

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

MONDAY, JANUARY 28, 1980

Session of 1980

164th of the General Assembly

No. 5

HOUSE OF REPRESENTATIVES

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

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

PRAYER

THE HONORABLE STEVE SEVENIY, member of the House of Representatives and guest chaplain, offered the following prayer:

Heavenly Father, we pray for Your guidance in what we do here this day. May your divine inspiration motivate us to act for the common good of all the citizens in our state. We ask this in the name of Jesus. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

JOURNALS APPROVED

The SPEAKER. Are there any corrections to the Journals of November 27 and 28, 1979?

If not, and without objection, the Journals are approved.

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal for Wednesday, January 23, 1980, will be postponed until printed.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2168 By Representative MANMILLER.

An Act declaring and adopting the song "Pennsylvania," by McLaughlin and Ashton Bright, as the State song of the Commonwealth of Pennsylvania.

Referred to Committee on STATE GOVERNMENT.

No. 2169 By Representatives STAIRS, A. K. HUTCHINSON, PETRARCA, FISCHER, MILLER, CIMINI, TADDONIO, FISHER, POTT, McVERRY, GOEBEL, CESSAR, ZORD, SIEMINSKI, GRUPPO, PETERSON, TELEK, MADIGAN, SALVATORE, BURD, McKELVEY, PERZEL, ROCKS,

MOWERY, A. C. FOSTER, JR., SCHEAFFER, SWIFT AND WENGER.

An Act establishing the Golden Keystone Card Program for senior citizens, and providing for powers and duties of the Secretary of Aging.

Referred to Committee on HEALTH AND WELFARE.

No. 2170 By Representative WENGER.

An Act declaring and adopting the song "Pennsylvania," lyrics by the 1968-1969 fourth grade of the Denver Elementary School, Ruth Douple, instructor, music by Martha Douple Shaak, as the State song of the Commonwealth of Pennsylvania.

Referred to Committee on STATE GOVERNMENT.

No. 2171 By Representatives BURD, STEIGHNER, SPENCER, YOHN, DORR, W. W. FOSTER, DeVERTER, BITTLE, NOYE, FEE, S. E. HAYES, JR., McCALL, McVERRY, TADDONIO, DAWIDA, KNEPPER, CESSAR, GALLEN, ZORD, FISCHER, SCHMITT, WENGER, GOEBEL, MADIGAN, BOWSER, GLADECK, LEVI, POTT, POLITE AND LIVENGOOD.

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), changing the definitions of certain terms.

Referred to Committee on FINANCE.

No. 2172 By Representatives A. K. HUTCHINSON, DeMEDIO, KOLTER, PETRARCA, FEE, SCHMITT, STAIRS, TADDONIO, BURD, STEWART AND KUKOVICH.

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "bus."

Referred to Committee on TRANSPORTATION.

No. 2173 By Representatives A. K. HUTCHINSON, MANDERINO, SCHMITT, PETRARCA, STAIRS, STEWART AND KUKOVICH.

An Act amending "The County Code," approved August 9, 1955 (P. L. 323, No. 130), granting civil service status to all deputy sheriffs in counties of the third class.

Referred to Committee on LOCAL GOVERNMENT.

No. 2174 By Representatives FREIND, RYAN, SALVATORE, DURHAM, GANNON, ARTY, MICOZZIE, KLINGAMAN,

SPITZ, ALDEN, COSLETT,
E. Z. TAYLOR AND HONAMAN.

An Act amending the "Public Welfare Code," approved June 13, 1967 (P. L. 31, No. 21), providing for the automatic assignment of support rights to the Department of Public Welfare by operation of law.

Referred to Committee on HEALTH AND WELFARE.

No. 2175 By Representatives STUBAN, HASAY, COLE, CAPPABIANCA, MILANOVICH, ZELLER, ZITTERMAN, B. D. CLARK, GATSKI, BELARDI, WASS, COSLETT, SCHWEDER AND KOLTER.

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for parking for the handicapped and increasing a penalty.

Referred to Committee on TRANSPORTATION.

No. 2176 By Representatives HONAMAN, FRYER, PICCOLA, DUFFY, ALDEN, GLADECK, BROWN, GALLEN, KOLTER, DININNI, MANMILLER, MOEHLMANN, WENGER, A. C. FOSTER, JR. AND MILLER.

An Act providing for a Statewide emergency telephone number "911" system, establishing the Office of Telecommunication in the Department of General Services and providing for its powers and duties, and making a repeal.

Referred to Committee on STATE GOVERNMENT.

No. 2177 By Representatives SIEMINSKI, BURNS, GALLAGHER AND E. Z. TAYLOR.

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, permitting vestees to purchase credit for nonintervening service.

Referred to Committee on STATE GOVERNMENT.

No. 2178 By Representatives VROON, CORNELL, PITTS AND E. Z. TAYLOR.

An Act amending the "Local Government Unit Debt Act," approved July 12, 1972 (P. L. 781, No. 185), requiring that certain bonds or notes be sold only at public sale.

Referred to Committee on LOCAL GOVERNMENT.

No. 2179 By Representatives J. J. JOHNSON, BARBER, RHODES, SHADDING, OLIVER, WHITE, LIVENGOOD, McINTYRE AND HARPER.

An Act amending the "Liquor Code," approved April 12, 1951 (P. L. 90, No. 21), providing for the closing of State stores on Martin Luther King's birthday and on special election days.

Referred to Committee on LIQUOR CONTROL.

No. 2180 By Representatives ZORD, PETERSON, FISHER, BURD, POTT, AUSTIN, MICHLOVIC, COCHRAN, CHESS, SWIFT, TADDONIO AND CESSAR.

An Act amending the act of May 21, 1937 (P. L. 774, No. 211), referred to as the Pennsylvania Turnpike Commission Act, requiring an emergency telephone along each mile of the Pennsylvania Turnpike and its extensions.

Referred to Committee on TRANSPORTATION.

No. 2181 By Representatives DORR, A. K. HUTCHINSON AND ANDERSON.

An Act amending the "Pennsylvania Cigarette Tax Act," approved July 22, 1970 (P. L. 513, No. 178), changing the cigarette stamping agencies permitted to pay for purchases on a deferred basis.

Referred to Committee on FINANCE.

No. 2182 By Representatives DORR AND A. K. HUTCHINSON.

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), further providing for personal income tax returns and liability.

Referred to Committee on FINANCE.

No. 2183 By Representatives DORR, McCALL, L. E. SMITH, BENNETT, DeVERTER, LIVENGOOD, BURD, KOWALYSHYN AND SERAFINI.

An Act amending the "Business Development Credit Corporation Law," approved December 1, 1959 (P. L. 1647, No. 606), empowering business development credit corporations to loan money for venture capital.

Referred to Committee on BUSINESS AND COMMERCE.

No. 2184 By Representatives SPENCER, BERSON, W. D. HUTCHINSON, PICCOLA AND FISHER.

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the jurisdiction of the Supreme Court of Pennsylvania.

Referred to Committee on JUDICIARY.

LEAVES OF ABSENCE GRANTED

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. Mr. Speaker, I request leaves of absence for Mr. McVERRY for today's session and for Mr. WEIDNER for the week's session.

The SPEAKER. The Chair recognizes the minority whip. Mr. MANDERINO. Mr. Speaker, I request leaves of absence for Messrs. IRVIS, WILLIAMS, RHODES and GIAMMARCO for the week's session.

The SPEAKER. Without objection, leaves are granted.

MASTER ROLL CALL RECORDED

The SPEAKER. The members will please report to the floor. The Chair is about to take the master roll call. Only those members in their seats will be recorded.

The following roll call was recorded:

YEAS—187

Alden	Freind	Lynch, E. R.	Ryan
Anderson	Fryer	McCall	Salvatore
Armstrong	Gallagher	McClatchy	Scheaffer
Arty	Gallen	McIntyre	Schmitt
Austin	Gamble	McKelvey	Schweder
Barber	Gannon	McMonagle	Serafini
Belardi	Gatski	Mackowski	Seventy
Bennett	Geesey	Madigan	Shadding
Berson	Geist	Manderino	Shupnik
Bittle	George, C.	Manmiller	Sieminski
Borski	George, M. H.	Michlovic	Sirianni
Bowser	Gladeck	Micozzie	Smith, E. H.
Brandt	Goebel	Milanovich	Smith, L. E.
Brown	Goodman	Miller	Spencer
Burd	Grabowski	Moehlmann	Spitz
Burns	Gray	Mowery	Stairs
Caltagirone	Greenfield	Mrkonic	Steighner
Cappabianca	Grieco	Mullen	Stewart
Cessar	Gruppo	Murphy	Street
Chess	Halverson	Musto	Stuban
Cimini	Harper	Nahill	Sweet
Clark, B. D.	Hasay	Novak	Swift
Clark, M. R.	Hayes, Jr., S.	Noye	Taddonio
Cochran	Helfrick	O'Brien, B. F.	Taylor, E. Z.
Cohen	Hoefel	O'Brien, D. M.	Taylor, F.
Cole	Honaman	O'Donnell	Telek
Cornell	Hutchinson, A.	Oliver	Thomas
Coslett	Hutchinson, W.	Perzel	Trello
Cowell	Itkin	Peterson	Vroon
Cunningham	Johnson, E. G.	Petrarca	Wachob
DeMedio	Johnson, J. J.	Piccola	Wargo
DeVerter	Jones	Pievsky	Wass
DeWeese	Kanuck	Pistella	Wenger
DiCarlo	Klingaman	Pitts	White
Davies	Knepper	Polite	Wilson
Dawida	Knight	Pott	Wilt
Dietz	Kolter	Pratt	Wright, D. R.
Dininni	Kowalshyn	Pucciarelli	Wright, Jr., J.
Dombrowski	Kukovich	Punt	Yahner
Dorr	Lashinger	Pyles	Yohn
Duffy	Laughlin	Rappaport	Zeller
Durham	Lehr	Reed	Zitterman
Earley	Letterman	Richardson	Zord
Fee	Levi	Rieger	Zwikl
Fischer	Levin	Ritter	
Fisher	Lewis	Rocks	Seltzer,
Foster, W. W.	Livengood	Rodgers	Speaker
Foster, Jr., A.			

NAYS—0

NOT VOTING—9

Beloff	Hayes, D. S.	McVerry	Weidner
Dumas	Irvis	Rhodes	Williams
Giammarco			

The SPEAKER. One hundred eighty-seven members having indicated their presence, a master roll is established.

WELCOME

The SPEAKER. The Chair welcomes to the hall of the House Kimberely Symons, Janet Flynn and Rita Ferrandino, who are here today as the guests of the Berks County delegation.

CALENDAR

SPECIAL ORDER OF BUSINESS

RESOLUTION ADOPTED

Mr. ZWIKL called up **HR 163, PN2728**, entitled:

General Assembly memorialize Congress designate 1980 as "The Year of the Environment".

On the question,

Will the House adopt the resolution?

QUESTION OF INFORMATION

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Wright. For what purpose does the gentleman rise?

Mr. J. L. WRIGHT. I rise to a question of information.

The SPEAKER. The gentlemanman will state it.

Mr. J. L. WRIGHT. May we have some explanation of the voting machines before we vote? I think most of us have figured out how to vote red and green, but we have not figured out how to go neutral, and we do not know what that button on the side of the box is for either.

The SPEAKER. The gentleman from Bucks, Mr. Wright, has asked for an explanation as to the operation of the voting machine. The green is still an "aye" vote; red indicates a "nay" vote. The button on the side of the machine, which the gentleman asked about, is a button that will clear the "yeas" and "nays" and so you will be in neutral. Unfortunately, at this time, there were a number of the switches where the neutral button was not operative, and therefore for this week's purposes all of the buttons have been disconnected for a neutral position. It is anticipated that by next week all of the switches will have been replaced. They have already been ordered from Chicago from the factory. So for this week's voting, green is "yes"; red is "nay."

The Chair recognizes the gentleman from Indiana, Mr. Wass. For what purpose does the gentleman rise?

Mr. WASS. May I interrogate the sponsor of this resolution, please?

The SPEAKER. The gentleman, Mr. Zwikl, indicates that he will stand for interrogation. The gentleman, Mr. Wass, may proceed.

Mr. WASS. Mr. Speaker, when you proposed this particular resolution, did you realize that 1980 was determined as "The Year of the Child"?

Mr. ZWIKL. No, sir. That was pointed out to me recently after this resolution had been brought out of the committee.

Mr. WASS. The "Year of the Family," excuse me. The "Year of the Child" was 1979.

Mr. ZWIKL. Yes, sir.

Mr. WASS. Do you have any reservations about the conflict of those two?

Mr. ZWIKL. I think perhaps that it could serve as a conflict on paper, but I think that the importance that we are trying to call the attention to is the importance of the

environment. I think the resolution that the Congress has adopted declaring 1980 as the "Year of the Family" certainly will not interfere with the importance of this issue as well.

Mr. WASS. Thank you.

FILMING PERMISSION GRANTED

The SPEAKER. The Chair gives notice that it has granted permission to WHP-TV for 10 minutes of silent film, beginning now.

CONSIDERATION OF HR 163 CONTINUED

On the question recurring,
Will the House adopt the resolution?

(A roll-call vote was taken.)

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Rappaport. For what purpose does the gentleman rise?

Mr. RAPPAPORT. Mr. Speaker, I would like to be recorded in the affirmative on HR 163.

The SPEAKER. The gentleman's remarks will be spread upon the record.

REQUEST TO STRIKE VOTE

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, I know that the vote has already been taken, but I also failed to vote on HR 163. Since I was questioning somebody about the resolution itself and its contents, I did not have the opportunity to go over it and I did have a question, a rather serious question on interrogation as far as the sponsor was concerned relative to the matter before us. Also the fact that I could not cast an intelligent vote without that interrogation, I had to pursue that on the floor before I could make that request of the Chair for further interrogation in reference to the resolution. Would it be improper, Mr. Speaker, to ask for reconsideration in the light of my request?

VOTE STRICKEN

The SPEAKER. The gentleman from Berks, Mr. Davies, asks that the roll be stricken.

Without objection, the Chair will strike the vote.

The Chair hears none.

The clerk will strike the vote.

On the question recurring,
Will the House adopt the resolution?

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, I had the benefit of being able to interrogate the maker of the resolution. He has satisfied my question so that I do not have to detain the House any further. I thought it was imperative that I do have that straightened out before I cast my vote. I want to

apologize for the delay to the Chair, but I thought it was quite significant. He has satisfactorily answered my concern. Therefore, Mr. Speaker, I appreciate your cooperation. I now can vote with a clarity and understanding of the resolution. Thank you, Mr. Speaker.

On the question recurring

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—168

Alden	Fisher	Livengood	Salvatore
Anderson	Foster, W. W.	Lynch, E. R.	Scheaffer
Armstrong	Foster, Jr., A.	McCall	Schweder
Arty	Freind	McIntyre	Serafini
Austin	Gallagher	McKelvey	Seventy
Belardi	Gallen	McMonagle	Shadding
Bennett	Gamble	Madigan	Shupnik
Berson	Gatski	Manderino	Sieminski
Borski	Geesey	Manmiller	Smith, E. H.
Bowser	Geist	Michlovic	Smith, L. E.
Brandt	George, C.	Micozzie	Spencer
Brown	George, M. H.	Miller	Spitz
Burd	Gladeck	Mowery	Stairs
Burns	Goebel	Mrkonic	Steighner
Caltagirone	Goodman	Mullen	Stewart
Cappabianca	Grabowski	Murphy	Stuban
Cessar	Gray	Musto	Sweet
Chess	Greenfield	Nahill	Swift
Cimini	Grieco	Novak	Taddonio
Clark, B. D.	Gruppo	Noye	Taylor, E. Z.
Clark, M. R.	Halverson	O'Brien, B. F.	Taylor, F.
Cochran	Harper	O'Brien, D. M.	Telek
Cohen	Hayes, Jr., S.	O'Donnell	Thomas
Cole	Helfrick	Oliver	Trello
Cornell	Hoeffel	Perzel	Vroon
Coslett	Honaman	Peterson	Wachob
Cowell	Hutchinson, A.	Petrarca	Wargo
Cunningham	Hutchinson, W.	Piccola	Wass
DeMedio	Itkin	Pievsky	Wenger
DeVertter	Johnson, J. J.	Pistella	White
DeWeese	Jones	Pitts	Wilson
DiCarlo	Kanuck	Polite	Wilt
Davies	Klingaman	Pucciarelli	Wright, D. R.
Dawida	Knight	Punt	Wright, Jr., J.
Dietz	Kowalshyn	Pyles	Yahner
Dinni	Kukovich	Rappaport	Yohn
Dombrowski	Lashinger	Reed	Zeller
Dorr	Laughlin	Rieger	Zitterman
Duffy	Lehr	Ritter	Zwilk
Durham	Letterman	Rocks	
Earley	Levi	Rodgers	Seltzer,
Fee	Levin	Ryan	Speaker
Fischer	Lewis		

NAYS—6

Fryer	Kolter	Moehlmann	Zord
Hasay	Mackowski		

NOT VOTING—22

Barber	Hayes, D. S.	Milanovich	Schmitt
Beloff	Irvis	Pott	Sirianni
Bittle	Johnson, E. G.	Pratt	Street
Dumas	Knepper	Rhodes	Weidner
Gannon	McClatchy	Richardson	Williams
Giammarco	McVerry		

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

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

WELCOME

The SPEAKER. The Chair welcomes to the floor of the House, Miss Maurice Baehr, who is here today as the guest of Mr. D. M. O'Brien.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Barber. For what purpose does the gentleman rise?

Mr. BARBER. Mr. Speaker, on HR 163, I would like to be recorded as voting "yes," please.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of HB 1650, PN 2285, entitled:

An Act requiring the termination of certain agencies of State Government under certain circumstances, creating a Leadership Committee and the Office of Legislative Auditor with certain powers and duties.

On the question,

Will the House agree to the bill on third consideration?

