have a very brief
5 statement.

6 Victims of domestic violence
7 are some of our most vulnerable citizens
8 and need the appropriate protection of
9 government. Oftentimes they are
10 victimized twice in various ways. It is
11 with this thought that I introduced this
12 bill before us today. Like the law City
13 Council passed a few years ago providing
14 unpaid leave from employment for victims,
15 this bill would not allow a victim to be
16 evicted through no fault of their own.

17 We're going to hear from a
18 couple of people who -- a few people who
19 were victims and are kind of the real
20 reasons why this law is necessary, and
21 also from the advocates, who will explain
22 the bill and why it will work to the
23 benefit of all concerned, tenants and
24 landlords.

25 By the way, I'd love to say

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2 this is groundbreaking, but 22 states
3 have already implemented this law. So in
4 a way, we're just kind of catching up.

5 And for the record, at the
6 meeting we'll be presenting an amendment
7 agreed to by the Apartment Association,
8 who we met with a couple weeks ago, that
9 will further ensure landlords' rights and
10 make sure that they have no problem with
11 this bill.

12 So that being the case, the
13 first panel -- I'm not sure if all three
14 are here or if maybe there's a
15 substitution for one of these people --
16 Nicole Bounds, Vernetta Burger and Beryl
17 Tilman. If you could just come up to the
18 table, please.

19 (Witnesses approached witness
20 table.)

21 COUNCILMAN GREENLEE: Good
22 morning, everyone.

23 (Good morning.)

24 COUNCILMAN GREENLEE:

25 Ms. Bounds, I have your name first, so if

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2 you are there, you'd like to start.

3 You're speaking right into the
4 microphone. You know how this works. If
5 you could just identify yourself for the
6 record and proceed with your statement,
7 please.

8 MS. BOUNDS: Absolutely. Good
9 morning, everyone. My name is Nicole
10 Bounds and I sit in front of you this
11 morning with a little coercion, because
12 certainly my story is one that I didn't
13 think I'd ever have to tell. I sit in
14 front of you as a victim, but, more
15 importantly, I sit in front of you as a
16 survivor of domestic violence. Never
17 thought it would happen to me, didn't see
18 it coming, but it did.

19 My husband and I separated back
20 in January of this year. I came home
21 from work one day to find him sitting on
22 the steps of my home. He muttered words
23 that basically indicated, I intend to
24 ruin your life as you have ruined mine.

25 We had been going through a

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2 very bitter separation, and to him, if I
3 was not going to come back, he was
4 determined that he was going to hurt me.

5 Next thing I know, a violent
6 assault ensued. As a result of the
7 assault, I had two black eyes, a
8 fractured jaw, two fractured ribs, a
9 busted lip and numerous scratches and
10 abrasions.

11 That was just the beginning.
12 He came to the house on a continuous
13 basis. My neighbors could hear the
14 noise. My neighbors would often call the
15 police. My neighbors would often text me
16 and tell me that he was outside.

17 The intimidation of my
18 co-workers, my company president, company
19 CFO and the accounting department then
20 ensued. He called everyone at my job,
21 everyone in my family, and continued to
22 harass me.

23 As a result of the attack, a
24 warrant was issued for his arrest, and I
25 was given a protection from abuse order.

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2 But it didn't stop it. It did not stop
3 it. He knew what he was doing. He would
4 come, visit the house and be long gone by
5 the time the cops would arrive,
6 unfortunately.

7 The landlord of our property
8 was his friend. While all of the
9 violence and intimidation was going on,
10 the landlord hired my husband as a
11 contractor. Next thing I know, I was
12 being served with eviction papers.

13 I was a little over a month
14 behind in my rent, as I was missing days
15 from work because I had to heal. As I
16 was making partial payments, my landlord
17 went to court anyway. We had rented this
18 home from him for three and a half years
19 without any problems. I knew others that
20 had rented from this same landlord, and
21 he had given more time for them to catch
22 up and become current. For me, it was he
23 wanted me evicted. He didn't want money.
24 He wanted me evicted.

25 I looked for a place, but I was

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2 afraid that running from my abuser, my
3 husband, would hurt my chances of finding
4 a place. I was turned down at several
5 different places. Finally, I got the
6 courage to level with the landlord and
7 say I lost my employment because I was a
8 victim of domestic violence.

9 I'm now on the road to
10 recovery, both physically, mentally and
11 financially.

12 I did not want it to be a
13 surprise if indeed my husband, who I now
14 know is incarcerated, but if he were to
15 find me, didn't want it to be a surprise
16 to the landlord, didn't want it to be a
17 surprise to the neighborhood if the cops
18 were going to be called to the house,
19 because I had lived that, and it was
20 very, very embarrassing. I hope to never
21 have to go through it again.

22 I cannot overstate how helpful
23 this proposed law would be to victims
24 like me. Having the option of
25 terminating or getting the significant

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2 other's name off of the lease would help
3 the victim free herself and remove one
4 additional layer from entanglement with
5 the perpetrator.

6 Victims of abuse have a lot to
7 worry about, and they often don't get
8 much sleep. And I can only speak
9 personally. So knowing that my tenancy
10 would be protected and I would be
11 prohibited against discrimination --
12 against domestic violence victims, excuse
13 me, would give me more confidence, along
14 with other victims, give them more
15 confidence that they could safely move to
16 another place.

17 Thank you for your time and
18 attention.

19 COUNCILMAN GREENLEE: Thank
20 you. And I think that your testimony
21 kind of put it in real framework of why
22 this bill is needed, and I appreciate it.
23 And I know for all of you it's probably
24 not easy to do this, but I really
25 appreciate your time here.

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2 I don't know if anybody has any
3 questions, but we'll wait for all three
4 to testify.

5 Just for the record, Councilman
6 Green and Councilman Goode, also members
7 of the Committee, are here. So we have a
8 full house.

9 Ms. Burger, is it?

10 MS. BURGER: Yes, sir.

11 COUNCILMAN GREENLEE: Good
12 morning.

13 MS. BURGER: Hi. Good morning.
14 My name is Vernetta Burger and I am here,
15 and I count it not lightly that I sit
16 here before you. As I have my testimony
17 that is actually written here on paper, I
18 need to personally express the difficulty
19 it is for me to sit here. And while I
20 have been in a process and on the road of
21 healing and recovery from what I
22 experienced for the majority of my life,
23 I still sit here because of the urgency
24 of this bill to be passed. And for me,
25 it gets very, very personal, because we

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2 don't as a society recognize those who
3 are affected by domestic violence even
4 beyond what's in the home. I'm talking
5 about our children, who continue to be
6 affected by it. So I must get this point
7 across first.

8 Although I was in the
9 domestic -- an abusive marriage and
10 relationship some 15 years ago, I sit
11 here dealing with the impact and the
12 effects and the damage of it through all
13 four of my children. I sit here as a
14 member of Mothers in Charge, because part
15 of the effects of the domestic abuse that
16 I have suffered, my children suffered as
17 well.

18 Not only do two of my sons
19 because of the anger that they ensued
20 because of having to witness this on a
21 daily basis in their lives, they grew up
22 very angry children. As a result -- and
23 I'm not justifying any of their choices,
24 but as a result, both of them sit in
25 prison right now. I have a son who is 24

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2 years old. He's been in prison since he
3 was 16, serving 110 years because of the
4 anger that he still had to deal with not
5 knowing how to protect me as a child.

6 My youngest son, the age of 19
7 years old, was murdered last year, April
8 2010, because of the effects, the
9 emotional, psychological, physical
10 effects, that my children had to suffer
11 through from their father. That is the
12 urgency that I sit here as I speak to
13 each of you.

14 I was a victim of domestic
15 violence about 15 years ago, as I already
16 stated, and at that time, I was in a
17 relationship with my husband that was
18 psychologically and physically abusive
19 for many years. There were several times
20 when as a renter in which I was not able
21 to escape the abuse and not able to break
22 the lease, which made it difficult for me
23 to leave or even find a new place.

24 One occurrence took place when
25 I was first married and I was living in

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2 an apartment, and at that time is when my
3 husband began to physically abuse me. In
4 addition to the physical abuse, there
5 were also verbal and mental abuse. The
6 verbal and mental abuse existed well
7 before the physical abuse.

8 I always managed somehow to
9 gain employment and to maintain
10 employment, but because of the stigma,
11 because of the embarrassment, because of
12 the humiliation that I couldn't find
13 myself to testify or to talk to someone
14 about, I never missed a day of work,
15 which means I went to work with all
16 physical evidences of the physical abuse.

17 My mindset at that time was if
18 I can just stay, things will get better.
19 I can't leave now. How am I going to
20 support my family? If I leave now,
21 what's going to become of my place of
22 residence?