Mr. RYAN offered the following amendment:

Amend Sec. 6, page 9, lines 2 through 6, by striking out all of said lines and inserting

(d) The Governor shall not utilize a reorganization plan, executive order, rule or regulation or comparable authority to evade the provisions of this act. Any programs, activities or functions of any agency, scheduled for termination, which are transferred to another agency not scheduled for termination or scheduled for termination at a later date, shall be subject to sunset review at the date scheduled for the termination of the transferor agency. Any programs, activities or function of any agency scheduled for termination which are transferred to another agency scheduled for termination at an earlier date, shall be subject to sunset review at the date scheduled for termination of the transferee agency: Provided, however, That between the time at which the legislative auditor submits his performance audit to the standing committee and the standing committee makes its recommendation to the General Assembly, the Governor shall not utilize a reorganization plan, executive order, rule or regulation or comparable authority to transfer any programs actions or functions of an agency being evaluated.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, it is my understanding that this amendment is an agreed-to amendment. The effect of it is to delete section (d) and permit a transfer from one agency by the Governor to another, but yet keep it under review of "sunset." The agency transferred shall be reviewed at the earliest possible date, either when the transferee agent or the transferor agency is scheduled for review.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

VOTE RETAKEN

The SPEAKER. Because of a malfunction in the voting machine, the Ryan amendment will have to again be voted upon.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—178

Alden	Fischer	Lewis	Rodgers
Anderson	Fisher	Livengood	Ryan
Armstrong	Foster, W. W.	Lynch, E. R.	Salvatore
Arty	Foster, Jr., A.	McCall	Scheaffer
Austin	Freind	McClatchy	Schweder
Barber	Fryer	McIntyre	Serafini
Belardi	Gallagher	McKelvey	Seventy
Bennett	Gallen	McMonagle	Shadding
Berson	Gamble	Mackowski	Shupnik
Bittle	Gannon	Madigan	Sieminski
Borski	Gatski	Manderino	Smith, E. H.
Bowser	Geesey	Manmiller	Smith, L. E.
Brandt	Geist	Michlovic	Spencer
Brown	George, C.	Micozzie	Spitz
Burd	George, M. H.	Miller	Stairs
Burns	Gladeck	Moehlmann	Steighner
Caltagirone	Goebel	Mowery	Stewart
Cappabianca	Grabowski	Mrkonic	Stuban
Cessar	Gray	Mullen	Sweet
Chess	Greenfield	Murphy	Swift
Cimini	Grieco	Musto	Taddonio
Clark, B. D.	Gruppo	Nahill	Taylor, E. Z.
Clark, M. R.	Halverson	Novak	Taylor, F.
Cochran	Harper	Noye	Telek
Cohen	Hasay	O'Brien, B. F.	Thomas
Cole	Hayes, Jr., S.	O'Brien, D. M.	Trello
Cornell	Helfrick	O'Donnell	Vroon
Coslett	Hoeffel	Oliver	Wachob
Cowell	Honaman	Perzel	Wargo
Cunningham	Hutchinson, A.	Peterson	Wass
DeMedio	Hutchinson, W.	Petrarca	Wenger
DeVerter	Itkin	Piccola	White
DeWeese	Johnson, J. J.	Pievsky	Wilson
DiCarlo	Jones	Pistella	Wilt
Davies	Klingaman	Pitts	Wright, D. R.
Dawida	Knight	Polite	Wright, Jr., J.
Dietz	Kolter	Pott	Yahner
Dininni	Kowalshyn	Pucciarelli	Yohn
Dombrowski	Kukovich	Punt	Zeller
Dorr	Lashingner	Pyles	Zitterman
Duffy	Laughlin	Rappaport	Zord
Dumas	Lehr	Reed	Zwinkl
Durham	Letterman	Rieger	
Earley	Levi	Ritter	Seltzer,
Fee	Levin	Rocks	Speaker

NAYS—0

NOT VOTING—18

Beloff	Johnson, E. G.	Pratt	Sirianni
Giammarco	Kanuck	Rhodes	Street
Goodman	Knepper	Richardson	Weidner
Hayes, D. S.	McVerry	Schmitt	Williams
Irviss	Milanovich		

The question was determined in the affirmative, and the amendment was agreed to.

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

Mr. GALLEN offered the following amendments:

Amend Sec. 6, page 7, line 16, by striking out all of said line

Amend Sec. 6, page 7, line 18, by striking out all of said line

Amend Sec. 6, page 8, line 12, by removing the period after "Treatment" and inserting Plant and Waterworks Operator.

Amend Sec. 6, Page 8, line 13, by striking out all of said line

Amend Sec. 6, page 8, line 17, by striking out "The State Board for"

Amend Sec. 6, page 8, line 17, by striking out "of" and inserting Board for

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

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, this is merely a corrective amendment. It corrects the title of this state board.

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

The following roll call was recorded:

YEAS—170

Anderson	Fee	Levi	Rieger
Armstrong	Fisher	Levin	Ritter
Arty	Foster, W. W.	Lewis	Rocks
Austin	Foster, Jr., A.	Livengood	Rodgers
Barber	Freind	Lynch, E. R.	Ryan
Belardi	Fryer	McCall	Salvatore
Bennett	Gallagher	McClatchy	Scheaffer
Berson	Gallen	McIntyre	Schweder
Bittle	Gamble	McKelvey	Serafini
Borski	Gannon	McMonagle	Shadding
Bowser	Gatski	McVerry	Shupnik
Brandt	Geesey	Mackowski	Sieminski
Brown	Geist	Madigan	Sirianni
Burd	George, C.	Manmiller	Smith, E. H.
Burns	George, M. H.	Michlovic	Smith, L. E.
Caltagirone	Gladeck	Micozzie	Spencer
Cappabianca	Goebel	Moehlmann	Spitz
Cessar	Goodman	Mowery	Steghner
Chess	Grabowski	Mrkonic	Stewart
Cimini	Gray	Murphy	Stuban
Clark, B. D.	Greenfield	Musto	Sweet
Clark, M. R.	Gruppo	Nahill	Swift
Cochran	Halverson	Novak	Taddonio
Cohen	Harper	Noye	Taylor, E. Z.
Cole	Hasay	O'Brien, B. F.	Taylor, F.
Cornell	Hayes, Jr., S.	O'Brien, D. M.	Telek
Coslett	Helfrick	O'Donnell	Thomas
Cowell	Hoeffel	Oliver	Trello
Cunningham	Honaman	Perzel	Wachob
DeMedio	Hutchinson, A.	Peterson	Wargo
DeVerter	Hutchinson, W.	Petrarca	Wass
DeWeese	Itkin	Piccola	Wenger
DiCarlo	Johnson, J. J.	Pievsky	White
Davies	Jones	Pistella	Wilson
Dawida	Klingaman	Pitts	Wright, D. R.
Dietz	Knight	Polite	Wright, Jr., J.
Dininni	Kolter	Pott	Yahner
Dombrowski	Kowalyszyn	Pucciarelli	Yohn

Dorr	Kukovich	Punt	Zeller
Duffy	Lashingier	Pyles	Zitterman
Dumas	Laughlin	Rappaport	Zord
Durham	Lehr	Reed	Zwilk
Earley	Letterman		

NAYS—0

NOT VOTING—26

Alden	Johnson, E. G.	Pratt	Vroon
Beloff	Kanuck	Rhodes	Weidner
Fischer	Knepper	Richardson	Williams
Giammarco	Manderino	Schmitt	Wilt
Grieco	Milanovich	Seventy	
Hayes, D. S.	Miller	Stairs	Seltzer,
Irvis	Mullen	Street	Speaker

The question was determined in the affirmative, and the amendments were agreed to.

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

Mr. BRANDT offered the following amendments:

Amend Title, page 1, lines 1 through 4, by striking out all of said lines and inserting

Authorizing the periodic review of certain certain agencies.

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- Section 7. Submission of recommendation to terminate agency to General Assembly.
- Section 8. Termination procedure.
- Section 9. Records, property and appropriations.
- Section 10. Employees of terminated agency.
- Section 11. Limitation on Governor's authority to transfer.
- Section 12. Causes of action.
- Section 13. General repeal.
- Section 14. Effective date.

Amend Bill, page 1, lines 7 through 13; pages 2 through 14, lines 1 through 30; page 15, lines 1 through 11, by striking out all of said lines on said pages and inserting

Section 1. Short title.

This act shall be known and may be cited as the "Sunset Act."

Section 2. Definitions.

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

"Agency." Any statutory authority, agency, board, bureau, commission, committee, council, department, division, office or any similar unit of State Government.

"Performance audit." A written report by the House or Senate appropriations committee evaluating the management and performance of an agency based on the statistics of its operations and carried out in accordance with the standards for performance and financial compliance auditing developed by the United States General Accounting Office. It shall determine whether the agency:

- (1) Is conducting authorized activities or programs in a manner consistent with accomplishing the objectives intended by the General Assembly.

(2) Is conducting programs and activities and expending funds made available in a faithful, efficient, economical and effective manner.

Section 3. Powers and duties of appropriations committees.

(a) The standing committees on appropriations of the House of Representatives and the Senate shall have the power and their duty shall be to conduct, an evaluation and review, including a performance audit, of each agency at least once every six years. The review and evaluation of the agency shall be made in conjunction with the representatives of the subject agency.

(b) An appropriations committee may, in conjunction with its function of evaluating and reviewing a particular agency or agencies, retain the services of a nonprofit or other private Pennsylvania organization to assist it in the financial evaluation and review of the agency or agencies.

(c) The appropriations committee shall hold at least one public hearing for each evaluation and review of an agency. At the hearing, the highest ranking officer of the agency or an individual appointed by him shall bear the burden to testify concerning the need for continued existence of the agency. The committee shall receive other testimony at the public hearing as it shall deem appropriate.

(d) The appropriations committee shall elicit information in each evaluation and review of an agency from the Department of the Auditor General and the Governor's Budget Office as to the financial efficiency of the agency being reviewed. The committee may request and the agency, subject to termination shall provide such information as the committee deems pertinent to its evaluation and review.

(e) The appropriations committee shall be provided with a report outlining all legislation, then in effect, pertaining to the creation, operation, duties, powers and funding of the agency to be furnished by the Legislative Reference Bureau as soon as possible after formally electing to evaluate and review an agency.

(f) The appropriations committee shall make a determination in each evaluation and review as to whether the agency shall be continued or terminated. The committee shall base its determination on the following criteria:

(1) Whether termination would significantly harm or endanger the public health, safety or welfare.

(2) Whether there is overlap or duplication of effort by other agencies that permit the termination of the agency.

(3) Whether there is a more economical way of accomplishing the objectives of the agency.

(4) Whether there is a demonstrated need, based on service to the public, for the continuing existence of the agency.

(5) Whether the operation of the agency has been in the public interest.

(6) Whether the agency has encouraged public participation in the making of its rules and decisions or whether the agency has permitted participation solely by the persons it regulates.

(7) Whether there is an alternate, less restrictive method of providing the same services to the public.

(8) Such other criteria as may be established by the appropriations committees.

(g) The appropriations committee shall draft and file a report detailing its evaluation and review of the agency, stating in that report its findings, its determination as to whether the agency should be continued or terminated, the reasons for such a determination and appropriate draft legislation to implement the committee's recommendations if the altering of the agency by statute is recommended. The report shall be filed no later than April 30.

Section 4. Legislative Budget and Finance Committee.

At the request of either the House or Senate appropriations committee, the Legislative Budget and Finance Committee shall assist such committee in its evaluation and review of any agency or agencies. If so requested, the assistance to the appropriations committee shall take precedence over all other functions and duties of the Legislative Budget and Finance Committee.

Section 5. Access to records and witnesses.

The appropriations committees of the House of Representatives and the Senate when acting pursuant to this act shall, for the purpose of examination, audit, evaluation and review as authorized by this act, have ready access to persons and may examine and copy to the extent deemed necessary to its evaluation and review, pertinent records, accounts, papers, reports, vouchers, correspondence, books and other documentation of any Commonwealth agency.

Section 6. Authority to administer oaths, subpoena witnesses and records and take depositions.

(a) The appropriations committees of the House of Representatives and the Senate when acting pursuant to this act and upon the affirmative vote a majority of the members serving on the committee shall have the power to compel the attendance of witnesses and the production of any papers, books, accounts and documents to subpoena witnesses, take testimony under oath; to cause the deposition of witnesses, residing within or without the Commonwealth, to be taken in the manner prescribed by law and to assemble records and documents, by subpoena or otherwise, with the same power and authority as courts of record and may apply to courts of record for the enforcement of these powers.

(b) Any person who willfully neglects or refuses to comply with any subpoena issued in behalf of an appropriations committee as authorized herein, or who refuses to testify to any matters regarding which he may be lawfully interrogated, shall be subject to the penalties provided by the Laws of this Commonwealth.

Section 7. Submission of recommendation to terminate agency to General Assembly.

(a) If the appropriation committee's recommendation made pursuant to section 4 is to terminate the agency, it shall prepare and submit to each House an "agency termination recommendation" which shall be filed with the Chief Clerk of the House and the Secretary of the Senate no later than April 30. Such "agency termination recommendation" shall be placed on the calendar of each House for the next legislative day following their receipt and shall be considered by each House no later than June 30.

(b) The agency termination recommendation shall take effect if approved by a majority vote of the duly elected members of each House prior to June 30 or if neither House disapproves such recommendation by a majority vote of its duly elected members on or before June 30.

Section 8. Termination procedure.

(a) Any agency terminated pursuant to the provisions of this act shall have until December 31 of the year in which they are terminated to wind up their affairs.

(b) The termination of any agency under this act shall serve to terminate any advisory agency, whether created by statute or administrative action, established for the primary purpose of advising or assisting the terminated agency.

(c) The terms of office of appointees of an agency terminated under this act shall end on December 31 of the year of termination.

Section 9. Records, property and appropriations.

(a) Records and property of a terminated agency shall be transferred to the department of which it was a part, or if it was an independent agency, to the Department of General Services for appropriate disposal of property and retention of records.

(b) All appropriations to and funds of the terminated agency not spent or encumbered shall lapse when the existence of the agency ends. No agency, prior to December 31 of the year on which it is scheduled to be terminated, shall expend in excess of 50% of any general appropriation, Federal augmentation, appropriation or similar appropriation made to the agency for said fiscal year. However, the agency may utilize a portion of the unexpended balance of said appropriations to conclude its affairs.

Section 10. Employees of terminated agency.

(a) The employment of all personnel of the terminated agency shall be terminated no later than December 31. However, this subsection shall not be construed to prohibit the employees from applying for and being employed by other agencies or departments to fill job vacancies.

(b) Employees of agencies terminated under this act, who have civil service status or who are covered by union contracts shall fill any existing vacancies within the administrative branch of State Government in their grade and position. If there are more employees than vacant positions at the time of termination, then such terminated employees shall receive employment in the first vacancies that shall thereafter exist in their grade and position.

Section 11. Limitation on Governor's authority to transfer.

The Governor shall not utilize a reorganization plan, executive order or comparable authority to continue or transfer any agency or agency function terminated pursuant to this act nor shall the Governor take such action during the period commencing with the review of the agency by an appropriations committee and ending with:

- (1) failure by the appropriations committee to recommend termination within the time period specified; or
- (2) disapproval by either House of an agency termination recommendation.

Section 12. Causes of action.

The provisions of this act shall not affect any liability incurred or right accrued or vested or affect any suit pending or to be instituted to enforce any right under the authority of any act or part thereof repealed by this act.

Section 13. General repeal.

All acts or parts of acts inconsistent with the provisions of this act are repealed to the extent of the inconsistency.

Section 14. Effective date.

This act shall take effect on January 1, 1980.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Brandt.

Mr. BRANDT. I would like to call to the members' attention that this amendment is marked No. 3, amendment 4422.

Mr. Speaker, the issue of "sunset" and looking to the rule making and regulating agencies and boards and commissions in this Commonwealth have been looked at and that issue has been addressed and looked at by this House for the past several years.

I reluctantly—and I apologize to the chairman of the committee—did not take the time, when this bill was going through the committee process, to suggest to him and to that committee the approach I have in this amendment No. 3.

I certainly feel that this House has the ability now to look into agencies and boards and commissions of this Commonwealth and review them and how they should

operate. We have that ability now, and that is vested in one of the committees of this House, and that being the Appropriations Committee.

What I have attempted to do with this amendment No. 3 is put into this bill, HB 1650, language that would spell out what that Appropriation Committee shall do in a period of once every 6 years, and that is, to review each board, agency, and commission in this Commonwealth and report to this House their findings of whether that board, agency, or commission should be abolished.

I think this is very important to us as individual members. There shall be no longer a schedule of what commissions or boards should be viewed at on a particular schedule. Anyone of us, as members of the House, could approach the Appropriations Committee and say, I would like you to look into this particular agency much deeper.

The Appropriations Committee has annually known these boards, agencies, and commissions; knows the workings of them because they see them on an annual basis coming before us at budget time. I feel that this is a good place to put more ability, to put more regulation, to the Appropriations Committee. I would ask you to support the amendment.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Reed.

Mr. REED. Mr. Speaker, will Mr. Brandt stand for interrogation?

The SPEAKER. The gentleman, Mr. Brandt, indicates that he will. The gentleman, Mr. Reed, may proceed.

Mr. REED. Mr. Speaker, I have just now seen a copy of your amendment and perused it rather briefly. I have a number of questions for the record as well as for the edification of the other members.

Number one, your amendment provides for no mandatory termination of these agencies after a 6-year period of time or whatever unless otherwise extended by the legislature. Is that correct?

Mr. BRANDT. There is no mandated ending in the bill at this time. However, once one of these boards or agencies would be suggested by the Appropriations Committee to be abolished or changed, we, as the legislature, could approach that at that time.

Mr. REED. Well, is it not true that the legislature right now has the authority to abolish any agency that it really wants to?

Mr. BRANDT. That is basically right, Mr. Speaker, and that is why I gave more power to the Appropriations Committee.

Mr. REED. Well, that leads me then automatically to the next question about why you vested that power only with the Appropriations Committee which presently has it anyway; and, secondly, related to that is, why would you not, as previous "sunset" legislation has done, automatically include the standing committees which, at least in theory and in practice, have the expertise to deal with those particular agencies?

Mr. BRANDT. Well, I can agree with you on the point of the different types of standing committees. However, if we look at the operations of this House and look at our appropriations committee, I really feel that that committee is more in touch and in tune with different agencies of this Commonwealth on a more continual basis than the other committees.

Mr. REED. The final question that I would have, Mr. Speaker, is this: What is the rationale behind not listing the agencies of government that shall come under review? Would not the impact of not listing them mean that only one or two or those several agencies, that some group of legislators or even an individual legislator would have some pet peeve about, would it not therefore be just those agencies that, in fact, would be coming under scrutiny and review?

Mr. BRANDT. Well, Mr. Speaker, if you look at pages 6 and 7 and 8 of the bill now, most of those boards and agencies listed there are really a very small part of the operation of our state government.

We are not getting into the different departments. I do not see the Department of Welfare listed there. We, as individual members, can go to our Appropriations Committee and suggest to them any particular board or department that we would like them to look at in a closer way and what they do now by reviewing the budget on an annual basis.

I would also like to call to your attention that this amendment calls for a working relationship between both Appropriations Committees in the House and the Senate. You can approach the problem, I really feel, on a more rational basis.

Mr. REED. Mr. Speaker, I am done with the interrogation, but I have one or two remarks related to the bill.

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

Mr. REED. With regard to the Brandt amendment, there is no question in my mind that Mr. Brandt is well-intentioned, and that this is in fact his concept as to how "sunset" can most efficiently work.

I share a different view, and very briefly I would say that I think that the Brandt amendment in whole ought to be defeated because it would seriously undermine the purpose behind which the "sunset" legislation was initially proposed.

The fact that there is not a mandatory termination period indicates that agencies are not going to be under the gun. They are not going to have any major incentive to clean up their act and to make themselves accountable to us in a way that we believe they should and in a way in which they have previously not done so.

It will be very easy for bureaucracy to hide its fat, to hide its duplicative functions with other agencies of government behind all this bureaucratic legalese and gobbledegook that they feed us on a day-to-day basis. That is precisely why "sunset" is necessary and precisely why a mandatory termination clause is appropriate. If the Brandt amendment were adopted, that would not be so.

Number two, with regard to the elimination of the standing committees, I believe that the Health and Welfare Committee of the House, both sides of the aisle, and the members of the Business and Commerce Committee and the members of the Environmental Resources Committee, and the list goes on down the list of standing committees, have a far greater expertise in their selected areas of interest than certainly the Appropriations Committee does in all of those areas, and appropriately are the ones who ought to be reviewing the functions of that agency.

It is precisely because the Appropriations Committee is unable to provide that expertise and unable to provide indepth analysis in those departments today that it is necessary for us to have the standing committee involvement. That is not an indictment of the Appropriations Committee; it is a recognition that there is so much expected of them that frankly I think we expect far beyond what we have provided in terms of their staffing and analytical capabilities.

Thirdly, I believe, Mr. Speaker, that the fact that we do not list all the agencies under the Brandt amendment would be a serious deficiency, because many of those various boards and commissions, however small they may be when you add them up, you are talking about a good chunk of change. You are talking about taxpayers' money which in many cases is being duplicatively expended and perhaps inefficiently spent.

I believe that it is appropriate for "sunset" legislation that all agencies of government be included or otherwise the purpose of "sunset" simply is not served. In that sense, I believe the Brandt amendment effectively guts, as the term would be applied, this particular legislation.

Finally, with regard to the Appropriations Committee having the power vested in them to perform the functions outlined in the Brandt amendment, the fact is that, number one, they have that power now, and, number two, this legislature now has the authority to abolish an agency, but you and I both know that we do not do that and it would be a very rare day that that would be attempted.

The fact is we have got to force indepth review; we have got to force "sunset." That is the only way it is going to work and that goes back to the mandatory requirement.

The Appropriations Committee now is being overburdened as it is. I do not care who is in charge of the House, Democrat or Republican, this fact remains the same—at least it has in the 6 years that I have been here—the fact that the Appropriations Committee today is substantially overburdened for what we expect of them and to vest the entire "sunset" power with the Appropriations Committee, frankly, is doing that particular committee and the purpose of "sunset" and ultimately this General Assembly and everyone we represent, a disservice.

I think the Brandt amendment, however well-intentioned, should be voted down because it effectively guts the "sunset" provision.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. I would urge opposition to this amendment for a number of reasons, and Mr. Reed, I think, effectively articulated them.

I am concerned about destroying the role of the standing committee. I am disturbed about the absence of the list of agencies, but the most important thing is that this amendment entirely strips the power of enforcement from this bill. Let us make no mistake about it. The only real, hard effect that this bill would have is the mandatory termination, and if we take that out, we are in effect eliminating "sunset."

The problem now is that although we have the power to make an affirmative act to streamline or abolish an agency, traditionally this simply has not happened. What this bill does is turn that burden around so that now either we must take an affirmative action to save that agency or it will automatically go out of existence.

I think we should make no mistake about it and be very clear that if we truly believe in the concept of "sunset" legislation, then we have to vote against this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOEFFEL. Mr. Speaker, I rise in opposition to the Brandt amendment. I certainly agree with the comments of the gentlemen who have already spoken in opposition to the amendment.

The key provision in "sunset" legislation is the mandatory termination date. The Brandt amendment strips that from the bill and effectively guts the entire "sunset" procedure, and I think it should be defeated. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, I, too, rise to oppose this amendment. The net effect of this amendment is to negate the entire "sunset" possibility, and the powers that Mr. Brandt would like to put into this bill are inherent in this legislative body right now. I feel that this totally weakens the bill, and I ask for opposition.

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

The following roll call was recorded:

YEAS—17

Bowser	Dombrowski	Miller	White
Brandt	Fisher	Moehlmann	
Burd	Hutchinson, A.	Oliver	Seltzer,
Cohen	Kanuck	Vroon	Speaker
DiCarlo	McClatchy	Wenger	

NAYS—167

Alden	Freind	Lewis	Rodgers
Anderson	Fryer	Livengood	Ryan
Armstrong	Gallagher	Lynch, E. R.	Salvatore
Arty	Gallen	McCall	Scheaffer
Austin	Gamble	McIntyre	Schmitt
Barber	Gannon	McKelvey	Schweder
Belardi	Gatski	McMonagle	Serafini
Bennett	Geesey	Mackowski	Seventy
Berson	Geist	Madigan	Shadding
Bittle	George, C.	Manderino	Shupnik
Borski	George, M. H.	Manmiller	Sieminski
Brown	Gladeck	Michlovic	Sirianni
Burns	Goebel	Micozzie	Smith, E. H.

Caltagirone	Goodman	Mowery	Smith, L. E.
Cappabianca	Grabowski	Mrkonc	Spencer
Cessar	Gray	Mullen	Spitz
Chess	Greenfield	Murphy	Stairs
Cimini	Grieco	Musto	Steighner
Clark, B. D.	Gruppo	Nahill	Stewart
Clark, M. R.	Halverson	Novak	Stuban
Cochran	Harper	Noye	Sweet
Cole	Hasay	O'Brien, B. F.	Swift
Cornell	Hayes, Jr., S.	O'Brien, D. M.	Taddonio
Coslett	Helfrick	O'Donnell	Taylor, E. Z.
Cowell	Hoeffel	Perzel	Taylor, F.
Cunningham	Honaman	Peterson	Telek
DeMedio	Hutchinson, W.	Petrarca	Thomas
DeVerter	Itkin	Piccola	Trello
DeWeese	Johnson, E. G.	Pievsky	Wachob
Davies	Johnson, J. J.	Pistella	Wargo
Dawida	Jones	Pitts	Wass
Dietz	Klingaman	Polite	Wilson
Dininni	Knight	Pott	Wilt
Dorr	Kolter	Pucciarelli	Wright, D. R.
Duffy	Kowalshyn	Punt	Wright, Jr., J.
Dumas	Kukovich	Pyles	Yahner
Durham	Lashingner	Rappaport	Yohn
Earley	Laughlin	Reed	Zeller
Fee	Lehr	Richardson	Zitterman
Fischer	Letterman	Rieger	Zord
Foster, W. W.	Levi	Ritter	Zwilk
Foster, Jr., A.	Levin	Rocks	

NOT VOTING—12

Beloff	Irvis	Milanovich	Street
Giammarco	Knepper	Pratt	Weidner
Hayes, D. S.	McVerry	Rhodes	Williams

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. BRANDT offered the following amendments:

Amend Title, page 1, lines 1 through 4, by striking out all of said lines and inserting Authorizing the periodic review of certain agencies of State Government, creating a Leadership Committee, and providing additional powers and duties on certain legislative committees.

TABLE OF CONTENTS

- Section 1. Short title.
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- Section 3. Leadership Committee.
- Section 4. Powers and duties of Appropriation Committees.
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- Section 7. Access to records and witnesses.
- Section 8. Authority to administer oaths, subpoena witnesses and records and take depositions.
- Section 9. Submission of recommendation to terminate agency to General Assembly.
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- Section 15. General repeal.
- Section 16. Effective date.

Amend Bill, page 1, lines 7 through 13; pages 2 through 14, lines 1 through 30; page 15, lines 1 through 11, by striking out all of said lines on said pages and inserting

Section 1. Short title.

This act shall be known and may be cited as the "Sunset Act."

Section 2. Definitions.

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

"Agency." Any statutory authority, agency, board, bureau, commission, committee, council, department, division, office or any similar unit of State Government.

"Performance audit." A written report by the House or Senate Appropriations Committee evaluating the management and performance of an agency based on the statistics on its operations and carried out in accordance with the standards for performance and financial compliance auditing developed by the United States General Accounting Office. It shall determine whether the agency:

(1) Is conducting authorized activities or programs in a manner consistent with accomplishing the objectives intended by the General Assembly.

(2) Is conducting programs and activities and expending funds made available in a faithful, efficient, economical and effective manner.

This report shall include, but not be limited to, the criteria listed in section 6(e).

Section 3. Leadership Committee.

There is hereby created a joint committee of the General Assembly to be known as the Leadership Committee. The Leadership Committee shall be composed of the Speaker of the House of Representatives, the President pro tempore of the Senate and the Majority and Minority Leaders of the House of Representatives and the Senate. The Speaker of the House of Representatives shall serve as the temporary chairman of the committee until such time as the committee shall elect a chairman. Members of the Leadership Committee may designate alternates who will have the same powers and duties as regular members.

Section 4. Powers and duties of Appropriations Committees.

The standing committees on appropriations of the House of Representatives and the Senate shall have the power and their duty shall be to conduct a performance audit of each agency at least once every six years and to report their findings to the Leadership Committee together with their recommendation as to whether or not the agency should be terminated. Any review of an agency undertaken by an appropriations committee shall be completed by October 30 of the year in which the review is conducted.

Section 5. Powers and duties of Leadership Committee.

The Leadership Committee shall review the reports submitted to it by the appropriations committees and may direct that any agency which an appropriations committee has recommended for termination be reviewed by a standing committee for termination pursuant to section 6. If the Leadership Committee decides to submit the question of termination to a standing committee, it shall refer the matter to an appropriate standing committee of the House of Representatives or the Senate or to a joint standing committee. All such referrals by the Leadership Committee to standing committees shall be made by December 30 of the year in which the appropriations committee's recommendation was made and not thereafter.

Section 6. Evaluation and review by standing committee.

(a) The standing committee designated by the Leadership Committee shall evaluate and review the subject agency in conjunction with the staff. The appropriations committee which did not conduct the original performance audit and in conjunction with the representatives of the agency being evaluated.

(b) The standing committee shall hold at least one public hearing for each evaluation and review of an agency. At the

hearing, the highest ranking officer of the agency or an individual appointed by him shall bear the burden to testify concerning the need for continued existence of the agency. The committee shall receive other testimony at the public hearing as it shall deem appropriate.

(c) The standing committee shall elicit information in each evaluation and review of an agency from the Office of the Auditor General and the Governor's Budget Office as to the financial efficiency of the agency being reviewed. The committee may request and the agency, subject to termination shall provide such information as the committee deems pertinent to its evaluation and review.

(d) The standing committee shall be provided with the following information as soon as possible after being designated to evaluate and review the agency by the Leadership Committee:

(1) The performance audit made by the initiating appropriation committee.

(2) A report outlining all legislation, then in effect, pertaining to the creation, operation, duties, powers and funding of the agency to be furnished by the Legislative Reference Bureau.

(e) The standing committee shall make a determination in each evaluation and review as to whether the agency shall be continued or terminated. The committee shall base its determination on the following criteria:

(1) Whether termination would significantly harm or endanger the public health, safety or welfare.

(2) Whether there is overlap or duplication of effort by other agencies that permit the termination of the agency.

(3) Whether there is a more economical way of accomplishing the objectives of the agency.

(4) Whether there is a demonstrated need, based on service to the public, for the continuing existence of the agency.

(5) Whether the operation of the agency has been in the public interest.

(6) Whether the agency has encouraged public participation in the making of its rules and decisions or whether the agency has permitted participation solely by the persons it regulates.

(7) Whether there is an alternate, less restrictive method of providing the same services to the public.

(8) Such other criteria as may be established by the standing committees.

(f) The standing committee shall draft and file a report detailing its evaluation and review of the agency, stating in that report their findings, their determination as to whether the agency should be continued or terminated, the reasons for such a determination and appropriate draft legislation to implement the committee's recommendations if the altering of the agency by statute is recommended. The report shall be filed no later than April 30 of the year succeeding the committee's assignment to review and evaluate the agency by the Leadership Committee.

Section 7. Access to records and witnesses.

The standing committees of the House of Representatives and the Senate when acting pursuant to this act shall, for the purpose of examination, audit, evaluation and review as authorized by this act, have ready access to persons and may examine and copy to the extent deemed necessary to its evaluation and review, pertinent records, accounts, papers, reports, vouchers, correspondence, books and other documentation of any Commonwealth agency.

Section 8. Authority to administer oaths, subpoena witnesses and records and take depositions.

(a) The standing committees of the House of Representatives and the Senate when acting pursuant to this act shall have the power to compel the attendance of witnesses and the

production of any papers, books, accounts and documents to subpoena witnesses, take testimony under oath; to cause the deposition of witnesses, residing within or without the Commonwealth, to be taken in the manner prescribed by law and to assemble records and documents, by subpoena or otherwise, with the same power and authority as courts of record and may apply to courts of record for the enforcement of these powers.

(b) Any person who willfully neglects or refuses to comply with any subpoena issued in behalf of a standing committee as authorized herein, or who refuses to testify to any matters regarding which he may be lawfully interrogated, shall be subject to the penalties provided by the laws of this Commonwealth.

Section 9. Submission of recommendation to terminate agency to General Assembly.

(a) If the standing committee's recommendation made pursuant to section 6 is to terminate the agency, it shall prepare and submit to each House an "agency termination recommendation" which shall be filed with the Chief Clerk of the House and the Secretary of the Senate no later than April 30. Such "agency termination recommendation" shall be placed on the calendar of each House for the next legislative day following their receipt and shall be considered by each House no later than June 30.

(b) The agency termination recommendation shall take effect if approved by a majority vote of the duly elected members of each House prior to June 30 or if neither House disapproves such recommendation by a majority vote of its duly elected members on or before June 30.

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(a) Any agency terminated pursuant to the provisions of this act shall have until December 31 of the year in which they are terminated to wind up their affairs.

(b) The termination of any agency under this act shall serve to terminate any advisory agency, whether created by statute or administrative action, established for the primary purpose of advising or assisting the terminated agency.

(c) The terms of office of appointees of an agency terminated under this act shall end on December 31 of the year of termination.

Section 11. Records, property and appropriations.

(a) Records and property of a terminated agency shall be transferred to the department of which it was a part, or if it was an independent agency, to the Department of General Services for appropriate disposal of property and retention of records.

(b) All appropriations to and funds of the terminated agency not spent or encumbered shall lapse when the existence of the agency ends. No agency, prior to December 31 of the year on which it is scheduled to be terminated, shall expend in excess of 50% of any general appropriation, Federal augmentation, appropriation or similar appropriation made to the agency for said fiscal year. However, the agency may utilize a portion of the unexpended balance of said appropriations to conclude its affairs.

Section 12. Employees of terminated agency.

(a) The employment of all personnel of the terminated agency shall be terminated no later than December 31. However, this subsection shall not be construed to prohibit the employees from applying for and being employed by other agencies or departments to fill job vacancies.

(b) Employees of agencies terminated under this act, who have civil service status or who are covered by union contracts shall fill any existing vacancies within the administrative branch of State Government in their grade and position. If there are more employees than vacant positions at the time of termination, then such terminated employees shall receive employment in the first vacancies that shall thereafter exist in their grade and position.

Section 13. Limitation on Governor's authority to transfer.

The Governor shall not utilize a reorganization plan, executive order or comparable authority to continue or transfer any agency or agency function terminated pursuant to this act nor shall the Governor take such action during the period commencing with the review of the agency by an appropriations committee and ending with:

- (1) failure by the Leadership Committee to direct further study by a standing committee;
- (2) failure by a standing committee to recommend termination; or
- (3) disapproval by either House of an agency termination recommendation.

Section 14. Causes of action.

The provisions of this act shall not affect any liability incurred or right accrued or vested or affect any suit pending or to be instituted to enforce any right under the authority of any act or part thereof repealed by this act.

Section 15. General repeal.

All acts or parts of acts inconsistent with the provisions of this act are repealed to the extent of the inconsistency.

Section 16. Effective date.

This act shall take effect on January 1, 1980.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Brandt.

Mr. BRANDT. This amendment A4044, marked No. 2, is not to the extreme of the amendment No. 3. This amendment addresses the setting up of a new legislative committee and puts the oversight work into the Legislative Budget and Finance Committee. It was the feeling in drafting this amendment that we have agencies now or committees formed by this legislature that could operate very effectively in the oversight part of HB 1650, and that is what amendment No. 2 attempts to do.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoefel.

Mr. HOEFFEL. Mr. Speaker, I rise in opposition to the Brandt amendment. As I understand it, Mr. Speaker, from reading the amendment, Mr. Brandt, first off, is trying to take away from the standing committees the authority to conduct a "sunset" review, which the bill now provides for the standing committees, and instead puts the authority for "sunset" review into the Appropriations Committee, thereby reducing the impact of the average member of the House on this process.

As I also understand the amendment, again Mr. Brandt is taking away the mandatory termination date from the "sunset" procedure and merely saying, in section 5 of the amendment, page 2, that "The Leadership Committee shall review the reports submitted...by the appropriations committees and may direct that...termination be reviewed by a standing committee..." Then further in that section it says, "If the Leadership Committee decides to submit the question of termination to a standing committee, it shall refer the matter to an appropriate standing committee...."

I think there is simply too much "may" language in the bill. If under the Brandt amendment the standing committee should get into the act at all, which is problem-

atical, again the standing committee may or may not recommend termination and again we have lost that mandatory termination date which is so important. So I recommend a negative vote. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, would the gentleman, Mr. Brandt, consent to brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Zeller, may proceed.

Mr. ZELLER. Mr. Speaker, I see what Mr. Hoeffel has said in the former amendment that you introduced, but in this one I see something else, and answer if this is correct in my views of it.

What you are saying is that various agencies and committees, other than the standing committees of the House, would make that determination. Is that true?

Mr. BRANDT. No, Mr. Speaker. I am afraid the gentleman stands corrected.

In the amendment No. 2, the flow of the different agencies comes from the leadership committee. They designate what agency shall be reviewed in that year. They go to the Appropriations Committee for a performance audit as far as dollars. Then it comes back to the leadership committee, and they in turn relay that agency or board to a standing committee of the House for a second review. You can find that on page 3 of the amendment, under (b), which says, "The standing committee shall hold at least one public hearing for each evaluation and review of an agency."

Mr. ZELLER. I see. I thank you. I stand corrected in regards to my views on it.

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALEN. Mr. Speaker, a great deal of work has gone into HB 1650, not only by the State Government Committee but by many other members of the House. Mr. Speaker, I think this just alters this bill to such an extent that we would have to do a whole new study on it, and I feel that this amendment should be defeated. I ask for a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOEFFEL. I do not want to belabor this point, but I want to say very clearly that the Brandt amendment does not guarantee that the standing committees will ever have a chance to conduct a "sunset" review. I was not sure if that was what Mr. Brandt suggested in his remarks. I just wanted to restate what I said earlier.