23 It was very hard for me to
24 leave or even to talk to the landlord,
25 because my husband and the landlord were

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2 good friends. I felt that if I said
3 anything to the landlord, that he would
4 make me move or either just brush me off.

5 One particular night, my
6 husband was in the area and wanted to see
7 his children. This is after I had gotten
8 up enough strength, and I'm talking after
9 being in ten years, when I had gotten the
10 strength and gotten the courage to
11 actually finally leave.

12 One particular night he was in
13 the area and he wanted to see his
14 children. At that time, I knew he had
15 been drinking and I did not want him to
16 come up to my apartment. My husband
17 continued to call for the outside
18 intercom. And this is a place where I
19 live where you had to gain access through
20 the intercom.

21 So I would not let him in. So
22 he continued to push many different
23 apartments' intercom, and eventually
24 someone let him in, and when they let him
25 in, he come to my apartment, he kicked

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2 the door in. And when I say that he
3 savagely beat me, it was the first time
4 in all the ten years where I actually
5 went to the hospital. Pictures were
6 taken of my face. It was the first time
7 I actually had him arrested, because of
8 the fear.

9 When we're in abusive
10 relationships, we live with a lot of
11 fear. I feared if I would tell somebody,
12 I feared if I would call the cops that he
13 would eventually kill me. I feared that
14 if I left or moved anywhere, he would
15 find me and kill me.

16 So he proceeded to kick my door
17 in, he beat me up. He created a
18 disturbance to the point to where my
19 neighbors got involved and they did call
20 the police. The humiliation I had to
21 live with, not just within where I lived,
22 where I worked, but even within my own
23 family.

24 I didn't want nobody to judge
25 me if I left my house. I didn't want

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2 nobody to judge me because I lost my
3 place to leave. I didn't want nobody to
4 judge me because I was in an abusive
5 relationship. I always feared that I
6 would be discriminated against and
7 prejudiced because of the fact that I
8 didn't have the ability to leave this
9 abusive relationship. Where was I to go?
10 Where was my children to live?

11 So when this happened, I was in
12 a binding contract lease for one year and
13 I had six months remaining on my lease.
14 The landlord was not sympathetic, nor did
15 he show any empathy for me or my
16 children.

17 The landlord held me
18 responsible for all future rents and the
19 damages that was caused by my husband.
20 Not only was I responsible for the broken
21 door that is now off of the hinges, the
22 broken window, but the cleanup of all the
23 blood that is all around all the walls
24 from me holding my face and now trying to
25 get away from him. Literally the

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2 apartment was literal blood on all of the
3 walls.

4 Nevertheless, I felt that I had
5 no choice but to flee the situation. I
6 felt that if I had stayed, I could have
7 been killed, and I know I would have been
8 killed. Had it not been for the
9 intervention of some of the neighbors, I
10 would have been.

11 I did flee, but I was left to
12 carry the debt of over \$2,400 from the
13 rent during the unexpired portions of my
14 lease. The debt, however, was placed on
15 my credit report, which made it even more
16 difficult and seemingly impossible for me
17 to find another place to live.

18 I was offered a position out of
19 state, and I accepted the position with
20 my job, but then again, it was still
21 difficult even in another state for me to
22 find gainful employment, because now I
23 had this broken lease, I had this unpaid
24 rent that is now on my credit report.

25 So as I explained my situation

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2 to several landlords, we talked about
3 being victimized twice? I'm being
4 victimized over and over and over again,
5 someone not empathetic to any situation.
6 However, I was ultimately able to secure
7 a unit.

8 As I began to get my family
9 situated in our new home, my husband
10 started to call and beg to see the
11 children. I mistakenly agreed, and when
12 he found out where I lived, he came all
13 the way from Philadelphia down to
14 Baltimore. His main goal was to still
15 try to kill me, physically, emotionally,
16 mentally and psychologically.

17 I called the police, and before
18 they came, he did finally leave.

19 This type of behavior occurred
20 on several occasions. He would pop up
21 from Philadelphia, attack me and then
22 leave. At that point, I was notified
23 months in advance that my landlord would
24 not be renewing my lease because of the
25 violence and the fact that the police

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2 were out to the unit on several
3 occasions.

4 When I returned to
5 Philadelphia, I was faced with
6 homelessness. I was still employed, but
7 could not find a landlord that would rent
8 to me because of my rental history. Not
9 of having the rent being unpaid, but
10 because of all the attention that was
11 always brought to my attention, always
12 brought to my place of residence because
13 I allowed him to come and to -- even if
14 he were to use the excuse to see the
15 children, nevertheless I always expected
16 something will be different. I always
17 expected that he would change. Just this
18 time, maybe this time it will be
19 different. I never realized if nothing
20 changes, nothing changes. If he had not
21 done anything to change his behavior or
22 his character, then why would I expect
23 the situation to change? And that's some
24 of the things that when we're in abusive
25 relationships, that we're continued to

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2 draw to that hope or that false belief
3 that this time it will be different.

4 I took my family to the
5 Philadelphia shelter system in hopes to
6 be placed in a family shelter.
7 Fortunately, I was able to receive
8 housing subsidy through TRAC, which is
9 now known as the TURN program, and I was
10 able to begin the process of healing and
11 made great attempts to stabilize my
12 children.

13 I talked about earlier the
14 effects that my abusive situation, how it
15 affects my children, all the attempts I
16 had tried to stabilize them to give them
17 a healthy environment, to help them
18 escape from what it was that I was
19 facing. We're talking about the
20 long-term damage and effects they now
21 deal with. Being 27, 28, 29 and my son,
22 who was murdered last year, 19 years old,
23 the devastation that they still deal
24 with, having to sit there and watch their
25 mother be beat, even when having their

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2 father, who literally told them, Come,
3 you sit and I want you to watch me beat
4 her.

5 My children suffered
6 tremendously from witnessing all of the
7 abuse, and they continue to suffer. But,
8 however, I did beat the odds. As my
9 sister here stated, yeah, I am a
10 survivor. So when you see the tears, the
11 tears are because I made it through in
12 spite of all of the odds that were
13 against me.

14 I am a homeowner now, and I am
15 willing to share my story in support of
16 this bill, which, if it is passed, will
17 indeed save someone's life, not just the
18 mother, the woman who is being abused,
19 but to save a child's life as well.

20 COUNCILMAN GREENLEE: Thank
21 you, Ms. Burger. Obviously none of us
22 could really reflect totally on what
23 you've gone through, but it certainly --
24 you deserve congratulations for hanging
25 in there and now being a homeowner and

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2 for coming down today. We appreciate it.

3 Ms. Tilman, or are you
4 pinch-hitting here?

5 MS. ROSS: My name is Sakia
6 Ross. I work with Mothers in Charge, and
7 I'm basically here to support the young
8 ladies here and also in support of the
9 bill.

10 I'm also a victim of domestic
11 violence, but mine wasn't so much
12 physical. And through that, I had to
13 move on numerous occasions because of
14 that, and moving so much and going
15 through so much after that, the effect,
16 like Ms. Burger stated, on the children.

17 My children are babies, and the
18 abuser made me -- he made himself a
19 victim and turned the tables on me.
20 That's how good they are in manipulating.
21 And now the abuser is raising my child.
22 So now the children are affected even
23 more, because not only did he watch him
24 abuse me, but now he's in a situation,
25 and it's like you're left with nothing

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2 after that. And you can't run, because
3 it's like the system somehow connects to
4 the abuser, if you're a victim and you're
5 afraid.

6 So I'm just here in support of
7 the ladies.

8 COUNCILMAN GREENLEE: Okay. I
9 appreciate that. You know, I'm not going
10 to say this bill is going to solve
11 everybody's problem, but I think it will
12 go a long way in helping people and at
13 least help that balance a little bit,
14 because I think the tenant is, the
15 domestic violence victim, is so much on
16 the defensive in lots of ways, and they
17 certainly shouldn't be in the defensive
18 when it comes to the law, because they're
19 not doing anything wrong. They're
20 victims, and they need to be protected.

21 I will say that we're going to
22 hear from some experts and some advocates
23 and people who certainly know a lot about
24 this, but I don't think anybody can say
25 more than what you folks just said,

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2 because I think it puts it, like I said,
3 in real-world terms. We're talking about
4 something on paper. You lived this.

5 And, again, I appreciate you all coming
6 down.

7 Any comments or questions from
8 the Committee?

9 (No response.)

10 COUNCILMAN GREENLEE: Also for
11 the record, I will put in a testimony of
12 Beryl Tilman, who also relates her
13 problems and her support for this bill.

14 Again, thank you all for coming
15 down very much, and I hope this bill will
16 help people in the future of what you
17 went through. Thank you very much.

18 (Thank you.)

19 COUNCILMAN GREENLEE: Our next
20 witness -- and let me just say for the
21 record, I think we have the testimony of
22 most of the other witnesses that are
23 coming in. Most of it is short, but for
24 those of you who have testimony, as I
25 think you all know this, it will be made

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2 part of the record and if you would like
3 to shorten it and just hit the highlight
4 points, that would be great, because we
5 do have another bill coming up after
6 this.

7 So our next witness, Rue
8 Landau, Executive Director, Human
9 Relations Commission.

10 (Witness approached witness
11 table.)

12 MS. LANDAU: Good morning,
13 everyone. I'm also the Executive
14 Director of the Fair Housing Commission,
15 which is the --

16 COUNCILMAN GREENLEE: I left
17 that out.

18 MS. LANDAU: -- capacity I sit
19 here today. That's fine.

20 First, before I start, I just
21 wanted to just say quickly to the
22 incredibly strong women who just
23 testified, the survivors, your stories
24 are incredibly important to all of us.
25 Please keep telling them, and we're very

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2 glad that we're moving in the right
3 direction in Philadelphia.

4 Good morning, Councilman
5 Greenlee and members of the Law and
6 Government Committee. I'm Rue Landau,
7 the Executive Director of the Fair
8 Housing Commission, and I am very happy
9 to have this opportunity to testify in
10 favor of Bill No. 110498. With me today
11 is Rosemary Branigan, a supervisor in the
12 Fair Housing Commission, and although
13 he's in hearings and trying to get here,
14 also hopefully we'll be joined by
15 Chairperson Ralph Blanks, who is the
16 Chair of the Fair Housing Commission.

17 The Fair Housing Commission is
18 the City agency that administers and
19 enforces the Philadelphia Fair Housing
20 Ordinance, and that would be directly
21 responsible for implementing the bill
22 being discussed today.

23 I would like to thank
24 Councilman Greenlee for introducing this
25 important bill.

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2 This body, City Council,
3 enacted the Fair Housing Ordinance in
4 1962 to combat unfair rental practices.
5 The ordinance established a five-member
6 Commission and granted it both
7 investigative and enforcement authority.
8 When you look at the legislative history
9 of the Fair Housing Ordinance, the intent
10 of the law was to help protect the
11 health, safety and general welfare of the
12 inhabitants of the City. The proposed
13 amendments to the Fair Housing Ordinance
14 do just that.

15 Under the proposed amendments,
16 every lease must provide that a landlord
17 is prohibited from terminating the lease
18 based upon a tenant's status as a
19 domestic violence victim. In addition, a
20 landlord shall be required to terminate
21 the lease upon the request of a tenant
22 victim of domestic violence and
23 presentation of supporting documentation,
24 or the landlord may bifurcate the lease
25 if such victim requests bifurcation.

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2 All of these amendments are
3 essential to protect the health, safety
4 and general welfare of our city's most
5 vulnerable populations. And they are in
6 line with the protections already
7 provided to tenants living in subsidized
8 housing under the federal Violence
9 Against Women Act.

10 Finally, the proposed
11 amendments balance the needs of the
12 landlords and the tenants as each deal
13 with the difficult realities of domestic
14 violence.

15 Thank you again for the
16 opportunity to testify in favor of Bill
17 110498. It sends a strong message once
18 again that Council is committed to
19 protecting Philadelphians from domestic
20 violence.

21 I'd just like to add, we
22 requested, the Commission requested, that
23 the enactment time for the bill be
24 changed from 30 to 60 days, because we
25 have some internal administrative changes

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2 we need to make, and I believe that --

3 COUNCILMAN GREENLEE: That's
4 one of the amendments we're putting in at
5 the meeting, yes.

6 MS. LANDAU: And I'd be happy
7 to take any questions. Thank you.

8 COUNCILMAN GREENLEE: Thank
9 you.

10 Any questions, comments from
11 members?

12 (No response.)

13 COUNCILMAN GREENLEE: And
14 Ms. Landau, we've worked together on a
15 number of things and I just want to thank
16 you for all the work you do on behalf of
17 the citizens of Philadelphia and for both
18 Commissions for what they do, because
19 they're oftentimes protecting the most
20 vulnerable of us. And maybe it makes me
21 a crazy liberal, but I think government
22 is supposed to help people sometimes. So
23 that's what we're trying to do.

24 Thank you.

25 MS. LANDAU: We're happy you're

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2 here.

3 COUNCILMAN GREENLEE: Thank

4 you.

5 The next group why don't we
6 bring up as a panel. I got Molly
7 Callahan from Women Against Abuse, Phil
8 Lord from TURN, Rachel Garland from CLS
9 and also George Gould, who is here to
10 basically answer any questions we may
11 have, and anyone else a part of that
12 group.

13 (Witnesses approached witness
14 table.)

15 MS. LANDAU: Councilpeople, I
16 know that I'm done with my testimony, but
17 I just wanted to tell you that
18 Chairperson Ralph Blanks has now gotten
19 here. Again, he had to leave hearings to
20 get here and will quickly go back. Thank
21 you.

22 COUNCILMAN GREENLEE: Welcome,
23 sir. Thank you for coming. Thank you.

24 Molly, I have you down here
25 first, if you'd like to start.

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2 MS. CALLAHAN: Sure. Thank
3 you. Thank you to Council for all of
4 your support for domestic violence
5 victims and to Councilman Greenlee for
6 having these hearings today.

7 Women Against Abuse strongly
8 supports these amendments, which will
9 protect domestic violence victims and
10 allow them to stay in stable housing when
11 appropriate or to quickly leave a house
12 that is no longer safe. We also believe
13 it provides a framework for landlords who
14 are dealing with tenants who are
15 experiencing domestic violence.

16 Last year, as the only
17 emergency shelter in Philadelphia for
18 domestic violence victims, Women Against
19 Abuse was forced to turn away 7,700 women
20 and children seeking shelter. Without
21 another place to turn, and without
22 legislation like the proposed, victims
23 may be forced to return to their abuser.
24 This puts women and children in
25 dangerous, potentially lethal situations,

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2 and it increases pressure on City
3 services such as law enforcement,
4 hospitals and the shelter system.

5 Women who do not return to
6 their abuser may end up on the streets.
7 There's a strong correlation between
8 domestic violence and homelessness, as 92
9 percent of homeless women have
10 experienced severe physical or sexual
11 abuse at some point in their lives. This
12 amendment prohibits discrimination
13 against victims and ensures that they
14 cannot be forced out of their home simply
15 because they are victims, because they
16 have had to call the police on their
17 abuser. Equally important, it allows the
18 landlord to evict an abuser under the
19 bifurcation provision. This allows the
20 victim and her children to safely remain
21 in a stable home. Rather than forcing a
22 victim to unnecessarily flee, it allows
23 the victim to stay in her own
24 neighborhood, where she often has a vital
25 support system. It also allows the

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2 children to stay in the same school
3 system and to continue within their own
4 support system in the neighborhood.

5 The ordinance also recognizes
6 that sometimes leaving a residence which
7 the defendant knows about is the only
8 safe option. By allowing a victim to
9 terminate a lease early, the City is
10 providing an important safety valve.
11 Without this provision, victims may feel
12 forced to stay in a home which the abuser
13 has access to. The abuser may continue
14 to abuse, harass and stalk a victim
15 unless she's able to move to a
16 confidential location. Often, despite a
17 protection from abuse order and police
18 intervention, the safest alternative is
19 for a victim to move to a confidential
20 location, and this provision allows the
21 victim to do that without any penalty.

22 These amendments respond
23 flexibly and sensitively to domestic
24 violence, an issue which ultimately
25 affects all neighborhoods and the quality

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2 of life in our city. The amendments
3 recognize that victims may turn to the
4 police, the courts, a domestic violence
5 counselor or a healthcare provider. And
6 it is important that any of these
7 front-line responders are able to
8 complete the certification. Victims who
9 do not call the police or go to court for
10 PFA often do see their doctor or go to
11 the emergency room for treatment, and so
12 it's important that these victims have
13 access to the safeguards as well.

14 Again, we thank you for your
15 support, and we believe this bill will
16 help stop the cycle of violence.

17 Thank you.

18 COUNCILMAN GREENLEE: Thank
19 you, Ms. Callahan.

20 Councilman Kenney.

21 COUNCILMAN KENNEY: Just
22 quickly, I want to just put a question
23 out there that you can think about in
24 your testimony.

25 A lot of discussion about the

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2 possibility of being evicted based on the
3 tenant premise -- on the premise history
4 from the Police Department. So I assume
5 when a landlord-tenant complaint is
6 brought, there is often presented at some
7 proceeding a premise history from the
8 Police Department. So if the police had
9 been called to the premise 35 times in a
10 year, would that appear somewhere
11 in information provided by the Police
12 Department as to the frequency of police
13 going to a premise? Is that something
14 that's part of the record?

15 (Ms. Garland nods head in the
16 affirmative.)