On page 2 of his amendment, under section 5, if the Appropriations Committee has recommended an agency for determination, the leadership committee may direct that a further review be conducted by a standing committee. That is permissive language, again moving away from the mandatory termination language that I think we so desperately need in any "sunset" bill. So again I recommend a "no" vote. Thank you.

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

The following roll call was recorded:

YEAS—18

Armstrong	Honaman	Moehlmann	Wenger
Bowser	Hutchinson, A.	Serafini	White
Brandt	Letterman	Spitz	
Burd	McClatchy	Swift	Seltzer,
Dombrowski	Miller	Vroon	Speaker

NAYS—165

Alden	Foster, W. W.	Levin	Rieger
Anderson	Foster, Jr., A.	Lewis	Ritter
Arty	Freind	Livengood	Rocks
Austin	Fryer	Lynch, E. R.	Rodgers
Barber	Gallagher	McCall	Ryan
Belardi	Gallen	McIntyre	Salvatore
Bennett	Gamble	McKelvey	Scheaffer
Berson	Gannon	McMonagle	Schmitt
Bittle	Gatski	Mackowski	Schweder
Borski	Geesey	Madigan	Seventy
Brown	Geist	Manderino	Shadding
Burns	George, C.	Manmiller	Shupnik
Caltagirone	George, M. H.	Michlovic	Sieminski
Cappabianca	Gladeck	Micozzie	Sirianni
Cessar	Goebel	Mowery	Smith, E. H.
Chess	Goodman	Mrkonic	Smith, L. E.
Cimini	Grabowski	Mullen	Spencer
Clark, B. D.	Gray	Murphy	Stairs
Clark, M. R.	Greenfield	Musto	Steighner
Cochran	Grieco	Nahill	Stewart
Cohen	Gruppo	Novak	Stuban
Cole	Halverson	Noye	Sweet
Cornell	Harper	O'Brien, B. F.	Taddonio
Coslett	Hasay	O'Brien, D. M.	Taylor, E. Z.
Cowell	Hayes, Jr., S.	O'Donnell	Taylor, F.
Cunningham	Helfrick	Oliver	Telek
DeMedio	Hoeffel	Perzel	Thomas
DeVerter	Hutchinson, W.	Peterson	Trello
DeWeese	Itkin	Petrarca	Wachob
DiCarlo	Johnson, E. G.	Piccola	Wargo
Davies	Johnson, J. J.	Pievsky	Wass
Dawida	Jones	Pistella	Wilson
Dietz	Kanuck	Pitts	Wilt
Dininni	Klingaman	Polite	Wright, D. R.
Dorr	Knight	Pott	Wright, Jr., J.
Duffy	Kolter	Pucciarelli	Yahner
Dumas	Kowalyshyn	Punt	Yohn
Durham	Kukovich	Pyles	Zeller
Earley	Laughlin	Rappaport	Zitterman
Fee	Lehr	Reed	Zord
Fischer	Levi	Richardson	Zwilk
Fisher			

NOT VOTING—13

Beloff	Knepper	Milanovich	Street
Giammarco	Lashinger	Pratt	Weidner
Hayes, D. S.	McVerry	Rhodes	Williams
Irvis			

The question was determined in the negative, and the amendments were not agreed to.

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

Mr. BRANDT offered the following amendments:

Amend Title, page 1, line 3, by striking out "and the Office of Legislative Auditor"

Amend Title, page 1, line 4, by removing the period after "duties" and inserting and imposing additional powers and duties on the Legislative Budget and Finance Committee.

Amend Sec. 2, page 2, lines 3 through 16, by striking out all of said lines

Amend Sec. 4, page 3, line 6, by removing the period after "committee" and inserting or to the Legislative Budget and Finance Committee.

Amend Sec. 4, page 3, lines 10, through 23, by striking out all of said lines and inserting If the Legislative Budget and Finance Committee is assigned, the agency review and evaluation shall be the priority task of the committee.

(3) To assign the Legislative Budget and Finance Committee to assist a standing committee in its review and evaluation of any agency.

Amend Sec. 4, page 3, line 24, by striking out "(6)" and inserting (4)

Amend Sec. 5, page 3, line 28, by inserting after "committee" or the Legislative Budget and Finance Committee, as the case may be,

Amend Sec. 5, page 3, line 30, by striking out "the legislative auditor and"

Amend Sec. 5, page 4, line 2, by inserting after "committee" or the Legislative Budget and Finance Committee, as the case may be,

Amend Sec. 5, page 4, line 9, by inserting after "committee" or the Legislative Budget and Finance Committee, as the case may be,

Amend Sec. 5, page 4, line 16, by inserting after "committee" or the Legislative Budget and Finance Committee, as the case may be,

Amend Sec. 5, page 5, line 9, by inserting after "committees" or the Legislative Budget and Finance Committee, as the case may be,

Amend Sec. 5, page 5, line 21, by inserting after "committees" or the Legislative Budget and Finance Committee, as the case may be,

Amend Sec. 5, page 5, lines 23 through 26, by striking out the semicolon in line 23, all of lines 24 and 25 and "(2)" in line 26

Amend Sec. 6, page 6, line 3, by striking out "1981" and inserting 1982

Amend Sec. 6, page 7, line 1, by striking out "1983" and inserting 1984

Amend Sec. 6, page 8, line 4, by striking out "1985" and inserting 1986

Amend Sec. 8, page 10, line 1, by striking out "January 1, 1980" and inserting the enactment of this act

Amend Bill, page 11, lines 7 through 30; pages 12 and 13, lines 1 through 30; page 14, lines 1 through 11, by striking out all of said lines on said pages

Amend Sec. 13, page 14, line 12, by striking out "13." and inserting 11.

Amend Sec. 13, page 14, line 13, by striking out "legislative auditor and his authorized representatives" and inserting standing committees and the Legislative Budget and Finance Committee

Amend Sec. 13, page 14, line 14, by striking out "audit" and inserting review

Amend Sec. 14, page 14, lines 20 through 30; page 15, lines 1 through 6, by striking out all of said lines on said pages

Amend Sec. 15, page 15, line 7, by striking out "15." and inserting 12.

Amend Sec. 16, page 15, line 10, by striking out "16." and inserting 13.

Amend Sec. 16, page 15, line 11, by striking out "1980" and inserting 1981

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Brandt.

Mr. BRANDT. This is the least controversial amendment of the three. It is marked No. 1, Mr. Speaker, and what we attempt to do in this amendment is remove the office of legislative auditor, where we are setting up a whole new bureaucracy once again for everybody to look over the shoulders of everybody else, and we impose additional duties and powers on the Legislative Budget and Finance Committee. We insert language that if the Legislative Budget and Finance Committee is assigned, the agency review and evaluation shall be the priority task of the committee, and

The names of the agencies to be reviewed stay in the bill. However, we just move them along 1 year to coincide with the bill.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOEFFEL. Mr. Speaker, I rise in opposition to the Brandt amendment, as well. First off, I disagree with the gentleman that the Legislative Budget and Finance Committees should be conducting these "sunset" reviews. I feel strongly that we should have the legislative auditor to conduct these reviews as the bill currently calls for, and, secondly, I feel he has made a great mistake in changing the dates of the mandatory termination date by 1 year. By doing that Mr. Brandt would be calling on the General Assembly to conduct the "sunset" review during an election year, during the second year of our 2-year session rather than the first year. I think that that would be a very unwise thing for us to do. The "sunset" review procedure is going to be a challenge for us; it is going to be a new procedure; it is going to require all of our attention, and I think moving that review period into the election year of our 2-year cycle would be a great mistake. So I urge a negative vote. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, I oppose this amendment. I do not feel that the Legislative Budget and Finance Committees have the expertise; they need considerable beefing up in order to be able to conduct the type of review this amendment calls for them to do, and I oppose the amendment.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, in regard to what Mr. Hoeffel said as to the election year is a very vital part of his statement in regard to voting "no" against this amendment.

One of the problems we have down here is that many of us who have to work with some of these agencies, can you imagine some of the pet projects of the Fourth Estate and their getting with some of these agencies and that liberal group really putting the pressure on you, and not given the facts but what they think it ought to be in telling the public what kind of a character you are out there? They are going to put the pressure on you so bad, and that is the reason I

see behind the whole move, to make it during the election year. The political pressures are horrible. So as far as I am concerned, I am voting "no." I know that I am not going to be around here to hit that gang over there too much, but you will be sorry.

The SPEAKER. The Chair recognizes the gentleman from Venango, Mr. Levi.

Mr. LEVI. I would like to speak in favor of this amendment. I think it addresses the real issue.

We, the 203 people of this House of Representatives, are elected to serve the people of Pennsylvania. Here we go again delegating the authority that we receive when elected, to some outside group we do not even know who they are; how they are appointed; what they are going to do; what we are going to pay them, to tell us how we are going to run our store. I think this is wrong. Let us use our own committees, committees that we set up that abide by the House rules to do our own job and serve the people of Pennsylvania best. I think that we should support this particular amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoefel.

Mr. HOEFFEL. The previous speaker does not understand the Brandt amendment. I am afraid that there is nothing in the current HB 1650 that allows any outside agencies, people we do not know or people that we do not appoint, as the gentleman mentioned, to come in and conduct the "sunset" review. The Brandt amendment would have the existing Legislative Budget and Finance Committee conduct the initial preliminary performance audit rather than a legislative auditor, as the bill calls for. If we create the office of legislative auditor, he or she will be appointed by the leadership of this House and the Senate and will report directly to us; it will not be an outside agency and will not be somebody we have no control over. I think that it is important for the record to be straight on this, that the current bill, as currently written, does not call in outside people. It makes a very specific point of keeping the "sunset" review and the audit function in the House and in the Senate where it ought to be. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. A last minute reminder, that we are referring to those who cover these various agencies as far as the goodies bills and goodie legislation that they want. I would just like to remind you, have you seen some of the articles lately that some of the members of the Fourth Estate have been writing? All of a sudden you see they are working for the department. You think it over again, you will see what I am getting at. They know what they are doing. They are getting these juicy jobs, and they write all of these nice stories about them. That is what will happen in that year, and they will get what they want and clobber you. So vote it down.

On the question,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—38

Armstrong	DiCarlo	Levi	Serafini
Belardi	Dietz	Mackowski	Sieminski
Bowser	Dombrowski	Miller	Spitz
Brandt	Geist	Moehlmann	Swift
Burd	Hayes, Jr., S.	Mowery	Wass
Clark, M. R.	Honaman	Noye	Wenger
Cohen	Hutchinson, A.	Peterson	Yohn
Coslett	Johnson, E. G.	Ryan	
Cunningham	Klingaman	Salvatore	Seltzer,
DeVerter	Lehr	Scheaffer	Speaker

NAYS—144

Alden	Fryer	Livengood	Ritter
Anderson	Gallagher	Lynch, E. R.	Rocks
Arty	Gallen	McCall	Rodgers
Austin	Gamble	McIntyre	Schmitt
Barber	Gannon	McKelvey	Schweder
Bennett	Gatski	McMonagle	Seventy
Berson	Geesey	Madigan	Shadding
Bittle	George, C.	Manderino	Shupnik
Borski	George, M. H.	Manmiller	Sirianni
Brown	Gladeck	Michlovic	Smith, E. H.
Burns	Goebel	Micozzie	Smith, L. E.
Caltagirone	Goodman	Mrkonic	Spencer
Cappabianca	Grabowski	Mullen	Stairs
Cessar	Gray	Murphy	Steighner
Chess	Greenfield	Musto	Stewart
Cimini	Grieco	Nahill	Stuban
Clark, B. D.	Gruppo	Novak	Sweet
Cochran	Halverson	O'Brien, B. F.	Taddonio
Cole	Harper	O'Brien, D. M.	Taylor, E. Z.
Cornell	Hasay	O'Donnell	Taylor, F.
Cowell	Helfrick	Oliver	Telek
DeMedio	Hoefel	Perzel	Thomas
DeWeese	Hutchinson, W.	Petrarca	Trello
Davies	Itkin	Piccola	Vroon
Dawida	Johnson, J. J.	Pievsky	Wachob
Dininni	Jones	Pistella	Wargo
Dorr	Kanuck	Pitts	White
Duffy	Knight	Polite	Wilson
Durham	Kolter	Pott	Wilt
Earley	Kowalshyn	Pucciarelli	Wright, D. R.
Fee	Kukovich	Punt	Wright, Jr., J.
Fischer	Lashinger	Pyles	Yahner
Fisher	Laughlin	Rappaport	Zeller
Foster, W. W.	Letterman	Reed	Zitterman
Foster, Jr., A.	Levin	Richardson	Zord
Freind	Lewis	Rieger	Zwilk

NOT VOTING—14

Beloff	Irvis	Milanovich	Street
Dumas	Knepper	Pratt	Weidner
Giammarco	McClatchy	Rhodes	Williams
Hayes, D. S.	McVerry		

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. DiCARLO offered the following amendment:

Amend Sec. 5, page 5, line 19 by inserting after "termination." If the standing committee fails to carry out the provisions of this section, its lack of action shall be deemed to be a favorable recommendation.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. DiCarlo.

Mr. DiCARLO. Mr. Speaker, what my amendment does is eliminate what I think is a glaring loophole in the present "sunset" legislation before us. Basically what I am trying to do is, if the standing committee that is responsible to review the board or the commission fails to issue a report, my amendment says that this lack of action by the standing committee shall be deemed to be a favorable recommendation.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOEFFEL. I would like to speak against the DiCarlo amendment, Mr. Speaker. Mr. DiCarlo is concerned about what would happen if the standing committee failed to meet its obligation under the law and failed to submit a report to the General Assembly in the fall of the "sunset" year. And I think the concern is a legitimate one. Certainly the "sunset" procedure would be hampered if any standing committee failed to live up to its legal obligations to conduct a review to which it was assigned. But I think that the DiCarlo remedy is the wrong one.

One of the key aspects of "sunset" is that in the fall, when the full House and Senate are called upon to vote "yes" or "no" to continue an agency, we have to operate with as much information at our disposal as possible. The DiCarlo amendment would permit us to be faced with that "yes" or "no" vote without any report from the committee at all.

My solution would be, if the standing committee that was assigned the "sunset" committee review failed to issue a report, I think it is clear that the leadership committee—and it is clear under the terms of the bill—certainly has the authority to reassign that report to another standing committee so that the research and the report will be done and will be available to the General Assembly the first session day of September.

I think that Mr. DiCarlo is addressing himself to a legitimate problem. I am just afraid that his remedy would allow us to operate in the dark. I think that is the wrong way to go. I think that the legislative history and record should be clear that if a standing committee fails to live up to its legal obligations, under the bill, to conduct a report and issue it to the General Assembly, then the leadership committee should reassign that report so that the report is completed. So I ask for a negative vote. Thank you.

The SPEAKER. The Chair recognizes the lady from Delaware, Mrs. Arty.

Mrs. ARTY. Mr. Speaker, I have a deep concern for "sunset" legislation in general. My concern lies not in the fact that we need accountability in government; with that I have no argument. It lies not with the fact that we need fiscal responsibility; with that I have no argument.

I have some concern, Mr. Speaker, with "sunset" legislation, and with all due respect to the maker and the sponsor

and the cosponsors of this particular legislation, I would like to, for the record and for the edification of my colleagues, set forth some of my concerns with this bill.

First of all, Mr. Speaker, my concern is not with our absolute need for fiscal accountability. Certainly the people of Pennsylvania are entitled to that. My concern is not with performance review. The people in Pennsylvania are entitled to that. My concern rests with the automatic termination dates, and I would bring to your attention, Mr. Speaker, the fact that there are a number of health professions that are licensed by the Commonwealth of Pennsylvania. May I ask what happened to those licensees if their particular professional practice act and their licensing board goes out of existence? What happens then to health care in Pennsylvania? We stand to be in gross negligence of our care for people.

My concern, also, is that if this bill goes through without the DiCarlo amendment, who will then be responsible for the licensing procedures particularly for health professionals?

I ask my colleagues to concur and to vote affirmatively on the DiCarlo amendment.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, with all due respect to my good friend, Mr. DiCarlo, I feel that his amendment should just be reversed, that unless that committee makes a recommendation then that board or agency goes out of existence. That is what it is designed to do. Can you see the stalling and carrying on in the regard to the excuses that they could not get the information that they need? As a matter of fact, it is going to get these people on the ball, on the stick, and make a move and that is going to do a job. But if you give it to them the way Mr. DiCarlo is stating it, all they can do is goof off; they do not make a report and it goes right on as usual. This is the problem that you are going to have. And that, I believe, is the intent of the legislation.

As far as the worrying is concerned that my good friend who just spoke has, I am certain that this legislature, with all the political ramifications that would be created in dropping agencies, is going to get on the ball and see that they do continue in existence. Can you see politically allowing something like this to die? Therefore, I feel your fears are unfounded. It is not going to happen. They are going to get on the stick and they are going to do a job, but Mr. DiCarlo's amendment would not allow it to happen. Therefore, let us vote down the amendment.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, in response to Mrs. Arty's argument, I think there is a bit of a misunderstanding. I am not sure if I understood her argument entirely, but she talked about changing the mandatory provisions. The DiCarlo amendment does not do that.

My problem with the DiCarlo amendment is, I think it is well-intentioned, but it really misses the mark. It will keep from us a lot of basic information that we will need to act, and that is the real brunt of his amendment. I think that is

the problem that we have to address. If we are not given that information by the standing committee—and from a practical standpoint, I cannot see that happening unless the committee would want us not to consider the problems that that bureau or department is having—then we will be made to look rather foolish in this General Assembly.

Once again, to reiterate, although I think the intent is sound, I think that the approach here is mistaken. I would ask you to vote against the amendment.

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, the DiCarlo amendment just destroys the whole concept of “sunset.” It would allow committee chairmen, who did not even want to consider termination of an agency or want to see an agency continue in existence despite its merit, to not have his committee meet and have them consider it, and any agency would continue to function. I think that the DiCarlo amendment could be labeled “procrastinators prevail.”

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. DiCarlo.

Mr. DiCARLO. Mr. Speaker, will the prime sponsor of the legislation submit to a brief interrogation?

The SPEAKER. The gentleman indicates that he will, and the gentleman, Mr. DiCarlo, may proceed.

Mr. DiCARLO. Mr. Speaker, will you tell this General Assembly what the penalty is in the bill if a standing committee, for one reason or another, does not do its overview function and submit a report to be looked upon?

Mr. GALLEN. I do not know if there is a penalty.

Mr. DiCARLO. There is no penalty, is that right?

Mr. GALLEN. Right.

Mr. DiCARLO. Okay. Thank you, Mr. Speaker.

Mr. Speaker, most of the other legislators that spoke against the amendment all admitted that this was a problem that existed; it was a bona fide problem, but they did not think it was something that we would have to address in the future.