17 COUNCILMAN KENNEY: Would it be
18 helpful that there was a requirement that
19 the police had a different designation,
20 like SDV or something, suspected domestic
21 violence, when they arrive at the scene
22 so that when a judge or a landlord-tenant
23 officer sees this report from the police
24 that 50 times were there last year, it's
25 all SDV, I mean, it does mitigate the

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2 landlord's position that this person
3 should be evicted, not just loud music
4 and parties and drug use and fights, but
5 that suspected domestic violence
6 designation on the premise history would
7 go a long way in kind of identifying the
8 victim as opposed to allowing the Police
9 Department information to be the reason
10 why she's evicted in the first place.

11 Does that make -- I mean,
12 through your continued testimony, if you
13 just address that, because I'd be
14 interested in knowing your opinion.

15 MS. CALLAHAN: I can also let
16 you know that right now the police do
17 actually use a specific domestic violence
18 report form. So when they go out and
19 suspect domestic violence, this report is
20 very clear that it is domestic violence.
21 And I think it would be helpful if that
22 then transferred over to the
23 landlord-tenant court to show the premise
24 history.

25 COUNCILMAN KENNEY: Okay.

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2 Thank you.

3 COUNCILMAN GREENLEE: Thank
4 you. Thank you, Councilman.

5 Phil, I have you down next, if
6 you'd like to go.

7 MR. LORD: Thank you, and thank
8 you for the opportunity to testify today.
9 I'm here on behalf of the Tenant Union
10 Representative Network, or TURN. As you
11 know, TURN is a housing service advocacy
12 organization which provides counseling
13 and workshops. And so we see people who
14 are in need of rental assistance,
15 sometimes they're trying to get their
16 deposit money to move and relocate, or
17 they're being evicted. And so we see
18 people who are in this desperate
19 situation all the time.

20 One of the main problems is
21 that they don't tell us that they're in
22 this situation. They're often humiliated
23 and ashamed by it, and so we have to ask
24 them what's going on so we can give them
25 more help. But usually they just say, I

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2 need another place to stay. But if you
3 see someone else was on the lease and
4 they're not mentioning that person or
5 they have to move very quickly, you get
6 the impression that you should ask more
7 questions. And we do that and find out
8 that people are in often a desperate
9 situation, and we think this bill is
10 going to make a big difference.

11 We have our written testimony.

12 I just wanted to highlight a couple of
13 things. First of all, probably most
14 importantly for me, this bill is already
15 in effect. It's been in effect since
16 2005 in federally subsidized housing.
17 The idea it's going to create a lot of
18 problems and be extraordinary to prevent
19 this kind of discrimination, we already
20 had experience here in Philadelphia,
21 because it's in effect for a long time
22 and, of course, as the Councilman stated,
23 in 22 other states as well.

24 There are three aspects to this
25 bill, and I think they're not really

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2 controversial, except for one perhaps.

3 Non-discrimination, early termination and

4 bifurcation. The bifurcation part is

5 voluntary. So that means the landlord

6 and the tenant agree that the lease

7 should be split so that the perpetrator

8 is off the lease. It gets the

9 perpetrator out of the picture, it gets

10 the tenant more stabilized. They don't

11 have the person coming back and saying,

12 I'm on the lease, I have financial

13 interest in this property. So it's good

14 for everybody. It's a win-win as far as

15 we're concerned.

16 The non-discrimination

17 obviously is common sense. You don't

18 want people who are running for their

19 lives to be told they can't get a place

20 because they've been a victim of

21 violence. We don't want a society like

22 that. I don't think anybody is

23 advocating for that. And so I think

24 that's pretty clear as well, that not

25 discriminating against domestic violence

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2 victims is important. We don't want to
3 let that happen. We don't want them to
4 be treated differently. As you heard
5 already and other people in the units, we
6 don't want friendly relations with the
7 perpetrator to create situations for them
8 that cause bias. So non-discrimination
9 against domestic violence victims is not
10 a serious issue in terms of being
11 controversial.

12 The last -- early termination,
13 we have to put that in perspective.
14 First of all, it doesn't mean very much
15 if there's a month-to-month lease,
16 because in fact you can terminate a
17 month-to-month lease with very little
18 notice anyway. So early termination is
19 only an issue for long-term leases. And
20 someone say, well, suppose someone
21 pretends to be a domestic violence victim
22 in order to terminate a long-term lease.
23 As you heard today, it's a very, very
24 difficult, humiliating situation. People
25 will not pretend to do that. We don't

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2 expect that to happen. There are very
3 few cases where even landlords go to
4 court to sue for future rents or
5 unaccrued rents or long-term leases.
6 What happens most often is what you heard
7 today, and, that is, that it damages the
8 credit report. And so the person who is
9 trying to re-stabilize in a new situation
10 is unable to do that because someone is
11 saying that they owed money, even when
12 they show it doesn't happen.

13 And keep in mind too that
14 landlords are obligated to mitigate
15 damages, which means they're obligated to
16 re-rent the place if they can. So if the
17 place is vacant for a couple of months
18 because someone left, then that's the
19 level of damage we're talking about here.
20 We're not talking about something bigger
21 than that. Here we're talking about a
22 situation where someone doesn't wind up
23 leaving and then gets sued for rent and
24 says, Oh, I was a domestic violence
25 victim. The victim has to say up front

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2 and 30 days before they leave that they
3 are a victim and have documentation of
4 it. So the landlord has notice that
5 something is going to happen. This is
6 better than someone running out in the
7 middle of the night because they're
8 scared for their lives. It's a better
9 system for landlords, we believe, and for
10 tenants and for society as a whole.

11 So we hope you support this
12 bill. We think it's really important to
13 extend these protections to the 90
14 percent of tenants in the City who don't
15 have it right now.

16 Thank you.

17 COUNCILMAN GREENLEE: Thank
18 you, Mr. Lord, and I think it's
19 particularly -- the last part that you
20 talked about, about the fraud, because
21 every once in a while, you get that
22 concern. A landlord who is a friend of
23 mine -- so I won't mention her name --
24 said to me that that was her concern.
25 But I think you know, and I saw it with

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2 the bill that I referenced early about
3 the getting leave from employment for
4 victims of domestic violence, people
5 don't think that. I'm not saying there
6 will never be anybody in the history of
7 the City that might, but that just isn't
8 something women do. In fact, oftentimes
9 the problem is they don't report it; am I
10 right?

11 So, I mean, that -- so the
12 concern that there's going to be this
13 fraud I think -- I just think is
14 unfounded. And I always point this out.
15 Back then, the Administration and the
16 Chamber opposed the employment bill, and
17 I check all the time to see has there
18 been -- and one of it was they were
19 concerned about fraud, and I check all
20 the time, and so far, I've not heard one
21 complaint that people have faked domestic
22 violence so that they could get off from
23 work. Not one time. And, again, as you
24 said, there's documentation involved, so
25 you just can't say this happened. You

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2 have to prove it.

3 So I think that that is a
4 concern that should really be put to
5 rest.

6 MR. LORD: If I could just add,
7 not just documentation, there's got to be
8 a court hearing before in fact a landlord
9 can say, I want the future rents. So a
10 judge can see those papers and everything
11 else.

12 So it's not an easy thing to
13 get around. Any kind of fraud or perjury
14 is something that you can't plan on
15 having.

16 COUNCILMAN GREENLEE: Any other
17 questions for Mr. Lord?

18 (No response.)

19 COUNCILMAN GREENLEE: Thank
20 you.

21 Ms. Garland.

22 MS. GARLAND: Good morning,
23 Councilman. My name is Rachel Garland
24 and I'm a housing attorney at Community
25 Legal Services. For the past four years,

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2 I've been representing subsidized housing
3 tenants either living in public housing
4 or Section 8 voucher housing under the
5 Violence Against Women Act, which has
6 these protections for subsidized tenants.
7 This bill has proven very powerful in
8 helping both landlords and tenants
9 mitigate the damages that can be caused
10 to property as well as to the family when
11 domestic violence occurs. I support this
12 bill because I believe that it will
13 extend these protections to private
14 housing tenants as well, just as it has
15 done in 22 other states before us.

16 I believe that this bill is
17 powerful because it provides a mechanism
18 so that the landlords will have certainty
19 as to what is happening and what their
20 options are going forward. It will also
21 provide tenants who are victims with
22 options that they can discuss with their
23 landlord and the framework in which to
24 have that conversation. As we heard the
25 victims testify earlier, it's often hard

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2 to know how to approach the situation and
3 what your options are. So by laying it
4 out, it will help both sides work
5 together to figure out what is the best
6 solution for both of them.

7 We were able to meet with
8 Christine Young-Gertz of the Apartment
9 Association of Greater Philadelphia
10 through Councilman Greenlee's office two
11 weeks ago. We went through the bill with
12 her. We made some changes to the bill in
13 response to her concerns, and we are
14 pleased to announce that we do have their
15 support for this important bill.

16 We thank you for this hearing
17 today and for the opportunity to provide
18 testimony on why we believe this bill is
19 very important.

20 Thank you.

21 COUNCILMAN GREENLEE: Thank
22 you. And I'm glad you mentioned about
23 the Apartment Association. They were the
24 only group that actually got in touch
25 with us, raised some concerns, and I

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2 think we addressed them. And I got an
3 e-mail from Ms. Young that she couldn't
4 come here herself because she's in
5 Harrisburg, but she supports the bill.

6 Yes, George.

7 MR. GOULD: If I could,
8 Councilman Greenlee, I just had a couple
9 very quick comments --

10 COUNCILMAN GREENLEE: Just
11 identify yourself. We all know you, but
12 just for formality.

13 MR. GOULD: I just wanted to
14 say how impressive the testimony was of
15 the victims of domestic violence. I
16 believe the time has really come for this
17 bill.

18 And, secondly, I wanted to
19 thank you for your leadership on the
20 issue, on other bills, on this bill, and
21 the Committee for taking this up. It's
22 just an incredibly important issue, as
23 you heard from the folks who testified
24 and many other victims in the City. So
25 thank you.

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2 COUNCILMAN GREENLEE: Thank
3 you. And thank you all, because I know
4 you did a lot of work on this and I
5 appreciate all your expertise.

6 Any questions or comments?

7 (No response.)

8 COUNCILMAN GREENLEE: Thank you
9 all very much.

10 (Thank you.)

11 COUNCILMAN GREENLEE: That is
12 the list of witnesses I have for this
13 bill. Is there anyone else here who
14 wishes to testify on this particular
15 bill?

16 (No response.)

17 COUNCILMAN GREENLEE: Seeing
18 none, Ms. Marconi, could you please call
19 up the next bill before us.

20 THE CLERK: Bill No. 110556, an
21 ordinance amending Chapter 20-1200 of The
22 Philadelphia Code, entitled "Lobbying,"
23 by modifying certain definitions,
24 provisions, and exemptions, all under
25 certain terms and conditions.

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2 COUNCILMAN GREENLEE: Thank
3 you.

4 The first witness I have is the
5 Ethics Board.

6 (Witness approached witness
7 table.)

8 COUNCILMAN GREENLEE: Good
9 morning.

10 MR. CREAMER: Good morning. Do
11 you have copies of my testimony?

12 COUNCILMAN GREENLEE: It's in
13 the packet here, yes. Yes.

14 MR. CREAMER: Oh, great.

15 Good morning. My name is Shane
16 Creamer. I'm the Executive Director of
17 the Philadelphia Board of Ethics. Thank
18 you for this opportunity to speak on Bill
19 110556 being heard today by the Committee
20 on Law and Government.

21 Landmark legislation was
22 enacted by City Council and signed by
23 Mayor Nutter in June 2010 to create the
24 City's first Lobbying Code in Chapter
25 20-1200. The law requires those who

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2 lobby and their clients to register and
3 report their activity and, most
4 important, requires that the information
5 be made accessible to citizens. The
6 Ethics Board is responsible for
7 administering, interpreting and enforcing
8 the new law.

9 Bill 110556 contains amendments
10 to the new Lobbying Code, and these
11 amendments are directly connected to the
12 Board of Ethics' work to implement the
13 new Code. In general, Bill 110556
14 improves the Lobbying Code by clarifying
15 the definition of "lobbying," expanding
16 the list of exempt communications and
17 creating an incentive for lobbyists and
18 principals to file accurate disclosures
19 and to promptly correct mistakes, to
20 mention just a few of the proposed
21 changes to the Code.

22 As Council considers the
23 proposed changes to the Code, it is
24 important to recognize that the new
25 Lobbying Code has not yet been

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2 implemented and that it is not
3 self-executing, because Section 20-1210
4 of the Lobbying Code requires the Board
5 to promulgate a regulation. In addition,
6 the law requires the City to create an
7 electronic filing system and database
8 that can be searched by the public on the
9 City's website. Pursuant to the law's
10 mandates, our staff presented the first
11 draft of Regulation No. 9 on lobbying to
12 the Board this past May after spending
13 months reviewing the new law and laws and
14 regulations in other jurisdictions, in
15 addition to the Pennsylvania law.
16 Simultaneously, our staff have worked
17 closely with the Division of Technology
18 and its vendor to design the required
19 software.

20 Many of the amendments in Bill
21 110556 have their genesis in the
22 extensive public comments the Board
23 received at its June 15th hearing on
24 Regulation No. 9. These concerns were
25 addressed in the version of Regulation

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2 No. 9 that the Board approved on
3 September 21st. Between the June 15th
4 public hearing and September 21st, our
5 staff consulted with City Council staff,
6 shared proposed changes to the Regulation
7 and received feedback. Many of these
8 proposed changes to the Regulation have
9 been incorporated in some form in Bill
10 110556. This cooperation with Council
11 staff continues a collaboration that
12 began more than a year ago with the
13 Board's campaign finance and political
14 activity regulations. We hope to
15 continue this productive working
16 relationship in the future.

17 Rather than addressing each and
18 every proposed change to the Code in Bill
19 110556, I will highlight what we consider
20 to be some of the more significant
21 improvements.

22 First, clarification of the
23 scope of "administrative action." The
24 new Code requires reporting of lobbying
25 to influence both legislative activity

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2 and administrative actions of City
3 government. The definition of
4 "administrative action" in the Code
5 includes a wide range of government
6 activity.

7 Concerns were raised in public
8 comments received by the Board that the
9 Code's broad definition of
10 "administrative action" might sweep
11 citizens' everyday interactions with City
12 government into the realm of reportable
13 lobbying activity. For example, the
14 definition of "administrative action"
15 includes any determination with respect
16 to improvement of real property subject
17 to City regulation. There is a vast
18 difference between my individual
19 application for a building permit to add
20 a deck to my house and the effort by a
21 lobbyist to convince a City regulatory
22 agency that the safety standards for
23 decks should be changed. The Board does
24 not believe that the lobbying law was
25 intended to capture information about the

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2 former, but recognizes a real public
3 interest in the latter.

4 Several of the modifications to
5 Regulation No. 9 approved by the Board on
6 September 21st were therefore designed to
7 clarify the types of conduct that rise to
8 the level of lobbying. To narrow the
9 scope of "administrative action," the
10 Board added interpretive text to the
11 definition of "lobbying" to carve out
12 those transactions that were never
13 intended to be reported under the Code.
14 For further clarity, examples of
15 non-lobbying transactions were added to
16 Regulation No. 9 to reinforce this
17 interpretation.

18 The Board supports the
19 incorporation of this interpretation into
20 the lobbying law with identical
21 amendments to Sections 20-1201(18) and
22 20-1204(13) of the Lobbying Code.

23 In a similar fashion, Bill
24 110556 amends Section 20-1204 of the
25 Lobbying Code to add an exemption from

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2 lobbying registration and reporting for
3 "communication with a City official or
4 employee on a routine, ministerial
5 matter." The purpose of this amendment,
6 which the Board supports and is included
7 in Regulation No. 9, is to clarify the
8 types of communications with City
9 government that are not reportable
10 lobbying activity.

11 Two, exemption from gift
12 reporting for City officials who attend
13 receptions in an official capacity.
14 Several public commenters at the Board's
15 June 15th hearing explained that City
16 officials frequently attend events in an
17 official capacity, but that they are not
18 asked to pay for food and beverage or to
19 pay to attend the event. Without
20 modification, the Lobbying Code could be
21 interpreted to require an official's
22 attendance at a reception and food or
23 beverages they might consume to be
24 reported as gifts on lobbying expense
25 reports.

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2 The Board recognizes that an
3 official's attendance at a reception in
4 an official capacity is not intended and
5 is not the same as a personal gift to a
6 City official or employee, and that
7 officials and employees consider
8 attendance at these receptions to be
9 within the scope of their work and
10 official responsibilities. Similarly,
11 food and beverages at such receptions are
12 incidental to the event.

13 The Board did not have an
14 opportunity to consider this proposed
15 exemption for receptions. However, I
16 believe that the amendment to Section
17 20-1203(2)(i) that would create an
18 exemption from gift reporting
19 requirements for City officials who
20 attend receptions in their official
21 capacity is a reasonable addition to the
22 law.

23 Three, exemption for lobbying
24 by government officials. Section
25 20-1204(7) of the Lobbying Code

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2 specifically exempts a "City official who
3 acts in an official capacity" from
4 registration and reporting under the law.
5 Bill 110556 expands the exemption in
6 Section 20-1204(7) to include state,
7 local and federal government officials
8 and employees. The Board supports this
9 amendment as reasonable and necessary.