The only thing that I can tell you is that I have worked on “sunset” the last 4 or 5 years, and I have been down here a little bit longer than some of the legislators that are advocating this piece of legislation. And I want to tell you, if you think the problem will not occur, it will occur, and all you have to do is look into the past sessions of this legislature where we had oversight provisions on the Emergency Medical Procedures Act, or emergency services provided throughout the Commonwealth. We saw action, not by this chamber, but by members in the other chamber who, for one reason or another, held that piece of legislation up; they amended it. I am sure that the people from the rural districts are familiar with the rules and regulations that were being forced upon those areas for ambulance training programs. What they did is, they used that as a vehicle to hold up emergency medical funding and to get those services to continue in this Commonwealth.

What I am saying is, those political games occur in this legislature, and the fact is, if you have a board or commis-

sion that does not have the political clout—and as I look through this list and, when we talk about final passage, I am going to ask the chairman why commissions like the Game Commission and the Fish Commission were not included in this review process, because I think that would be beneficial for us to know. But the fact is that if you have boards or commissions that do not have any political clout—and they do not have any influence in this legislature, they are going to be out of luck. All I am trying to do is say that the standing committee—and the standing committee that we are talking about is the House of Representatives, Joe Zeller; it is not an outside body; it is members of this legislature. And I do not have to tell you how slowly they ought to act or not react. I am saying if they do not do their job, what we ought to do is have a vehicle in the bill to say what happens to the board or commission. That problem is not addressed. That is not even looked at.

All my amendment is saying is, if the review process is not done, that the standing committee does not make a recommendation, then that board or that commission should not be penalized because of inaction. And I am saying that they ought to stay in existence until the next review, and that is all I am asking, Mr. Speaker.

The SPEAKER. The Chair recognizes the lady from Delaware, Mrs. Arty.

Mrs. ARTY. Mr. Speaker, will the gentleman from Montgomery, Mr. Hoeffel, stand for interrogation?

The SPEAKER. The gentleman indicates that he will, and the lady may proceed.

Mrs. ARTY. Mr. Speaker, unless the DiCarlo amendment is adopted, how will 180,000 nurses in Pennsylvania practice their professions if, by any chance or by any loss of chance, the Professional Nurse Practice Act goes out of existence and there is no licensing board at the termination time set forth in this legislation?

Mr. HOEFFEL. Mr. Speaker, the DiCarlo amendment will not guarantee that any board or any commission continue; it will not guarantee that it will be terminated. The DiCarlo amendment does not address itself to the mandatory termination dates in the bill. So that with or without the DiCarlo amendment, the full House and Senate will still be faced in the fall of the review year with the decision of whether or not to terminate the particular agency. If the DiCarlo amendment is in or if the DiCarlo amendment is out, it does not matter. The agency under review will still be terminated at the end of that calendar year. If the DiCarlo amendment goes in, then the General Assembly, in the fall, will have to make its decision without benefit of a committee report. If the DiCarlo amendment goes out, stays out presumably the leadership committee would reassign a “sunset” review to a second committee, if the original committee failed to do its work over the summer. But with or without the DiCarlo amendment, by the first session day of the fall, the full House and full Senate will be faced with a decision of whether or not to terminate the mandatory termination dates for the Board of

Nurse Examiners, if that is what is under consideration. That will still be in the law and we will still be faced with that decision.

Mrs. ARTY. Mr. Speaker, I urge the adoption of the DiCarlo amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOFFEL. Mr. Speaker, I am just not sure that the explanation of the DiCarlo amendment and the point made by Mrs. Arty are on target. The DiCarlo amendment is not going to guarantee that any particular special-interest group is taken off or not taken off. My only objection to the DiCarlo amendment is that I do not believe that we should be operating in the dark. If the DiCarlo amendment goes in, we will still have to make that decision in the fall of the review year, whether or not to continue the particular agency. It would be tying our own hands to do as Mr. DiCarlo suggests and say, well, let the failure of the committee to make a report be construed as a positive recommendation. We still have to vote "yes" or "no" because that agency is still going to terminate and I do not think we should be allowing committee chairmen to get off the hook by not taking any action over the summer. If the action is not taken, the leadership committee should, and it should be on record here today that they are expected to reassign that review to another committee. If they do not, the automatic termination is still in the bill. I think that the DiCarlo amendment has been misconstrued to the membership here today, and I urge its defeat.

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

The following roll call was recorded:

YEAS—40

Alden	Davies	Knight	Scheaffer
Arty	Dombrowski	Kowalyszyn	Seventy
Barber	Duffy	Letterman	Shupnik
Berson	Earley	Levin	Wargo
Brandt	Gallagher	Mowery	White
Caltagirone	Gannon	Mullen	Wright, Jr., J.
Cappabianca	Goodman	Novak	Zord
Cohen	Grabowski	Oliver	
Cole	Gray	Pott	Seltzer,
Cornell	Halverson	Richardson	Speaker
DiCarlo	Hutchinson, A.		

NAYS—142

Anderson	Gamble	McMonagle	Schmitt
Armstrong	Gatski	Mackowski	Schweder
Austin	Geesey	Madigan	Serafini
Belardi	Geist	Mandirino	Shadding
Bennett	George, C.	Manmiller	Sieminski
Bittle	George, M. H.	Michlovic	Sirianni
Borski	Gladeck	Micozzie	Smith, E. H.
Bowser	Goebel	Miller	Smith, L. E.
Brown	Greenfield	Mochlmann	Spencer
Burd	Grieco	Mrkonic	Spitz
Burns	Gruppo	Murphy	Stairs
Cessar	Harper	Nahill	Steighner
Chess	Hasay	Noye	Stewart
Cimini	Hayes, Jr., S.	O'Brien, B. F.	Street
Clark, B. D.	Helfrick	O'Brien, D. M.	Stuban
Clark, M. R.	Hoeffel	O'Donnell	Sweet
Cochran	Honaman	Perzel	Swift

Coslett	Hutchinson, W.	Peterson	Taddonio
Cowell	Itkin	Petrarca	Taylor, E. Z.
Cunningham	Johnson, E. G.	Piccola	Taylor, F.
DeMedio	Johnson, J. J.	Pievsky	Telek
DeVerter	Jones	Pistella	Thomas
DeWeese	Kanuck	Pitts	Trello
Dawida	Klingaman	Polite	Vroon
Dietz	Kolter	Pucciarelli	Wachob
Dininni	Kukovich	Punt	Wass
Dorr	Lashinger	Pyles	Wenger
Durham	Laughlin	Rappaport	Wilson
Fee	Lehr	Reed	Wilt
Fischer	Levi	Rieger	Wright, D. R.
Fisher	Lewis	Ritter	Yahner
Foster, W. W.	Livengood	Rocks	Yohn
Foster, Jr., A.	Lynch, E. R.	Rodgers	Zeller
Freind	McCall	Ryan	Zitterman
Fryer	McIntyre	Salvatore	Zwikl
Gallen	McKelvey		

NOT VOTING—14

Beloff	Irvis	Milanovich	Rhodes
Dumas	Knepper	Musto	Weidner
Giammarco	McClatchy	Pratt	Williams
Hayes, D. S.	McVerry		

The question was determined in the negative, and the amendment was not agreed to.

The SPEAKER. Does the gentleman, Mr. Davies, have another set of amendments?

Mr. DAVIES. Yes, Mr. Speaker. I apologize to the Chair. I thought that the first two amendments had taken care of this consideration, but as I went over them, and I reviewed them, they do not. So I would submit that amendment at this time.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. DAVIES offered the following amendment:

Amend Sec. 5, page 4, line 15, by inserting after "review." The committee may retain a private Pennsylvania organization to assist them in the financial review and evaluation of any agency with the consent of a committee composed of the Speaker of the House of Representatives, the President pro tempore of the Senate and the Majority and Minority leaders of the House of Representatives and the Senate.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, this amendment would establish the fact that the committee could retain a private Pennsylvania organization, whether it be nonprofit or not, to actually assist them in the financial review and evaluation of any agency. In other words, the committee, by their action, could not in any way say that they would not have the wherewithal to be able to consider and review these things within the proper time frame. So it would merely be a protection. While it is not something that is essentially as broad as I would like the guarantee of the committee to have and be able to function to that end, it does give some leeway that they can go out to such organizations as the Pennsylvania Economy League or they could go into the private sector for a review.

The essentials of this, again, have the safeguard that, of course, if the leadership of the House does not—and it states specifically there—and the Senate does not want to go to that end, then, of course, all they have to do is say no to the extension of this consideration. Now I do not feel that it would create an undue fiscal burden. I think there has to be some sort of guarantee that the concerns of any individual member or those of the committee chairmen or leadership are considered as far as this type of review. It is that serious. I think that when we say “sunshine,” we really have to look in and have something that is going to cast the public sector and the concerns of most everyone by using this type of review. I think it is imperative that we have that kind of input, and at least the consideration of that. It is purely “may.” It does not say that in any manner, shape or form they must, they shall. And, again, the other safeguard is, if leadership says that it goes too far or it would be too expensive or it would not be in the best interests of this deliberating body that, of course, it could be denied.

So I would ask for support of the amendment in the fact that it would give that type of enlightenment, that kind of input and review, for the consideration of this deliberation and then the body.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOFFEL. Mr. Speaker, I rise in opposition to this amendment, Mr. Speaker. I think it is a very big step in the wrong direction. The Davies amendment would allow the standing committee to request the leadership committee to employ some outside group to conduct the business or to help them conduct the business that we ought to be doing on our own here in the House of Representatives. There is no reason for us to hire people to conduct some of the review and to do some of the research that we will be able to do ourselves.

We will have a legislative auditor to conduct the preliminary performance audit; we will have the staff of the standing committees and the staff of any other and all the committees of the House and all their support services, if we need them, and at the mandated public hearing that must be held by the standing committee conducting the review, they can certainly solicit the views of any outside group, whether they are for profit, nonprofit, or anybody else. We can still have the input from the public and from any interested outside group. But I do not think we should be, in this bill, allowing the leadership committee to pay for that input when we can do it ourselves. I ask for a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, would Mr. Hoeffel submit to just a question of interrogation?

The SPEAKER. The gentleman, Mr. Hoeffel, indicates that he will, and Mr. Davies may proceed.

Mr. DAVIES. Mr. Speaker, in your broad experience with all of the legislative input that you have had so far in

your career here in the House, do you feel comfortable by the fact that with the staff that you have now as an individual and the staffing that you have as a member, that there is adequate staffing when you add this type of review to all of these agencies in consideration of that? Knowing what you have gone forth with now as far as any committee work that you have pursued or anything like that, do you yourself feel content with the capabilities of research that you have at your disposal now, sir?

Mr. HOFFEL. Mr. Speaker, I believe under the terms of the “sunset” bill that we will have adequate staff to conduct the necessary research and allow us to make intelligent decisions and choices. I repeat that. The bill does permit us to hire a legislative auditor who will be a professional accountant and will give us very factual and useful information in terms of the financial help of the agencies under review.

When the review is assigned to one of the standing committees, the workload obviously is spread out among all the committees of the House. No one standing committee will be overwhelmed; no one standing committee will be unable to conduct the three or four reviews that will be assigned to it. I just think it is a big mistake for us—I understand the gentleman’s intentions. He wants more adequate information just as I want adequate information. I do not quarrel with that intention one bit. I just think it is a mistake for us—to be authorizing this House to be paying for outside information that we will be able to get on our own.

The SPEAKER. The Chair recognizes Mr. Davies.

Mr. DAVIES. Mr. Speaker, I have just one concluding statement. I think that the Speaker, in answer, had been hedging on whether or not it has been adequate to date. He is saying, with the if, that the guarantee of purely an accountant is going to give us that expertise, it is going to expand us so that we are going to really have the input and the knowledge that is necessary to make some of what I think are most difficult decisions down the pike. All I am saying is that—and I am not saying that we are going to have to spend thousands or hundreds of thousands—the possibility or potential is there, that we can spend the amount of money that is necessary to gain the useful information so that we are going to cast intelligent votes on these issues. I do not think that one man or one committee now has that expertise when we really need it on issues such as this; imperative issues in the licensing and the continuation of professions and the concern about all those professions, and all the other business of this Commonwealth. I think we are certainly going to need more input than is allowed within the framework or the basic make-up of this legislature now.

Mr. Speaker, I just ask for consideration for support of this amendment. It is purely a “may” provision. It does not say “shall.” It is the type of thing that we need, if and when we really do get in any kind of a backlog or jam, even though there is a schedule. The consideration has some sort of merit to it, I must admit that, but I think it is

imperative that we have something we can put a handle on as far as getting additional information, when and if the leadership thinks it is necessary. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—17

Belardi	Dorr	Nahill	Wright, Jr., J.
Bowser	Fryer	Noye	
Brandt	Hutchinson, A.	Pyles	Seltzer,
Caltagirone	Miller	Serafini	Speaker
Davies	Mullen	Vroon	

NAYS—167

Alden	Foster, Jr., A.	Levin	Ryan
Anderson	Freind	Lewis	Salvatore
Armstrong	Gallagher	Livengood	Scheaffer
Arty	Gallen	Lynch, E. R.	Schmitt
Austin	Gamble	McCall	Schweder
Barber	Gannon	McIntyre	Seventy
Beloff	Gatski	McKelvey	Shadding
Bennett	Geesey	McMonagle	Shupnik
Berson	Geist	Mackowski	Sieminski
Bittle	George, C.	Madigan	Sirianni
Borski	George, M. H.	Manderino	Smith, E. H.
Brown	Gladeck	Manmiller	Smith, L. E.
Burd	Goebel	Michlovic	Spencer
Burns	Goodman	Micozzie	Spitz
Cappabianca	Grabowski	Moehlmann	Stairs
Cessar	Gray	Mowery	Steighner
Chess	Greenfield	Mrkonic	Stewart
Cimini	Grieco	Murphy	Street
Clark, B. D.	Gruppo	Musto	Stuban
Clark, M. R.	Halverson	Novak	Sweet
Cochran	Harper	O'Brien, B. F.	Swift
Cohen	Hasay	O'Brien, D. M.	Taddonio
Cole	Hayes, D. S.	O'Donnell	Taylor, E. Z.
Cornell	Helfrick	Oliver	Taylor, F.
Coslett	Hoeffel	Perzel	Telek
Cowell	Honaman	Peterson	Thomas
Cunningham	Hutchinson, W.	Petrarca	Trello
DeMedio	Itkin	Piccola	Wachob
DeVerter	Johnson, E. G.	Pievsky	Wargo
DeWeese	Johnson, J. J.	Pistella	Wass
DiCarlo	Jones	Pitts	Wenger
Dawida	Kanuck	Polite	White
Dietz	Klingaman	Pott	Wilson
Dininni	Knight	Pucciarelli	Wilt
Dombrowski	Kolter	Punt	Wright, D. R.
Duffy	Kowalyszyn	Rappaport	Yahner
Durham	Kukovich	Reed	Yohn
Earley	Lashinger	Richardson	Zeller
Fee	Laughlin	Rieger	Zitterman
Fischer	Lehr	Ritter	Zord
Fisher	Letterman	Rocks	Zwinkl
Foster, W. W.	Levi	Rodgers	

NOT VOTING—12

Dumas	Irvis	McVerry	Rhodes
Giammarco	Knepper	Milanovich	Weidner
Hayes, Jr., S.	McClatchy	Pratt	Williams

The question was determined in the negative, and the amendment was not agreed to.

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

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Lancaster, Mr. Brandt.

Mr. BRANDT. Mr. Speaker, we have before us at this time HB 1650 in the form of "sunset" legislation designated to make the government of Pennsylvania more efficient and more workable. I applaud that idea. However, I really feel that what we are doing with this bill is just one more overlay of bureaucracy in this state, one more time attempting to ask everybody to look over their shoulders at everybody else. What this bill intends to do, we can do now, if we have the intestinal fortitude in this House - to cut government. We do not need HB 1650; we do not need a legislative auditor and we do not need all the other gobbledygook that is in this bill. We have it now by a majority vote in this House to do what we want to do in this HB 1650.

I make these remarks, Mr. Speaker, to let members of this House know that I, as one, will vote against this bill, and hopefully other members of the House will join me. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. DiCarlo.

Mr. DiCARLO. Mr. Speaker, will the prime sponsor of this legislation consent to interrogation?

The SPEAKER. Will the gentleman from Berks, Mr. Gallen, consent to be interrogated? The gentleman indicates that he will, and the gentleman, Mr. DiCarlo, may proceed.

Mr. DiCARLO. Mr. Speaker, will you indicate to the House of Representatives the cost of this legislation if it is signed into law?

Mr. GALLEN. I missed the question. I am sorry.

Mr. DiCARLO. Mr. Speaker, can you indicate to this House of Representatives the cost of this legislation if it is signed into law?

Mr. GALLEN. According to the fiscal note—although the exact cost figures cannot be determined without knowing salary levels, which will be determined by the legislature—and other related expenses for this office, estimated costs for this office are calculated at \$465,000.

Mr. DiCARLO. Four hundred sixty-five thousand. Can you indicate, does the gentleman have any idea how many people will be employed in this additional auditing function?

Mr. GALLEN. These costs are based on a salary for the legislative auditor, five assistant auditors, two secretaries, and two staff persons to be added to the Senate committee and the House Committee on Professional Licensure.

Mr. DiCARLO. That is nine individuals so far, Mr. Speaker. Do you know, Mr. Speaker, where those people will be housed, or are we looking at, perhaps, renting or acquiring space outside of this Capitol building?

Mr. GALLEN. I do not think that the bill addresses that, nor has the committee considered exactly where the housing would take place.

Mr. DiCARLO. So that is still up in the air?

Mr. GALLEN. I would think so.

Mr. DiCARLO. Mr. Speaker, can you inform this House of Representatives what happens if a board is terminated? What happens?

Mr. GALLEN. What happens is, the functions cease.

Mr. DiCARLO. Okay. Can you inform the House what happens to—and let us use an example. One of the committees you talked about is the Lottery Commission. Is that the entire Pennsylvania lottery in this state?

Mr. GALLEN. I would think so.

Mr. DiCARLO. Okay. Mr. Speaker, can you tell us what happens if the lottery in Pennsylvania is terminated?

Mr. GALLEN. I would not expect that the lottery would be terminated.

Mr. DiCARLO. You do not know that though, Mr. Speaker. The purpose of the bill is to oversee and eliminate those boards and commissions which are not functioning. Now there have been several investigations that Mr. Rhodes had, and that was his concern, that maybe it ought to be wiped out.

Mr. GALLEN. The entire legislature would be forced to vote on its termination.

Mr. DiCARLO. I see, but the question is: What would happen to the employees of the state lottery if the lottery were terminated?

Mr. GALLEN. Just like any other agency, the employees, I assume, would be out of work unless they could be placed in another area of state government.

Mr. DiCARLO. Mr. Speaker, a lot of these people are civil service; a lot of them have union contracts. Is there any provision that they would be given the first opportunity to take another job?

Mr. GALLEN. Yes; that is in the bill. Page 10, subsection (d):

Employees of agencies terminated under this act, who have civil service status or who are covered by union contracts shall fill any existing vacancies within the administrative branch of State Government in their grade and position. If there are more employees than vacant positions at the time of termination, then such terminated employees shall receive employment in the first vacancies that shall thereafter exist....

Mr. DiCARLO. But the catch is they can only go into a job which is equivalent to their grade or their position. In the lottery there are not any other grades or positions that are equal in the administrative part of government. Is that not right?

Mr. GALLEN. I do not know why you are picking on the lottery. I think that would probably be—

Mr. DiCARLO. Well, it is one of the boards and commissions that you are talking about reviewing.

Mr. GALLEN. I understand that.

Okay; in subsection (c) just above that:

The employment of all personnel of the terminated agency shall be terminated: Provided, however, That this subsection shall not be construed to prohibit the

employees from applying for and being employed by other agencies or departments....

Mr. DiCARLO. Mr. Speaker, the catch in that one is saying they have the right to apply. You are not guaranteeing them any position; you are really locking them out. If you wipe out the lottery, they are virtually unemployed.

Mr. GALLEN. That is exactly right. It is like any other business that goes out of business, you know. The better people probably will get jobs with competitors, but those—

Mr. DiCARLO. I can hardly believe that you believe that statement, Mr. Speaker, but let us go on.

If a board or commission is terminated, who then picks up the obligation to give examinations? Let us use nurses or let us use physicians. Let us say for one reason or another the standing committee fails to act—which we tried to clear up—and the board is terminated, or for one reason or another the board or commission is just wiped out by this General Assembly. Who then has the responsibility to give those examinations?

Mr. GALLEN. No one. The General Assembly has decided that those functions are not necessary.

Mr. DiCARLO. So otherwise then, there would be no examinations given at all.

Mr. GALLEN. That is correct. The General Assembly has made that decision. Just as this General Assembly decided that there should be examinations and licensing, the General Assembly has later made a decision that there does not have to be or there should not be.

Mr. DiCARLO. All right. What about in those cases, for example, our institutions, our hospitals, where they have to be accredited by the Federal Government? JHAC - Joint Hospital Accrediting Commission - has to come in here and give approval before we are eligible or entitled to medical assistance or medicare funds. What happens with those kinds of facilities?

Mr. GALLEN. This legislature must make the determination as to which of the state agencies are of value and continue those that are and discontinue those that are not. That is the purpose of "sunset."

Mr. DiCARLO. Does HB 1650 deal with a specific example? If the standing committee refuses to act or make a recommendation and the board is terminated or for one reason or another it is terminated, what does HB 1650 say? How will you act? How will you deal with that problem?

Mr. GALLEN. We would be in the same status as we were prior to the time that that agency was created.

Mr. DiCARLO. What you are saying is that HB 1650 has no solution to that problem. Is that right, Mr. Speaker?

Mr. GALLEN. HB 1650 addresses the problem of "sunset," of termination of state agencies that this legislature in its wisdom deems not fulfilling an important function in the Commonwealth.

Mr. DiCARLO. Mr. Speaker, I think I have made my point.

One other question—

The SPEAKER. The Chair recognizes—

Mr. DiCARLO. No. I am not finished, Mr. Speaker.

The SPEAKER. The gentleman, Mr. DiCarlo, may continue.

Mr. DiCARLO. Mr. Speaker, for the record, can you tell this General Assembly how many other states that have "sunset" legislation have terminated an existing agency?

Mr. GALLEN. I do not think the question is pertinent, but there have been three other states which have adopted "sunset" legislation.

Mr. DiCARLO. No. The question, Mr. Speaker, is, of the states—

Mr. GALLEN. Colorado and Florida have terminated one agency each.

Mr. DiCARLO. One agency each.

How many states have adopted "sunset" legislation?

Mr. GALLEN. Twenty-nine states.

Mr. DiCARLO. Twenty-nine states, and we have two states that have in these years eliminated one agency each.

Mr. Speaker, can you inform the General Assembly how the selection process was made as to which boards and agencies would be reviewed and which are not included in this bill?

Mr. GALLEN. This legislation, as I think you are trying to point out, is quite a monumental piece of legislation, and because of the monumental impact of this type of legislation, we did not attempt to address every single facet of state government, but we feel that this is a start. If HB 1650 is enacted, we would like to see how it will work before we extend it to include other agencies and other functions of state government.

Mr. DiCARLO. Mr. Speaker, what criteria did you use to list the 60 or 80 or 100-some boards and commissions? How were they selected? Were they random? Did you put them in a hat and pick them out? Was it every third agency on the list?

Mr. GALLEN. Those that the committee felt would lend themselves to review, and we felt that we had to make a start someplace and we did pick them, I would guess, somewhat at random and somewhat with purpose.

Mr. DiCARLO. And somewhat with what?

Mr. GALLEN. Purpose.

Mr. DiCARLO. With purpose?

Mr. GALLEN. Yes.

Mr. DiCARLO. Was there any purpose that there might be some boards or agencies on here that you would like to terminate like maybe the Minority Business Authority, the Human Relations Commission, the State Highway and Bridge Authority? Was there a purpose for those?

Mr. GALLEN. No. We just felt that we should take a list of state agencies, and they happened to be included in the list.

Mr. DiCARLO. I am asking you, how were they selected?

Well, let me ask you this, Mr. Speaker: If you cannot inform the House on how you selected this limited number of boards and agencies, can you inform the House why perhaps you did not pick agencies like the Fish Commission and the Game Commission?

Mr. GALLEN. Well, originally the Fish Commission was in the bill. The Fish and Game Commissions were in the bill. It was felt by the committee that since these two commissions are self-sustaining—that is, they raise their own revenues—that we would amend, and it was the wisdom of the committee to take them out.

Mr. DiCARLO. The lottery is self-sustaining; the Medical Licensure Board is self-sustaining; the Liquor Control Board is self-sustaining; the PUC Board is self-sustaining; I can go down the list. Could it be, maybe, that fishermen and the game people in this area exerted a little bit of pressure?

Mr. GALLEN. The agencies that you mentioned are not self-sustaining. The licensing moneys go into the General Fund, whereas that is not the case with the Fish and Game Commissions.

Mr. DiCARLO. That is not the case with the lottery; that is not the case with the Medical Licensure Board. That is not so.

Can you tell me why the Fish Commission and the Game Commission were eliminated from this bill?

Mr. GALLEN. Politics.

Mr. DiCARLO. Okay. Thank you, Mr. Speaker.

The SPEAKER. Partisan or nonpartisan?

Mr. DiCARLO. You indicated earlier at an earlier time that there were no penalties in this bill if a standing committee refuses for one reason or another to carry out its function. Is that right?

Mr. GALLEN. That is correct.

Mr. DiCARLO. Okay.

I have a question, and this will be the last question and maybe it is another oversight or something that the gentleman did not think about.

On page 7 of the bill, line 16 is the State Board of Education and line 18 is the Board of State College and University Directors. Is that right?

Mr. GALLEN. That is correct.

Mr. DiCARLO. Okay. You have on page 6, lines 1 through 3:

The following agencies together with their corresponding statutory functions and duties shall terminate all activities and shall go out of existence on December 31, 1981.

Is that right, Mr. Speaker?

Mr. GALLEN. That is what it says.

Mr. DiCARLO. Pardon?

Mr. GALLEN. You read it correctly.

Mr. DiCARLO. I guess the question I had is—I just caught this at the last minute—on page 8 of the bill, line 8 says the State Board of Education; line 10 says the Board of State College and University Directors; and starting with line 2, page 8 says:

The following agencies together with their corresponding statutory functions and duties shall terminate all activities and shall go out of existence on December 31, 1985:

Now I have not compared the rest of the bill, but do they go out of existence in 1981 or 1985? Am I correct in that conflict in the bill, Mr. Speaker?

Mr. GALLEN. In the clarifying amendment which I introduced earlier, it was included in both sections, and in the clarifying amendment which I introduced—I will give you a copy of it—you will notice that—

Mr. DiCARLO. Okay; you corrected that?

Mr. GALLEN. —that inadequacy was corrected.

Mr. DiCARLO. Okay; thank you, Mr. Speaker. No further interrogation.

Mr. Speaker, I just want to make a follow-up comment.

The SPEAKER. The Chair recognizes Mr. DiCarlo.

Mr. DiCARLO. Again, I have always been an advocate of "sunset" legislation. I have some concerns. Four or five years ago I was one of the prime sponsors of similar legislation, and some of the concerns that I had I tried to bring up in today's debate and I tried to bring up in the interrogation.

There are loopholes in this bill. There are problems that exist there that just have not been dealt with. They are not met in HB 1650, and everybody says, do not worry about it; we will correct it at a later time. But I do not think it is going to be corrected at a later time, and what is going to happen and the fear that I have is, we may pass a piece of legislation for the media and to campaign on, but we are going to cause some real turmoil in Pennsylvania, and it is going to happen, Mr. Speaker; it is going to happen. You are going to see boards and commissions, because of our inactivity—they will not act in time—that are going to be terminated. And we are spending a half a million dollars for a group of 9 or 10 people—and we do not know what the salary ranges are going to be; we do not know where they are going to be housed; we really do not know whom they are going to work for—to rereview audits and operations. We do that now with the Appropriations Committee in the House and the Senate. They have that responsibility. I do not have to tell you of the moneys that we pay for staff in both Chambers.

The Budget Office does it for the Governor. They have that function and that capability to review budgets and to audit functions and audit departments, and I just cannot see why we are going to spend another half a million dollars to pass a piece of legislation that is not going to do anything, and really it is going to cause a lot of problems.

I guess the last part—and Mr. Gallen mentioned it—was when we talked about why some groups or some agencies were not included in the review. Those commissions, those boards, which exercise the greatest influence, which provide the greatest clout, which perform politically, are going to be axed out of it anyhow. They are not even going to be included. I do not think that is right. I do not think that is fair.

Mr. Speaker, I reviewed the bill; I understand the merits of the bill, but I think that we are creating something that is not going to work. And the final thing is, after you spend a half a million dollars and after we pass the bill, the

insult of the whole thing is you are going to turn it over to the bureaucracy and you are going to have somebody draft up rules and regulations that are going to carry out this whole act, rules and regulations in which you will not even have any input.

Mr. Speaker, because of those things, I ask the Chamber to reject HB 1650.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOEFFEL. I rise in support of HB 1650, Mr. Speaker. I would like to start just by correcting a couple of comments that were made in the previous debate.

The fiscal note on the cost of HB 1650 is \$300,000, not half a million as Mr. DiCarlo was saying. The figures read by Mr. Gallen were changed by the Appropriations Committee on October 23, 1979. The fiscal note for the hiring of the legislative auditor and the staff that he will need is \$305,000. I would just like to correct that for the record.

Mr. DiCarlo did his best to raise all the bugaboos and point out what he calls loopholes in the "sunset" bill in an attempt to defeat it. Well, first off, I do not think that there are loopholes in the bill. I think it has been very carefully drawn and very carefully debated both in committee and on the floor of the House both this session and last session. I think we know very clearly what we are doing here, and I think we have a good piece of legislation.

There is no question that this bill does not include every single board or agency in state government. The main reason for that is that we wanted to start the "sunset" procedure in Pennsylvania with a manageable group of agencies, a manageable number, and we have some 75 or 77 listed in this bill, and we feel that that is the way to start. There are some very major agencies listed in this bill - the PUC and the Milk Marketing Board and some others. We are not ducking the tough ones. We are not ducking the ones that have a major impact on Pennsylvania citizens, not at all. But we are going after a group that we feel that we can manage that will give us a good test of whether the "sunset" procedure is workable in Pennsylvania.

Now, I would like to simply point out that the purpose of "sunset" is not necessarily to terminate agencies but rather to force those bureaucrats to take a hard look at their actions and justify their activities and their existence to us.

A second purpose of "sunset" is to require the General Assembly to meet our oversight obligations and responsibilities and on a regular basis take a hard look at these agencies, a harder look than we now take during the appropriations process.

I think the true benefit of "sunset" cannot be counted in the number of agencies that might be terminated but rather in the number that might be changed, that might be altered, in the number where the bureaucrats come to life and realize that if they do not get the job done, they are going to be out of business. I think that the beauty of "sunset" is that it is going to put the bureaucrats on notice that they

have got to perform, and if they do not, they will be out of existence. I think that is the key way for us to measure the value of the "sunset" procedure.

Mr. DiCarlo mentioned that the "sunset" bill might cause turmoil in Pennsylvania. Well, I hope he is right. I hope it does cause turmoil. That is the whole point of "sunset" now. I do not think the bureaucrats in Pennsylvania are given a tough enough investigation in oversight as we go about our business session to session.

I think we need some turmoil in Pennsylvania, not to cast constituencies adrift without any provisions to take care of the responsibilities that we put on them, but the turmoil ought to be among the state bureaucrats, among the state employes. They had better know that they have got to produce or that they will not be able to continue their wasteful ways. So I urge an affirmative vote for this bill. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. I will yield, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Mr. Speaker, Mr. Gallen and Mr. Hoeffel should be credited for shaping a "sunset" bill which can operate effectively in Pennsylvania.

The essence of a "sunset" bill is to impose on the legislature a certain discipline to periodically and regularly review various state agencies, review their operation and review the need for their continued existence. You cannot on the one hand say that you are for "sunset" and on the other hand be opposed to that kind of discipline that would be mandated by this bill. A "sunset" bill requires the discipline of periodic, regular, mandated review.

Mr. Hoeffel is absolutely correct. We should not attempt to measure the success of a "sunset" bill by the number of agencies that are put out of existence. There may well indeed be some that ought to be eliminated, and I think they will be identified by the "sunset" process. But more importantly for all Pennsylvanians, there will be a need for each of those agencies, at their particular time in the review process, to come before the legislature and justify their operation and justify their existence. That will be positive for the legislature; that self-examination that will be necessary before they come before the legislature will be positive for their operation; and it will be positive for the constituencies that those various agencies serve, because if they are in fact going to go to their constituents across the Commonwealth and seek political support, when they come to the legislature to argue for their continuation, those agencies, those respective agencies, will have to make darn sure that they are operating for the benefit of the constituencies that they were intended to serve. I therefore think that their need to generate and to have the support of their constituencies when they fight that battle before the legislature will make them more effective in serving those constituencies that would be required by law.

I urge that we adopt HB 1650.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, there have to be some explanations made in regard to questions asked of Mr. Gallen by Mr. DiCarlo.

If you really want to get down to why the Fish and Game Commissions were eliminated, you have to go back to last session when Senator Mellow in the Senate tried to make it political, really political, because they wanted the funds in the General Fund because they wanted to appoint the executive director, who is presently appointed by the commission members themselves. They wanted to really make it political, and that is why we fought it. I was one who debated on the floor of this House to kill that bill, and if you remember, we killed it. It had passed the Senate and had some very embarrassing positions placed by some of the Senators over there at the time, with all respect to them.

Now, we find today with agencies when we get elected, we have promised our voters to come down here, the public we represent, and we are going to change this bureaucracy. It is so big. It is eating us up, and we are going to come down here and do something about it. Then when we get down here, we find out that through the administration and through the various department heads, we can do nothing. They play with Federal funds that Mr. DiCarlo was talking about, and they lock you in. They lock you into programs that they can create with funds that we vote here in the budget. They take those moneys and create programs with the Federal Government and lock you in. And then you will say to yourselves, we cannot get rid of that program; it is an ongoing program, and we just cannot do it right now. And the leadership will tell you, naughty, naughty; now do not try to change that. And the liberals will tell you we have to have it and all the other goodies. Therefore, you are locked in.

Now, right now, with what you are doing with HB 1650, the buck is going to stop with you. You can keep telling your people all you want but right now with this bill you are going to have to stand up and take notice now. You are going to have to act. The legislature is going to have the monkey on its back, which is good, and you want it there, because you have been telling your people you are going to do something about it. Now, all of a sudden, it is going to be here and you are going to have to act.

So far the tail has been wagging the dog, and now you are going to have to start handling that tail yourself. This assures the public that there is a group responsible, and that group is going to be us. It is going to be the legislature where it should be. No longer are we going to have the conditions that we had a few years ago when we tried to get a bill through here to have oversight on Federal funding. That died because of the very problems that HB 1650 is going to try to correct, and HB 1650 will meet that head-on. So I say we need HB 1650, and I, like Mr. Cowell, congratulate Mr. Gallen and Mr. Hoeffel for an excellent job. At least we are heading in the right direction.

Okay, so it costs \$460,000, \$500,000. But I will tell you one thing: If you can save that money on one project, on one Federal, I should say, goodie job that gets sent to some of these departments over here, you will have saved millions for the taxpayers of not only Pennsylvania but this entire United States. So let us get on with it, and let us vote HB 1605 in.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—167

Alden	Foster, Jr., A.	Lynch, E. R.	Salvatore
Anderson	Freind	McCall	Scheaffer
Armstrong	Fryer	McClatchy	Schmitt
Arty	Gallagher	McIntyre	Schweder
Austin	Gallen	McKelvey	Serafini
Belardi	Gamble	McMonagle	Seventy
Beloff	Gannon	Mackowski	Shupnik
Bennett	Gatski	Madigan	Sieminski
Berson	Geesey	Manderino	Sirianni
Bittle	Geist	Manmiller	Smith, E. H.
Borski	George, C.	Michlovic	Smith, L. E.
Bowser	Gladeck	Micozzie	Spencer
Brown	Goebel	Milanovich	Spitz
Burd	Grabowski	Miller	Stairs
Burns	Gray	Mowery	Steighner
Caltagirone	Greenfield	Mrkonic	Stewart
Cessar	Grieco	Murphy	Street
Chess	Gruppo	Musto	Stuban
Cimini	Halverson	Nahill	Sweet
Clark, B. D.	Hasay	Noye	Swift
Clark, M. R.	Hayes, Jr., S.	O'Brien, B. F.	Taddonio
Cochran	Helfrick	O'Brien, D. M.	Taylor, E. Z.
Cole	Hoeffel	O'Donnell	Taylor, F.
Cornell	Honaman	Perzel	Telek
Coslett	Hutchinson, W.	Peterson	Thomas
Cowell	Itkin	Petrarca	Trello
Cunningham	Johnson, E. G.	Piccola	Vroon
DeMedio	Johnson, J. J.	Pievsky	Wachob
DeVerter	Jones	Pistella	Wargo
DeWeese	Kanuck	Pitts	Wass
Davies	Klingaman	Polite	Wenger
Dawida	Kolter	Pott	Wilson
Dietz	Kowalshyn	Pratt	Wilt
Dininni	Kukovich	Pucciarelli	Wright, D. R.
Dorr	Lashingier	Punt	Wright, Jr., J.
Duffy	Laughlin	Pyles	Yahner
Durham	Lehr	Reed	Yohn
Earley	Letterman	Rieger	Zeller
Fee	Levi	Ritter	Zitterman
Fischer	Levin	Rocks	Zord
Fisher	Lewis	Rodgers	Zwikl
Foster, W. W.	Livengood	Ryan	

NAYS—19

Barber	George, M. H.	Moehlmann	Shadding
Brandt	Goodman	Novak	White
Cappabianca	Harper	Oliver	
Cohen	Hutchinson, A.	Rappaport	Seltzer,
DiCarlo	Knight	Richardson	Speaker
Dombrowski			

NOT VOTING—10

Dumas	Irvis	Mullen	Weidner
Giammarco	Knepper	Rhodes	Williams
Hayes, D. S.	McVerry		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

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

WELCOME

The SPEAKER. The Chair welcomes to the floor of the House a former member of this House who retired in 1953, the Honorable Garrett Richter of Allegheny County, who is here today as the guest of the delegation of Allegheny County.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Rappaport.