10 Four, definition of "agency."
11 Efforts to include administrative actions
12 of a City agency may be reportable under
13 the Lobbying Code. Proposed Regulation
14 No. 9 elicited public comments that the
15 definition of "agency" required further
16 clarification of the entities that are
17 agencies for the purpose of the Lobbying
18 Code.

19 Bill 110556 would expand the
20 definition of "agency" at Section
21 20-1201(3) to include any "City-related
22 agency," as defined in Section 17-1401(9)
23 that is not subject to the state Lobbying
24 Code. We believe that this definition
25 will require further clarification in the

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2 near future.

3 After submitting my testimony
4 this morning, I received a revision to
5 this provision in Bill 110556. The
6 changes in today's draft would not affect
7 my testimony.

8 No. 5, safe harbor for certain
9 material misstatements and omissions.
10 Section 20-1205(8)(a)(xi) of the Lobbying
11 Code provides that it is unlawful to
12 "make material misstatements or omissions
13 on a registration statement or expense
14 report filed with the Board." The Board
15 believes that it is good public policy to
16 encourage amendments to registrations and
17 expense reports when errors are
18 discovered by lobbyists, firms and
19 principals. It therefore considered
20 addition of a "safe harbor" provision to
21 Regulation No. 9 to permit correction of
22 material misstates or omissions without
23 penalty in certain circumstances, but
24 decided to defer adding a "safe harbor"
25 provision pending these amendments to the

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2 Code.

3 The Board supports the
4 amendment to Section 20-1205(8)(a)(xi) of
5 the City Code in Bill No. 110556 to
6 include a "safe harbor" provision. As
7 drafted, the amendment provides an
8 incentive for lobbyists, firms and
9 principals to self-correct registrations
10 and expense reports that have been filed
11 with the Board. However, it
12 appropriately limits the "safe harbor" in
13 two ways: the correction must be filed
14 within 15 days of learning of the
15 misstatement or omission, and the "safe
16 harbor" does not apply if the correction
17 is made because the filer learned of the
18 error from the Board.

19 Six, expansion of persons who
20 can request advice from the Board. The
21 Lobbying Code grants authority to the
22 Board of Ethics at Section 20-1206(2) to
23 provide advisory opinions to a "lobbyist,
24 lobbying firm or principal" about
25 compliance with the Code. However, as

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2 noted by a public commenter on June 15th,
3 the Code does not mention that other
4 persons or entities may ask whether they
5 are required to register or file expense
6 reports under the law. Bill 110556 would
7 correct this limitation. The Board
8 supports the proposed amendment to
9 Section 20-1206(2), which was also
10 included in Regulation No. 9.

11 Seven, changing terminology to
12 "engaging in lobbying." Bill 110556
13 modifies the general rule at Section
14 20-1202(1) that triggers registration by
15 lobbyists, lobbying firms and principals
16 to substitute the phrase "engaging in
17 lobbying" for, quote, "acting in any
18 capacity as a lobbyist, lobbying firm or
19 principal," close quote. The Board
20 supports this change and expects that it
21 will be called upon to provide advice to
22 clarify what activity constitutes
23 "engaging in lobbying."

24 That concludes my testimony.
25 I'd be happy to answer any questions you

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2 may have.

3 COUNCILMAN GREENLEE:

4 Councilman Kenney.

5 COUNCILMAN KENNEY: Thank you.

6 As far as this whole issue of
7 receptions and food served at receptions,
8 I understand the amendment does tighten
9 it up and clarify it, but I want to give
10 you an example of something that was
11 highly critical a number of years ago at
12 the opening of the Kimmel Center when
13 City Councilmembers were invited, along
14 with state officials and others, and
15 Elton John was the concert, and there was
16 a terrible coverage for a few days
17 afterwards about how bad that was.

18 I mean, give me your opinion of
19 the opening of a major cultural venue in
20 the City and being invited as ex-officio
21 and attending. I mean, how does that --
22 if you had to interpret that event after
23 this bill is passed and the rules are
24 promulgated, what would be your --

25 MR. CREAMER: That's a

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2 challenging issue, and I think that
3 "reception" needs further clarification
4 by regulation, which we can do by
5 amending Regulation No. 9, and we will
6 get to that.

7 I think it's helpful to look at
8 the state regulation, which does define
9 "reception." And if I may read it, it
10 says, "Reception is an event attended by
11 invited state officials or state
12 employees that is hosted by a registered
13 lobbyist, lobbying firm or principal in
14 which items such as appetizers, beverages
15 or light fare are served for afternoon or
16 evening events and items such as coffee,
17 juice, pastries or bagels are served for
18 morning events." And this is important.
19 "A related hospitality event will not be
20 considered or included as part of a
21 reception."

22 So if there is a reception at
23 the Kimmel Center for its opening where
24 there's light fare and beverages, those
25 things are not reportable expenses as

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2 gifts. However, the related hospitality
3 event, the Elton John concert, would be a
4 reportable gift. So the value of
5 attending that concert would be a
6 reportable gift expense under the state
7 interpretation, I believe, which I think
8 is probably the direction that the Board
9 would go in. I can't speak for the Board
10 because we haven't considered this
11 exception yet, but I think that would be
12 my recommendation.

13 COUNCILMAN KENNEY: I mean,
14 again, I don't want to belabor this whole
15 example, but it becomes somewhat
16 subjective relative to light fare
17 versus -- you get over a certain like
18 ounce of food? I mean, I don't know
19 where light fare and heavy fare come in
20 and how many drinks is too many drinks,
21 like for some people the number varies.

22 MR. CREAMER: I agree. I think
23 it's very hard no matter what you do
24 here, because if you don't have this
25 exception, theoretically someone will

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2 have to -- let's say you have a reception
3 at the Pennsylvania Society, and many law
4 firms, businesses, unions have rooms
5 where people wander in and wander out and
6 they have buffets set up and bars set up.
7 If you don't have an exception like this
8 that probably applies to those kinds of
9 events, you would literally have to have
10 someone follow the Mayor or
11 Councilmembers around writing down what
12 food they picked up, what drinks they had
13 and trying to calculate the value of that
14 so they can report it in their expense
15 report.

16 COUNCILMAN KENNEY: But if in
17 that event at the Pennsylvania Society
18 you go there and you're entertained but
19 there's no discussion of legislation or
20 business or policy, how is that a
21 lobbying event?

22 MR. CREAMER: It's not a
23 lobbying event. The trigger is whether
24 it is held by, under the state
25 regulation -- again, the definition we're

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2 working with is under the state
3 regulation -- if the event is hosted by a
4 registered lobbyist, lobbying firm or
5 principal. So it has to be -- first, it
6 has to be held by someone who is in the
7 system who is reporting.

8 COUNCILMAN KENNEY: So an
9 institution like Temple University or
10 University of Pennsylvania would not --

11 MR. CREAMER: Well, no. They
12 probably are going to be a registered
13 principal.

14 COUNCILMAN KENNEY: But at the
15 Temple breakfast on Sunday morning, if
16 there's no discussion of --

17 MR. CREAMER: That doesn't
18 matter.

19 COUNCILMAN KENNEY: The only
20 thing you talk about is the bacon and
21 eggs.

22 MR. CREAMER: That doesn't
23 matter. And the amendment to this bill
24 that creates this exception also states
25 that if there's any lobbying that occurs

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2 at the event, that that is reportable.

3 So I think that the amendment anticipates
4 that there will be receptions where
5 officials are attending in their official
6 capacity. There is incidental food and
7 beverage at these events and the
8 officials are not being asked to pay for
9 attending the event or for the food or
10 beverage. They are not lobbying events
11 per se. Lobbying may or may not occur at
12 it, but what it does is it excludes
13 these, I think, de minimis values of
14 attending the reception and the food and
15 beverage values from reporting.

16 COUNCILMAN KENNEY: But the
17 Board, in its analysis of any particular
18 complaint or any problem, would take into
19 consideration the de minimis value of
20 what was offered, or would that matter or
21 not at all?

22 MR. CREAMER: I think it
23 would -- I threw out de minimis there,
24 and that's not in the state regulation.
25 I don't know whether that's something

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2 that we would consider in our regulation
3 or not, but I think we'd look very
4 carefully at the state regulation. I
5 think they're very, very careful the way
6 they break out different types of food
7 and beverage in the evening and afternoon
8 versus morning.

9 COUNCILMAN KENNEY: It's like a
10 restaurant menu.

11 MR. CREAMER: Exactly. So I
12 think if you're getting into a sit-down
13 dinner and it's at Le Bec-Fin and you're
14 ordering from the menu, I think that
15 takes you out of "reception" under the
16 state regulation.