Mr. RAPPAPORT. On HB 1650, I inadvertently voted in the negative. I would like to be recorded in the affirmative, please.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

BILL ON THIRD CONSIDERATION
POSTPONED

Agreeable to order,

The bill having been called up from the postponed calendar by Mr. D. M. FISHER, the House resumed third consideration of **HB 1083, PN 2536**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, adding provisions relating to product liability actions.

On the question,

Will the House agree to the bill on third consideration?

Mr. YOHN offered the following amendment:

Amend Sec. 2 (Sec. 8357), page 11, lines 1 and 2, by striking out "DESIGN OR FORMULATION WAS INTENDED BY THE MANUFACTURER" and inserting reasonably was suited

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, this is amendment A4383. It is a technical amendment to correct a mistake that was made in the printing of the bill. When the Insurance Committee reviewed the bill, there was an amendment that was offered and defeated, but inadvertently the defeated amendment was placed in the bill. So this is to revert the bill back to where it should have been when it was printed.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—174

Alden	Fisher	Levin	Salvatore
Armstrong	Foster, W. W.	Lewis	Scheaffer
Arty	Foster, Jr., A.	Livengood	Schmitt
Austin	Freind	Lynch, E. R.	Schweder
Barber	Fryer	McCall	Serafini
Belardi	Gallagher	McClatchy	Seventy

Beloff	Gallen	McMonagle	Shadding
Bennett	Gamble	Mackowski	Shupnik
Berson	Gannon	Madigan	Sieminski
Bittle	Gatski	Manderino	Sirianni
Borski	Geesey	Manmiller	Smith, E. H.
Brandt	Geist	Michlovic	Smith, L. E.
Brown	George, M. H.	Miller	Spencer
Burd	Gladeck	Moehlmann	Spitz
Burns	Goebel	Mowery	Stairs
Caltagirone	Goodman	Mrkoncic	Steighner
Cappabianca	Grabowski	Mullen	Stewart
Cessar	Gray	Murphy	Stuban
Chess	Greenfield	Musto	Sweet
Cimini	Grieco	Nahill	Swift
Clark, B. D.	Gruppo	Novak	Taddonio
Clark, M. R.	Halverson	Noye	Taylor, E. Z.
Cochran	Harper	O'Brien, B. F.	Taylor, F.
Cohen	Hasay	O'Donnell	Telek
Cole	Hayes, Jr., S.	Oliver	Thomas
Cornell	Helfrick	Peterson	Trello
Coslett	Hoeffel	Petrarca	Vroon
Cowell	Honaman	Piccola	Wachob
Cunningham	Hutchinson, A.	Pievsky	Wargo
DeMedio	Hutchinson, W.	Pistella	Wenger
DeVerter	Itkin	Pitts	White
DeWeese	Johnson, E. G.	Polite	Wilson
DiCarlo	Johnson, J. J.	Pott	Wilt
Davies	Jones	Pratt	Wright, D. R.
Dawida	Klingaman	Punt	Wright, Jr., J.
Dietz	Knight	Pyles	Yahner
Dininni	Kolter	Rappaport	Yohn
Dombrowski	Kowalyszyn	Reed	Zeller
Dorr	Kukovich	Richardson	Zitterman
Duffy	Lashingier	Rieger	Zord
Durham	Laughlin	Ritter	Zwinkl
Earley	Lehr	Rocks	
Fee	Letterman	Rodgers	Seltzer,
Fischer	Levi	Ryan	Speaker

NAYS—0

NOT VOTING—22

Anderson	Irvis	Micozzie	Rhodes
Bowser	Kanuck	Milanovich	Street
Dumas	Knepper	O'Brien, D. M.	Wass
George, C.	McIntyre	Perzel	Weidner
Giammarco	McKelvey	Pucciarelli	Williams
Hayes, D. S.	McVerry		

The question was determined in the affirmative, and the amendment was agreed to.

On the question,

Will the House agree to the bill as amended on third consideration?

Mr. MANDERINO offered the following amendments:

Amend Title, page 1, lines 1 through 3, by striking out all of said lines and inserting
 Amending the act of May 17, 1921 (P.L.789, No.285), entitled "An act relating to insurance; establishing an insurance department; and amending, revising, and consolidating the law relating to the licensing, qualification, regulation, examination, suspension, and dissolution of insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and certain societies and orders, the examination and regulation of fire insurance rating bureaus, and the licensing and regulation of insurance agents and brokers; the service of legal process upon foreign insurance companies, associations or exchanges; providing penalties, and repealing existing laws," providing for reports on product liability insurance.

Amend Bill, page 1, lines 6 through 13; pages 2 through 19, lines 1 through 30; page 20, line 1, by striking out all of said lines on said pages and inserting

Section 1. The act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of one thousand nine hundred and twenty-one," is amended by adding a section to read:

Section 213.1. Product Liability Insurance Rates; Reports.
 —The Insurance Commissioner, by the authority vested in him by law pursuant to the act of June 11, 1947 (P.L.538, No.246), known as "The Casualty and Surety Rate Regulatory Act," and this act, shall require every insurer transacting the business of insurance in this Commonwealth to report any and all information the commissioner may deem relevant to the faithful performance of his duties in determining that rates for product liability insurance are neither excessive, inadequate nor unfairly discriminatory.

(b) The commissioner shall from time to time review all product liability rate filings to determine their compliance with the purpose of the act of June 11, 1947 (P.L.538, No.246), known as "The Casualty and Surety Rate Regulatory Act," and shall within one year following the effective date of this amendatory act, and annually thereafter, report his findings to the General Assembly and shall take such steps as may be appropriate to bring all rate filings in conformity with the requirements of "The Casualty and Surety Rate Regulatory Act."

(c) (1) Every insurer authorized to transact business in the Commonwealth and providing product liability insurance shall on or before March 1 of each year file with the Insurance Commissioner a report upon forms approved by the commissioner the following information pertaining to products liability earned premium experience for:

(i) Basic limits liability (25,000/50,000); bodily injury (5,000/25,000); property damage per occurrence/per annual aggregate.

(ii) Excess limits.

(iii) Bodily injury liability.

(iv) Property damage liability.

(v) Pennsylvania.

(vi) Countrywide.

(vii) By classification.

(viii) Exposure base primarily units of sales, receipts or payroll for each classification.

(2) Every insurer authorized to transact business in the Commonwealth and providing product liability insurance shall on or before March 1 of each year file with the Insurance Commissioner a report upon forms approved by the commissioner the following information pertaining to claims experience for:

(i) Basic limits incurred claims.

(ii) Excess limits incurred claims by layer.

(iii) The number of paid claims.

(iv) The amount of paid claims.

(v) The number of outstanding claims.

(vi) The dollar amount of outstanding claims.

(vii) The dollars of incurred losses evaluated as of twenty-seven, thirty-nine, fifty-one, sixty-three and seventy-five months.

(viii) The number of incurred claims as of the same evaluation date as of subclause (vii).

(ix) Number by size of incurred claims.

(x) Number by classification.

(xi) Number for Pennsylvania.

(xii) Number countrywide.

(xiii) Paid allocated loss adjustment expenses.

(xiv) Outstanding allocated loss adjustment expenses.

(3) The commissioner shall make reports required by this section available to the public.

(4) There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer reporting under this section or its agents or employees, or the commis-

tioner or the employes of the Insurance Department, for any action taken by them pursuant to this section.

(5) The commissioner shall submit to the Governor and the Chairmen of the House and Senate Insurance Committees no later than thirty-six months from the effective date of this amendatory act a report. The report shall evaluate the information reported by insurers as required under the provisions of paragraphs (1) and (2) and such relevant data as may be necessary to evaluate the operations of this section. The report may include recommendations at the discretion of the commissioner.

Section 2. This act shall take effect immediately.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the amendment which I propose to HB 1083 is an amendment which calls into question all of the provisions of HB 1083, except those provisions of HB 1083 having to do with the insurance companies providing information to the Insurance Department so that this legislature can make some intelligent decisions regarding products liability and products liability as this state is affected by the same.

Mr. Speaker, HB 1083 has been peddled to this legislature as a way to end the crisis which exists for small manufacturers in this state who are finding it increasingly difficult to insure themselves and to pay the premiums involved in products liability, and I would agree, Mr. Speaker, that there are some very strange things going on so far as premiums paid by manufacturers for their products liability insurance.

I am sure that anyone who has taken the time to review the field and to review what is happening in the area of products liability and the premiums being paid would come to the conclusion that something must be done, and I do not disagree that something must be done. But when I begin to look into what must we do, what is it that has brought about the crisis that exists in the products liability area, I think that we would find uncontradicted evidence that the problem does not exist in the manner in which this state has provided a means for injured victims of defective products to receive recovery. If anything, a difficulty exists in understanding how the insurance industry, with the tremendous profits that it makes and with the small amount of payout on products liability claims, can continue to geometrically increase insurance premiums for product liability in this state.

Mr. Speaker, if this bill, HB 1083, by any stretch of the imagination, would even attack the problem of the crisis that is supposed to exist, maybe it would deserve our consideration. But there is no one, not one single individual who is asking you to vote for this bill, who has represented that this bill is going to do one single thing about the geometric progression of insurance premiums for products liability insurance. There is no one telling you that that small manufacturer who has come to see you and said we cannot pay these premiums; we are going to have to go out of business—there is no one telling you that his premiums are going to go down, that his premiums are going to be reduced if you take the approach that HB 1083 wants you to take and cut the rights of individuals who will receive compensation after being injured. And that is what HB 1083 is all about. It talks about cutting the rights of individuals who may be affected by a defective product, adversely affected either in their person or in their property because of something defectively manufactured. No one has told you that insurance premiums will go down, so the problem that has been brought to us, the crisis that has been generated, in my opinion, is not going to be alleviated in the least by the passage of HB 1083.

And what is going to be done to the consumer if HB 1083 is passed? HB 1083 presently attempts to restate the law of

Pennsylvania so far as liability is concerned in the area of product liability. Our court has evolved law that governs the rights of a manufacturer versus the rights of a consumer of individual products, and evolving that law, the courts of Pennsylvania in the early 1970's began to realize—and they delineated explicitly in 1974 and 1975 in cases before the court—that as a social policy in Pennsylvania, it was no longer going to be the law of Pennsylvania that a person who was injured by a defective product would have to prove anything but that that product was put into the stream of commerce and that that product was defective and, as a result of that defect, somebody was injured. The courts concluded that it was too difficult in today's technology that goes into the production of products, it was too difficult for a plaintiff, a person who was injured, a victim of a defective product to prove that a manufacturer was negligent in the production of that product.

Every reputable manufacturer has a whole system now of quality control within the factory, controlling how that product is made. All sorts of engineers and technicians are making products which we do not understand except that we know that we use the product and we were injured by that product. So in 1974 and 1975, this Commonwealth, through its courts, interpreted that in products liability all that would have to be proven is that a product was manufactured defectively and that that defect caused an injury for which someone should be compensated. And that has been the law of Pennsylvania since that time.

When they decided that that was the law of Pennsylvania, the courts of this Commonwealth, they did not decide to change anything that the legislature has said was the law of Pennsylvania. They simply reviewed all the decisions, as they always do, that evolved in any particular field of the law. They reviewed all those decisions and came to the conclusion that in Pennsylvania if the manufacturer put into the stream of commerce a product which was defective, and that defect caused an injury, the injured party ought to be able to recover.

HB 1083 has provisions in it that would change it all back and make it more difficult for the injured plaintiff to receive recovery by putting in his way many obstacles to recovery. One of them is going back to having to prove a number of things that you will find in section 8353, which are the things that the court really said in 1974 and 1975 you no longer had to prove in Pennsylvania because it was becoming more difficult for an injured plaintiff to recover in products liability cases.

Products liability premiums, the premium-dollar paid by the manufacturer, going back to the original problem, are set by insurance companies nationwide. The products liability insurance premiums are set on a national scale. They are not set on the manufacturers in Pennsylvania, depending upon what the law of Pennsylvania is. They are set on a national basis, depending upon premiums paid, claims brought, claims paid and that strange area of reserves that consumes better than two thirds of the premium-dollar.

So a manufacturer in Pennsylvania that would not be getting one iota of relief on the premium paid is asking us to change the law so far as the victims of Pennsylvania are concerned to make it more difficult for the victims of a defective product to recover. And that same kind of victim in another state, in California, in Idaho, or in Wyoming, may not be governed by the same restrictions that we are going to put upon the injured persons in Pennsylvania, and yet the cases arising in all those other states, and the manufacturers in all those other states will be able to ship their products into Pennsylvania and get the benefit of Pennsylvania's restrictive law. Our manufacturers will pay the same premium whether we pass this law or not, and all of this to me seems to be utter nonsense.

We ought to be ashamed of ourselves for even thinking of passing the restrictions that are contained in HB 1083 upon the consumer of products in Pennsylvania. There is no cost-benefit

theory that I have heard or that anyone can generate for me that will indicate that we ought to even be thinking about this particular statute.

Mr. Speaker, the purpose of my amendment is to say that there are a lot of things that we ought to know about how many premium dollars are paid in the State of Pennsylvania; how many claims have been made in the State of Pennsylvania; how many claims have actually been paid after they were made in the State of Pennsylvania; how much money our insurance companies are reserving for claims that have not even happened yet. The accident has not happened yet. All of these facts seem to me are of paramount importance to the ability to pass a good products liability statute, if we should do that. The insurance commissioner admits that we have no legislation on the books requiring that information to be given to the Insurance Department so that the legislature can act intelligently once given that information.

What I am saying in my amendment is that all of the impediments to recovery that are placed in the bill should be removed, except the sections of the bill that require the insurance companies to report to make the information available on which intelligent decisions can be made, and we ought not do another thing until then.

The Federal Government has considered this problem, and in my opinion, products liability is a national problem if it is a problem at all, and it ought to be solved on the Federal level, so that every person in every state is equally affected in his rights to recover and not just the people of Pennsylvania; and that every person paying a premium for products liability insurance would be governed on the same basis by which they are governed now on a nationwide standard, but that recovery in their state would not be different. So they would be subject in Pennsylvania, as well as other states, to a uniform standard. At the Federal level, if there is a problem, it should be solved. But we ought to collect the information, nonetheless, in Pennsylvania so it is available for input, not only in an eventual, Federal statute, but perhaps, if we deem necessary after we see the information, in the law of Pennsylvania.

I therefore urge the adoption of my amendment that would require this reporting to the Insurance Department so that we would get the information necessary to act intelligently. Thank you, Mr. Speaker.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. McKelvey.

Mr. McKELVEY. Mr. Speaker, I was out of my seat on the last vote. I would like to be recorded in the affirmative on the Yohn amendment to HB 1083.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

CONSIDERATION OF HB 1083 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Lehr.

Mr. LEHR. Mr. Speaker, has the Manderino amendment been distributed? I have not seen it.

The SPEAKER. In response to the gentleman from York, Mr. Lehr, the Chair has been informed that the amendment offered by Mr. Manderino has not been circulated.

Does the gentleman, Mr. Yohn, have a copy of it?

Mr. MANDERINO. Mr. Speaker, this has been circulated a long long time ago.

Mr. LEHR. It is dated December 3, and I do have a copy.

Mr. MANDERINO. That is a long, long time ago.

I would be happy to allow time for distribution of the amendment again, but it was submitted for distribution to the amendment clerk.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Indiana, Mr. Wass. For what purpose does the gentleman rise?

Mr. WASS. Mr. Speaker, on the last vote on the Yohn amendment, A4383, I was not recorded, for some reason, after pushing my button. I want the record to show that I want to be voted in the affirmative.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

CONSIDERATION OF HB 1083 CONTINUED

The SPEAKER. The minority whip, Mr. Manderino, indicated that his amendment had been circulated during the recess. The amendment clerk has no record of it. The Chair would be ready to vote the amendment at this time unless some member or members indicate that they would like to postpone the voting on the amendment until it is reproduced.

The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I would oppose the amendment as suggested by Mr. Manderino. I think the most important thing for the members to realize in considering this amendment is that basically it guts the entire bill. So that if you are against product liability insurance reform and against what the bill has been trying to do, then you can be for the amendment.

But if you feel that what this bill does is right in a generality, although perhaps with some dispute with some of the specifics, then you should be against the amendment, because basically the amendment deletes everything that has been placed into the bill. It then takes some of the disclosure provisions which are in the bill and reprints them and then basically says, we should just not do anything for a 3-year period and study this whole problem for 3 more years.

Mr. Speaker, product liability insurance reform has been the subject of much discussion in this legislature in the past several years. In the last session of the General Assembly, the Senate and the House conducted joint hearings on this subject, and a bill was moved in the Senate and passed the Senate and brought over to this House. The House did not have time to act on the bill when it was sent to it, but the whole issue was studied very thoroughly by the Senate and by the joint House-Senate committee at that time.

In addition to that, this year, HB 1083 was introduced with some 60-plus sponsors. We held 2 days of public hearings in the House Insurance Committee. We had any number of full-day discussions about the bill to work on the amendments that were proposed. Some 50-some amendments were made to the bill while it was in committee. So I do not think it is an appropriate response at this time to say we need another study; we need 3 more years.

The Insurance Commissioner has already indicated that he is getting all of the information that he needs in order to make evaluations of this situation. In spite of that, we put in the bill requirements that certain amounts of information be given to the Insurance Commissioner, and that is in HB 1083 as it exists at the present time.

We have also said in the bill that the Insurance Commissioner must review the rates that are charges for product liability insurance within a 1-year period, not a 3-year study; that he must do it within a 1-year period and then

take whatever action is appropriate with reference to those insurance rates.

Mr. Manderino said that the bill does not do enough about insurance rates. But what does his amendment do? It does absolutely nothing. If this amendment became the law, absolutely nothing would be done for the next 3 years except another study.