17 COUNCILMAN KENNEY: I just
18 wanted to ask your opinion on that.

19 COUNCILMAN GREENLEE:
20 Councilman Green.

21 COUNCILMAN GREEN: Thank you,
22 Mr. Chairman.

23 I do want to respond to some of
24 that colloquy, but before I do, I want to
25 thank you and your staff for the hard

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2 work that you've done on this issue since
3 June 2010 when we originally discussed
4 this. You worked hard to promulgate
5 regulations, which you received many
6 comments on. The comments were useful,
7 involved many stakeholders, and I think
8 as you stated, the Regulation No. 9
9 really is most of what these amendments
10 are. And the reason that we amended the
11 law rather than allowing it to be done by
12 regulation is, of course, that some
13 things can't be done by regulation if the
14 law is contrary, and we felt we didn't
15 want to set a precedent of doing things
16 by regulation that are required by law.
17 So we appreciate you working with us on
18 that, and your staff did a lot of hard
19 work and --

20 MR. CREAMER: Thank you.

21 COUNCILMAN GREEN: -- so did my
22 Chief of Staff, Sophie Bryan, and we too
23 hope to continue the good working
24 relationship that we have.

25 With respect to that colloquy,

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2 I would say -- and I want to state this
3 for the record -- I think the language in
4 this bill, it would be -- my colleagues
5 can disagree with me if they wish. It
6 would be the intent of this bill that a
7 Temple breakfast, for example, after the
8 Pennsylvania Society is a reception that
9 would be excluded, because a ton of
10 people are invited and there is no -- as
11 long as there is no direct lobbying of
12 that public official at that event on an
13 issue of Temple, I think it would be
14 caught within the exception and no
15 reporting by Temple would be required at
16 that event. And so no matter whether we
17 were served -- no matter what was served
18 for breakfast, I would say that it would
19 be the intent of this bill to exclude
20 that.

21 Also, I think the City Council
22 does not intend for this to be a strict
23 liability offense. In other words, the
24 person lobbying must intend to lobby in
25 order for there to be lobbying activity

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2 that is reportable. And so I just wanted
3 to state that for the record also.

4 Thank you for your testimony.

5 MR. CREAMER: Thank you.

6 COUNCILMAN GREENLEE: Any other
7 questions or comments?

8 (No response.)

9 COUNCILMAN GREENLEE: Thank
10 you.

11 Mr. Garcia, please, the Bar
12 Association.

13 (Witnesses approached witness
14 table.)

15 COUNCILMAN GREENLEE: Good
16 morning.

17 MR. GARCIA: Good morning.

18 COUNCILMAN GREENLEE: Please
19 identify yourself for the record and
20 proceed, please.

21 MR. GARCIA: Yes. My name is
22 Rudy Garcia. I'm Chancellor of the
23 Philadelphia Bar Association. I'm joined
24 this morning -- still morning, yes -- by
25 our Executive Director, Ken Shear.

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2 Good morning, Chairman Greenlee
3 and members of the Committee on Law and
4 Government. As Chancellor of the
5 Philadelphia Bar, I'm the primary
6 spokesperson for approximately 13,000
7 Philadelphia lawyers and judges. The
8 Philadelphia Bar Association is the
9 oldest association of lawyers in the
10 United States, and for centuries we
11 promoted justice, professional excellence
12 and respect for the rule of law.

13 In addition to serving our
14 members and the courts, we also consider
15 public service to be a core part of our
16 mission. For example, through the
17 organizations we support at about 3,000
18 volunteers at private firms, Philadelphia
19 lawyers handle 50,000 cases a year for
20 free for people struggling with poverty,
21 abuse and discrimination. We also speak
22 out on issues affecting the law or our
23 profession, as we did when the
24 Philadelphia Board of Ethics proposed its
25 first draft of regulations on the City's

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2 lobbying ordinance. Since then, we've
3 met with various staff members of both
4 the Board and City Council to further
5 explain our concerns and to suggest
6 potential solutions. This collaborative
7 process has led to substantial changes to
8 the regulations and to today's
9 consideration of proposed amendments to
10 the ordinance itself. And what I'm
11 addressing today would include the
12 additional revisions that Councilman Bill
13 Green has suggested to the version of the
14 ordinance that was originally published
15 with the notice.

16 In our view, in combination,
17 these changes to both the ordinance and
18 the Regulation are a tremendous
19 improvement over the previous version.
20 The most important issues, from our
21 standpoint, have been resolved in a way
22 that makes sense for everyone. For
23 example, it's now clear that the
24 ordinance does not cover the practice of
25 law or routine contacts with City

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2 government as opposed to actual lobbying.

3 So I'm here today to support
4 the proposed amendments and to thank you
5 for addressing our concerns. In
6 particular, I'd like to acknowledge
7 Sophie Bryan of Councilman Green's
8 office, Derek Green of Councilwoman
9 Tasco's office and Shane Creamer, Evan
10 Meyer and Nedda Massar at the Ethics
11 Board, all of whom worked very hard
12 together to get this right. They didn't
13 always agree with us, but they always
14 listened to our suggestions, fairly
15 considered them, and they came up with
16 many great suggestions on their own.

17 So in our view, this process
18 was City government at its best. It was
19 very impressive to me personally that
20 everyone pulled together this way to get
21 this thing right, and as revised, it will
22 serve the intended purpose without all of
23 the unintended negative consequences that
24 were there in the previous versions.

25 So we hope our input was

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2 helpful and we hope that you'll call on
3 us again if we can assist you in any
4 other way. And I'm really just here to
5 express our thanks and support for this
6 as it's been reshaped, and I'd be happy
7 to answer any questions you may have.

8 COUNCILMAN GREENLEE: Thank
9 you, Mr. Garcia.

10 Councilman Kenney.

11 COUNCILMAN KENNEY: Thank you.
12 Thank you, Mr. Chairman.

13 Chairman Garcia, the practice
14 of the law has changed, kind of evolved
15 over the last couple decades where law
16 firms and lawyers were representing
17 specific clients. Larger law firms and
18 even medium-sized law firms now are
19 developing what are called Government
20 Affairs, Government Relations Departments
21 or centers. I recognize that probably
22 the Supreme Court regulation and state
23 law eliminates you guys from any of this
24 stuff in reality, but isn't that more not
25 a direct lobbying effort as opposed to

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2 representing a client in the traditional
3 way a lawyer represents a client? I
4 mean, you go out and solicit companies or
5 are called on when an issue comes before
6 a legislative body, like something that's
7 introduced by -- recommended by the
8 Mayor, introduced here in Council. Those
9 larger firms then go out and solicit
10 those companies to take their
11 representation.

12 What's the difference between a
13 lobbyist and a lawyer lobbyist?

14 MR. GARCIA: Yes. My firm, for
15 example, does have a substantial
16 Government Relations practice. Those
17 people are lobbyists. They would
18 register. What they're doing is not the
19 practice of law.

20 COUNCILMAN KENNEY: So what
21 you're saying is that all of those
22 lawyers or all of those folks, if they're
23 not lawyers, they have to register, but
24 if they're lawyers working in that
25 department, they all would be registered

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2 lobbyists?

3 MR. GARCIA: Yeah. I think
4 that the solution that was arrived at
5 here is not to look at it in terms of
6 whether someone is a lawyer or not, but
7 to look at it in terms of whether what
8 you're doing is practicing law or
9 lobbying. And if it's lobbying, it
10 should be regulated, in our view, whether
11 you're a lawyer or not.

12 COUNCILMAN KENNEY: Is there an
13 argument that a lobbying lawyer could
14 make to say that he or she is not bound
15 by this proposed lobbying law or
16 regulation, but it comes under the
17 authority of the Supreme Court and that
18 they're somewhat shielded from that?

19 MR. GARCIA: The constitutional
20 provision that was called into question
21 with the initial version of this is
22 something that gives the exclusive
23 authority to the Supreme Court of
24 Pennsylvania to regulate the practice of
25 law. It doesn't say nobody can regulate

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2 lawyers when they're doing something
3 else.

4 So by approaching it this way,
5 we think it passes muster under the
6 Constitution, as long as you're not
7 intruding upon the actual practice of
8 law.

9 COUNCILMAN KENNEY: Do you
10 expect -- I know this is just
11 prospectively. Would you expect that
12 someone would challenge that assertion
13 and say, We disagree, this is the
14 practice of law and this is our client
15 and we don't feel that we need to
16 register?

17 MR. GARCIA: I can't predict
18 the future, but I hope that that would be
19 unlikely, because I think the way it's
20 restructured now it's pretty clear that
21 doing the things that lawyers do when
22 they're representing clients where the
23 client has an interest in a matter are
24 not covered by this and that it's only
25 when you're advocating some policy change

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2 that you would be covered by this. I
3 think the line is pretty clear now.

4 COUNCILMAN KENNEY: Okay.

5 Thank you.

6 COUNCILMAN GREENLEE: Thank
7 you.

8 Any other questions or
9 comments?

10 (No response.)

11 COUNCILMAN GREENLEE:
12 Gentlemen, thank you very much.

13 MR. GARCIA: Thank you.

14 COUNCILMAN GREENLEE: Our last
15 witness on the list is Committee of
16 Seventy.

17 (Witness approached witness
18 table.)

19 MS. KAPLAN: Good morning. I'm
20 Ellen Mattleman Kaplan, Vice-President
21 and Policy Director of the Committee of
22 Seventy. First, I just want to thank
23 Councilmember Tasco and Green and
24 especially Sophie Bryan and Derek Green
25 for what has really been a tremendously

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2 collaborative effort involving a lot of
3 people in this room, and I think the
4 ordinance and the regulations are a
5 result of that collaboration.

6 I saw when I came in this
7 morning that the recommendation that I
8 had, to include the Philadelphia School
9 District and the School Reform
10 Commission, had already been added. So I
11 was pleased to see that.

12 And on the question that
13 Councilman Kenney raised about
14 Pennsylvania Society and what constitutes
15 a reception, I know that the Board of
16 Ethics has issued an opinion in the past
17 specifically about participation in the
18 Pennsylvania Society, and that, of
19 course, was before this lobbyist
20 ordinance, and I believe that there are
21 going to be a lot of people who are going
22 to be asking similar questions that you
23 asked today. So I might just say
24 publicly that I hope that the Board of
25 Ethics will proactively address this,

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2 because otherwise I think they're going
3 to get a lot of requests for advice on
4 that topic.

5 And, finally, I just want to
6 once again urge City government to
7 provide the Board of Ethics with the
8 additional \$130,000 it has asked for in
9 order to successfully implement this
10 lobbying ordinance. If they can't do the
11 job that you expect them to do and that
12 you've given them to do, it would be very
13 disappointing I think to all of us in
14 this room.

15 So, again, my thanks for all
16 this hard work. This is a great
17 achievement to have this city's first law
18 regulating lobbyists.

19 COUNCILMAN GREENLEE:

20 Councilman Goode.

21 COUNCILMAN GOODE: Thank you,
22 Mr. Chairman.

23 Good morning, Ms. Kaplan.

24 MS. KAPLAN: Good morning.

25 COUNCILMAN GOODE: Does the

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2 Committee of Seventy have a policy
3 position on whether the School District
4 should be returned to local control?

5 MS. KAPLAN: No, we do not have
6 an official position.

7 COUNCILMAN GOODE: There is
8 legislation that has been pending in
9 Harrisburg. Does the Committee of
10 Seventy intend to take a position on
11 that?

12 MS. KAPLAN: On the legislation
13 in Harrisburg?

14 COUNCILMAN GOODE: On the
15 general policy. It's not just a question
16 that comes out of nowhere. The issue has
17 been discussed at different levels of
18 government and I think it is a point that
19 needs to be raised even with regard to
20 this amendment. I don't believe under
21 Act 46 that the amendment is probably
22 legally valid, but I actually support
23 local control of the School District, so
24 I will support the amendment.

25 So I'm interested if the

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2 Committee of Seventy is taking a position
3 related to the School District because
4 they believe that it should be returned
5 to local control.

6 MS. KAPLAN: We have formed a
7 public education subcommittee and we are
8 doing research now on the various forms
9 of control of the School District,
10 whether School Reform Commission, an
11 elected School Board, as some people have
12 asked for, or an appointed Board, as we
13 used to have, but we have not taken any
14 position on that question.

15 COUNCILMAN GOODE: So that is
16 forthcoming, though?

17 MS. KAPLAN: But that will be
18 forthcoming.

19 COUNCILMAN GOODE: Thank you.

20 MS. KAPLAN: Sure.

21 COUNCILMAN GREENLEE:
22 Councilman Green.

23 COUNCILMAN GREEN: Thank you.

24 Just I wouldn't want the record
25 to reflect that something might be

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2 illegal in the bill, just in case this
3 ever ends up in litigation. So for the
4 record, we have checked with the Law
5 Department on that provision and all the
6 provisions of this bill, and they believe
7 that it would be enforceable against the
8 School District of Philadelphia and all
9 its employees. The SRC itself obviously
10 would be subject to maybe different
11 criteria.

12 Thank you.

13 COUNCILMAN KENNEY: On that
14 point, Mr. Chairman, on that point,
15 Councilman Green, did the Law Department
16 specifically talk about appointees from
17 the Governor? I can understand the
18 transference from on this bill on mayoral
19 appointees to the SRC, but, again, as you
20 know, there are gubernatorial
21 appointments. Would they come under the
22 state regulations as opposed to
23 Philadelphia ordinances?

24 COUNCILMAN GREEN: Well, this
25 bill was modeled after the state ethics

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2 law, and so it basically mirrors the
3 state ethics law. If the state ethics
4 law applies, the state ethics law will
5 apply to lobbying, and if the local law
6 applies, this law would apply. So under
7 either circumstance -- and I did misspeak
8 slightly. It's not enforceable against
9 the SRC or the School District.

10 Obviously it's enforceable against -- at
11 the state or local level, it's
12 enforceable against anybody who is
13 lobbying them to report to either the
14 City of Philadelphia or the State of
15 Pennsylvania their lobbying activities to
16 that agency.

17 COUNCILMAN KENNEY: Okay.

18 Thank you.

19 COUNCILMAN GREENLEE: Any other
20 questions, comments?

21 (No response.)

22 COUNCILMAN GREENLEE: Is there
23 anyone else here to testify on this bill?

24 (No response.)

25 COUNCILMAN GREENLEE: Seeing

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2 none, that concludes the hearing of the
3 Committee on Law and Government. We'll
4 now go into our public meeting.

5 The Chair recognizes Councilman
6 Kenney regarding the amendment to Bill
7 No. 110498.

8 COUNCILMAN KENNEY: Thank you,
9 Mr. Chairman. I move the amendment to
10 Bill No. 110498 be approved.

11 (Duly seconded.)

12 COUNCILMAN GREENLEE: It's been
13 moved and seconded.

14 All in favor?

15 (Aye.)

16 COUNCILMAN GREENLEE: Opposed?

17 (No response.)

18 COUNCILMAN GREENLEE: Hearing
19 none, the motion carries and the
20 amendment is adopted.

21 Councilman Kenney.

22 COUNCILMAN KENNEY: Thank you,
23 Mr. Chairman. I move that Bill No.
24 110498, as amended, be reported out of
25 this Committee with a favorable

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2 recommendation and a request made for
3 rules suspension to allow first reading
4 at our next Council session.

5 (Duly seconded.)

6 COUNCILMAN GREENLEE: All in
7 favor?

8 (Aye.)

9 COUNCILMAN GREENLEE: Opposed?

10 (No response.)

11 COUNCILMAN GREENLEE: Hearing
12 none, the motion carries and Bill No.
13 110498, as amended, reported out of this
14 Committee with a favorable recommendation
15 and with a rules suspension.

16 The Chair recognizes Councilman
17 Green regarding the amendment to Bill No.
18 110556.

19 COUNCILMAN GREEN: Thank you,
20 Mr. Chairman. I move that the amendment,
21 which has been previously circulated, to
22 Bill No. 110556 be approved by this
23 Committee.

24 (Duly seconded.)

25 COUNCILMAN GREENLEE: It's been

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2 moved and seconded.

3 All in favor?

4 (Aye.)

5 COUNCILMAN GREENLEE: Opposed?

6 (No response.)

7 COUNCILMAN GREENLEE: Hearing
8 none, the motion carries and the
9 amendment to Bill No. 110556 is approved.

10 Councilman Green.

11 COUNCILMAN GREEN: Thank you,
12 Mr. Chairman. I move that Bill No.
13 110556, as amended, be reported from this
14 Committee with a favorable recommendation
15 and with a suspension of the rules so
16 that it may be heard at the next session
17 of Council.

18 (Duly seconded.)

19 COUNCILMAN GREENLEE: It's been
20 moved and seconded.

21 All in favor?

22 (Aye.)

23 COUNCILMAN GREENLEE: Opposed?

24 (No response.)

25 COUNCILMAN GREENLEE: Hearing

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2 none, the motion carries. Bill No.

3 110556, as amended, reported out of this

4 Committee with a favorable recommendation

5 with a rules suspension.

6 There being no further business

7 before this Committee, the meeting is

8 adjourned. Thank you all very much.

9 (Committee on Law and

10 Government concluded at 11:25 a.m.)

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1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on September 28, 2011, and
8 that this is a true and correct transcript of
9 same.

10
11
12
13
14 -----
15 MICHELE L. MURPHY
16 RPR-Notary Public
17
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19

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