The bill came out of the Insurance Committee with unanimous support by all Republicans and all Democrats who were in attendance at the last meeting and that was all but one or two of the committee members. I think that the issue has been studied very thoroughly for an extended period of time. I do not feel that we need another study at this juncture.

Mr. Manderino made the point that he feels that there should be a Federal enactment in this area, but yet the very bill proposed by the Federal Government is not that there be a Federal law on this subject but that the Federal law suggest to all states a model bill for states to enact on a state-by-state basis.

I believe in summary that this is probably the most important vote that will be taken on this bill. I think that I want to make sure that all of the members are aware of that so that they know exactly what they are voting on.

This amendment does delete the entire bill as it exists now and it substitutes just the 3-year study and the disclosure provisions which are in the bill at the present time.

If you feel that the law should be changed and there should be amendments to product liability insurance law in Pennsylvania, I would urge you then to vote against the amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Fisher.

Mr. D. M. FISHER. Thank you, Mr. Speaker. I also rise in opposition to the Manderino amendment. Mr. Speaker, in my 6 years here in the General Assembly, I know of no particular piece of legislation that has been studied more thoroughly by one of our standing committees than HB 1083. HB 1083, in addition to the concept that is embodied therein having been studied by the joint House and Senate Judiciary Committees in the last session, HB 1083 was studied very, very thoroughly by our House Insurance Committee.

For that purpose, I give Mr. Yohn and the members of the Insurance Committee the utmost credit for analyzing the very complicated and difficult problems which we attempt to address in this bill.

Basically, what the Manderino amendment does—I know there are some people back here who are asking what does the amendment do because we have not seen it basically what it does—is it guts the bill. It guts the bill but retains, as I understand without having it right in front of me, it keeps approximately the last three pages which do, in fact, require the reporting that Mr. Manderino is asking for.

So the bill in front of you attempts to restate the law of product liability in an attempt to address the crisis which we are facing in Pennsylvania and it also includes the language which is in Mr. Manderino's amendment.

Now, I think we do have a crisis in Pennsylvania. Even Mr. Manderino indicated that he does not disagree that something must be done. Well, I stand here before you and I submit that no bill is perfect; likewise HB 1083 is not a perfect bill.

Anytime we address ourselves to a problem in this legislature with a piece of legislation, we have no assurance that the legislation is going to resolve the problem. This is in any particular field of legislation. But it is my belief that this piece of legislation, HB 1083, does attempt to directly address the problem.

Now in addition to the House and Senate committees and the Insurance Committees, this problem has been studied before. It has been studied at length by the interagency task force of the Department of Commerce of the Federal Government. That very task force did not recommend that we adopt Federal legislation as Mr. Manderino is suggesting, but it recommended that the states individually attempt to adopt legislation to reform their tort law. That is what this bill does.

The bill has been studied at length; the issue has been studied at length, and, believe me, unless we do something—and I preface it with, I cannot guarantee the results, but unless we do something—there are many manufacturers, many sellers, many distributors in Pennsylvania who, because of the skyrocketing insurance costs which have in fact risen in geometric proportions, are going to be driven out of business, and, likewise, the products that they manufacture, the jobs that they provide, and the income that those jobs provide are also going to be driven out of Pennsylvania.

Mr. Manderino's amendment will do nothing to stop the geometric increases in insurance premiums. It will do nothing; it will only compile statistics that HB 1083 will also attempt to compile for the Insurance Commissioner who is, in turn, required to report back to the General Assembly annually.

For these reasons, I urge all the members to reject the Manderino amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Kowalyshyn.

Mr. KOWALYSHYN. Thank you, Mr. Speaker. I want to caution each member of the larger issue involved here which was touched upon by Mr. Manderino, and that is, which level of government is going to regulate the insurance industry?

If I understand Mr. Manderino's statement, he is suggesting that the time has come for the Federal Government to do it. Traditionally, it has been the states which have regulated the insurance industry. There have been moves from time to time to decrease the position of the states and to turn the responsibility over to the Federal Government.

I believe that this would be a mistake, but, at the same time, I want to point out that if the states are going to regulate the insurance industry, one state by the next state by the next state, they are going to have to assume the responsibility of facing up to problems that exist.

There is some dispute as to whether there is a problem as far as product liability reform is concerned. The best information that I have is that there is a problem, and the Insurance Committee of this House has considered a bill and it has considered merits of various amendments to it, and the bill in the form as finally amended has been reported out of committee and it is here.

If we as the House of Representatives here in the State of Pennsylvania are going to assume and discharge our responsibility in regulating the insurance industry in Pennsylvania, it seems to me that we have a task before us with this bill.

I believe it would be a mistake to say let the Federal Government do it. I believe we have been fortunate that we have not had that happen. I believe, as a whole, the legislature and the commissioners of the individual states have been doing a fairly good job. Certainly we have serious problems. Many of them are connected with the high rate of inflation we have been going through. But I do not think it is correct for us to say that the Federal Government should do it.

I believe this is a very serious issue on our hands. I believe we should show that we intend for the states as a level of government and for the Commonwealth to discharge our responsibility in dealing with problems facing the insurance industry and also the insurers who are involved. Accordingly, I intend to vote in opposition to the Manderino amendment.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the gentleman who preceded me to the microphone talked about abdicating our responsibility to regulate the insurance industry. This bill has nothing to do with regulating the insurance industry. It has to do with regulating the rights of victims who are hurt by products that are defective. Except for the reporting requirements that I am leaving in the bill, this bill does not speak in any one section of the bill to any regulation of the insurance company. That is what I am talking about.

I say that something has to be done, Mr. Speaker. I am not necessarily saying something must be done to cut down the rights of individuals who are hurt by products. We certainly could do something about the unconscionable premiums that are being charged the insurance companies in this state for products liability insurance when they cannot justify it on the basis of claims paid. They are not paying claims. They are paying claims with less than one-third of the premiums they collect, paying claims. What I want to do is find out why the insurance rates keep geometrically progressing and yet our small manufacturers are in the crisis they are in in paying premiums, because we do not see the money going out in the payment of claims. That is what I am asking for in this amendment.

I am asking for a pause, not for us to just go headlong because the Chamber of Commerce has come down here and said if you do not do this, we are going to put manufacturers out of business. There is something else we can do and the manufacturers will not go out of business, and that is, make sure that the premium being paid is a fair premium and an equitable premium.

The expense of this problem nationwide, the expense of claims paid nationwide is about a half-a-billion-dollar-a-year problem; claims paid. Now you multiply the number of people in the United States, you multiply the number of manufacturers, and you find out for yourself whether or not there is a crisis situation. If the insurance company was charging reasonable premiums based on claims paid—All I am asking for is that we do not act precipitously and adopt a change in the rules of law governing a person who has been hurt.

Mr. Yohn says that I am gutting the provisions of this bill. What are the provisions of this bill? If you look a little closely at what the provisions of this bill are—I already talked about one—the one that I think is most important is we are changing the law of liability so that you no longer will have to merely prove that a product was defective and that you were injured by the defective product, you have to arm yourself with all technology that the specific industry used in manufacturing that product to prove that it was manufactured defectively.

Our courts have said it is too great a burden. That is one of the provisions that I am gutting. I am gutting the provision that denies a victim that easy manner of recovery once a defect is proven that our courts have said is necessary with today's technology. We no longer understand in most products those things that we would have to be able to prove if we went to the standard that this bill wants us to go to. It is this bill that is increasing the burden for the injured victim and his children and his spouse to gain an adequate recovery.

Why is this bill doing that? Because if the problem perceived is a problem of too high a premium, let us not look at how much money the insurance company is making. Let us not go to the reporting requirements for 3 years and look at it. That is not the answer. Let us just cut the poor guy who has been hurt. Let us not let him recover so easily but take his rights away from him. I repeat, we ought to be ashamed of considering that alternative as a solution to that problem of high premiums when we know no one has promised that the premiums will come down. Two, no one has the information—at least in our insurance department and in most insurance departments across these United States no one has the information—that this bill would require the insurance companies to give us so that we could decide whether the crisis was created by them in just geometrically increasing the premiums or whether or not there is too high a recovery out there.

Let us talk about the recovery out there. How high is it? The average recovery in a products liability case is \$3,000. A hell of a problem, is it not? We are going to cut that down by the provisions in this particular act. That is one provision of the act. Yes, that is a provision of the act that I want to gut - cutting down the rights of that individual just simply to say: Mr. Manufacturer, you produced an automobile with a bad gas tank in back. That gas tank was too close to the bumper, Mr. Producer, Mr. Manufacturer, and it could not sustain the crash that a car is expected to take when it is out there on the highway. That is all I have to prove - they put that gas tank too close there where bolts in the bumper, holding the bumper on that could puncture that gas tank. Defective design, defective product. Once I prove that, I have no other burden. That is what the law of Pennsylvania is and that is what it ought to be. That is what our courts have decided it ought to be.

What does this bill say it ought to be? Well, it says what the rule ought to be on that bumper and that gas tank. It says what the rule ought to be as if that manufacturer can show that he put gas tanks on his automobile just like the other big three car manufacturers put gas tanks on their small automobiles, and they all were doing it wrong, and he ought not to have to pay unless that poor victim who was burned by the gasoline exploding can also prove that the design of the gas tank on this particular automobile was not in conformity with the state of the art.

That is another section that I want to take out of here. What is the state of the art? I want to gut that section, too, along with some of the other sections. What I am trying to gut is a provision that you are trying to put into this bill, you people who want HB 1083, that says that as long as everybody is putting bad gas tanks on their cars, it is okay. It would have made no difference that when the people who put that gas tank on that particular car knew it was defective, knew it was going to injure people, knew people were going to be killed by it, but they could get away with putting it there, this bill says, because everybody else is putting it on their car. I say we ought to be ashamed to adopt that kind of a standard and I am asking you to gut that section of the bill, too. It is another one of the specific sections of the bill I am asking to be gutted.

I am also asking that a section of the bill be gutted that talks about governmental standards. Presently, if there is a governmental standard, whether it be a municipal standard in Monessen, Pennsylvania, where I live, or Pittsburgh or Philadelphia here in these United States, or whether it happens to be a standard by the State of Michigan where the cars are produced, or whether it happens to be a governmental standard of these United States, what this bill says is if there is a governmental standard, a burden is placed upon that person who wants to collect because he

found a defect that injured him in a product, if there was a governmental standard anywhere, anywhere at all in that small municipality or in the Congress of the United States, if there was some governmental standard anywhere that that particular defective product met for safety standards, then the burden shifts on that poor plaintiff who was injured to prove that the people who adopted that standard did not know what they were doing, did not understand safety and a whole host of other things about safety, and I say that is too great a burden. It shifts the emphasis on whether or not this man was injured by a defective product to was the governmental standard that was adopted, adopted in a proper manner where all the facts were known, et cetera. It is ridiculous to impose that kind of a condition upon an injured party when he is trying to prove a product liability case.

In the Ford Pinto case that is so celebrated, that we all know about, there was a government standard. There was a government standard that that Pinto automobile gas tank conform to. It was a Federal standard. I would expect that a Federal standard adopted for the whole nation is better than one adopted by a municipality. So it was a fairly decent standard, at least, we would expect. Yet that standard was on the books. The automobile companies lobbied that the standard not be changed and geared upward for the safety of people. They won delays. They kept the standard where it was, even knowing, even knowing that people were going to be injured by the gas tank improperly designed and placed in that automobile.

And yet, this bill, HB 1083, says that if there is a government standard that the product meets, all sorts of things happen. That plaintiff no longer merely has to prove that there was a defect. Now he has to go to that standard, get into how that standard was developed, what kind of testimony there is on it. Was it a reasonable standard? All sorts of things that ought to be extraneous to a law suit that has to do with a defective product and an injured person.

Present law allows any governmental standards to be introduced into evidence. And that is how it should be, if there is a governmental standard, for whatever it is worth to the jury. You are allowed to introduce that governmental standard, a safety standard that someone has adopted, that our particular product happened to meet.

It places no burden—that is the present law. It places no burden—or shifts no burden of proof to the plaintiff, who is trying to recover once he has been injured, to prove that that standard was adopted in such and such a fashion, in a reasonable manner with all the facts, et cetera. That is a good enough state of the law, and we ought to be ashamed trying to change that law and place more burdens on that injured person, because premiums are going out of sight and we do not know why they are going out of sight. And I defy anybody to prove to me that those premiums that are being paid have anything to do with the claims that have been made and paid. Everybody admits that premiums are not going to come down.

I can take point by point and section by section of HB 1083, and there are very few persons in this Assembly, in my opinion, and that includes the attorneys in this Assembly, who really understand all the ramifications of the changes of the law that we are making for persons who are going to be victimized by defective products.

I do not fully understand everything that we are doing in this bill. I understand a few of the things that we are doing and every one of the things that I understand that we are doing, with the exception of the reporting requirements, I think is terrible, especially when we know what we do know about how much of the premium dollar really goes to those claims. All I am saying is, let us first attack the premium

dollar. Let us regulate those insurance companies as Mr. Kowalshyn would have us do. Let us find out why there is a crisis of insurance premiums and then let us decide what to do about it.

I am not abdicating our responsibility to regulate the insurance industry. I am suggesting that we begin doing that. I am advocating that we do that before we begin to cut the rights of the people who live in this Commonwealth, without any benefit to the people in this Commonwealth who are the manufacturers whom we seem to be concerned with. Premiums, again, are set on a nationwide basis, and all we are doing is helping the manufacturers who manufacture products out of state and who do not have to pay as many claims in Pennsylvania, and our manufacturers will not receive any benefits whatsoever from just one state, the State of Pennsylvania, changing its laws to cut down the recovery or the number of recoveries of injured persons.

I ask in the strongest terms I can, Mr. Speaker, for the adoption of the amendment.

On the question recurring,

Will the House agree to the amendments?

(Members proceeded to vote.)

The SPEAKER. For the information of the members of the House, the machine did not malfunction. The machine clerk did. The vote will have to be taken again on the Manderino amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—68

Alden	Gallagher	McIntyre	Richardson
Austin	Gatski	McMonagle	Rieger
Bennett	George, C.	Manderino	Ritter
Berson	Gray	Micozzie	Rodgers
Borski	Greenfield	Milanovich	Schmitt
Burns	Harper	Mrkonic	Schweder
Caltagirone	Hoefel	Mullen	Shadding
Cappabianca	Johnson, J. J.	Musto	Shupnik
Clark, B. D.	Jones	Novak	Stewart
Cochran	Knight	O'Brien, B. F.	Street
Cohen	Kolter	O'Donnell	Stuban
DeMedio	Kukovich	Oliver	Taylor, F.
DeWeese	Lashingier	Pievsky	Telek
Dombrowski	Laughlin	Pratt	Trello
Durham	Letterman	Pucciarelli	Wargo
Earley	Levin	Rappaport	White
Fee	McCall	Reed	Zitterman

NAYS—113

Anderson	Foster, Jr., A.	Lewis	Sieminski
Armstrong	Freind	Livengood	Sirianni
Arty	Fryer	McClatchy	Smith, E. H.
Belardi	Gallen	McKelvey	Smith, L. E.
Bittle	Gamble	Mackowski	Spencer
Bowser	Gannon	Madigan	Spitz
Brandt	Geesey	Manmiller	Stairs
Brown	Geist	Michlovic	Steighner
Burd	George, M. H.	Miller	Sweet
Cessar	Gladeck	Moehlmann	Swift
Chess	Goebel	Mowery	Taddonio
Cimini	Goodman	Murphy	Taylor, E. Z.
Clark, M. R.	Grabowski	Nahill	Thomas
Cole	Grieco	Noye	Vroon
Cornell	Gruppo	O'Brien, D. M.	Wachob
Coslett	Halverson	Perzel	Wass
Cowell	Hasay	Peterson	Wenger
Cunningham	Hayes, Jr., S.	Piccola	Wilson
DeVerter	Helfrick	Pistella	Wilt
DiCarlo	Honaman	Pitts	Wright, D. R.
Davies	Hutchinson, A.	Polite	Wright, Jr., J.
Dawida	Hutchinson, W.	Punt	Yohn

Dietz	Itkin	Pyles	Zeller
Dininni	Johnson, E. G.	Rocks	Zord
Dorr	Kanuck	Ryan	Zwilk
Duffy	Klingaman	Salvatore	
Fischer	Kowalyshyn	Scheaffer	Seltzer,
Fisher	Lehr	Serafini	Speaker
Foster, W. W.	Levi	Seventy	

NOT VOTING—15

Barber	Hayes, D. S.	McVerry	Weidner
Beloff	Irvis	Petrarca	Williams
Dumas	Knepper	Pott	Yahner
Giammarco	Lynch, E. R.	Rhodes	

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. REED offered the following amendment:

Amend Sec. 1 (Sec. 5537), page 3, line 11, by inserting after "(a)."

As used in this paragraph, "injury of a latent or incremental nature" shall include but not be limited to, injury caused by use of or exposure to toxic or hazardous substances, radioactive materials, ionizing radiation, any materials used in the generation of nuclear energy or power, any controlled substance, narcotic, or new drug as defined by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or any other drug.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Reed.

Mr. REED. Mr. Speaker, this amendment is rather self-explanatory for those who have read it. It very simply exempts from the limitation contained in the product liabilities legislation, toxic and hazardous substances as well as radioactive materials and those materials which are used in connection with nuclear power plants or the transportation or use of nuclear power.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, this amendment merely clarifies the definition of an injury of a latent or incremental nature. I have no objection to the same and would urge its support.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Reed.

Mr. REED. Well, I am glad that this is an agreed-to amendment because the residents around Three Mile Island are especially interested in it and urge your approval. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—181

Alden	Freind	McCall	Salvatore
Anderson	Fryer	McClatchy	Scheaffer
Armstrong	Gallagher	McIntyre	Schmitt
Arty	Gallen	McKelvey	Schweder
Austin	Gamble	McMonagle	Serafini
Belardi	Gannon	Mackowski	Seventy
Bennett	Gatski	Madigan	Shadding
Berson	Geesey	Manderino	Shupnik
Bittle	Geist	Manmiller	Sieminski
Borski	George, C.	Michlovic	Sirianni
Bowser	George, M. H.	Micozzie	Smith, E. H.
Brandt	Gladeck	Milanovich	Smith, L. E.
Brown	Goebel	Miller	Spencer
Burns	Goodman	Moehlmann	Spitz
Caltagirone	Grabowski	Mowery	Stairs
Cappabianca	Gray	Mrkonic	Steighner
Cessar	Greenfield	Mullen	Stewart
Chess	Grieco	Murphy	Street
Cimini	Gruppo	Musto	Stuban
Clark, B. D.	Halverson	Nahill	Sweet
Clark, M. R.	Harper	Novak	Swift
Cochran	Hasay	Noye	Taddonio
Cohen	Hayes, Jr., S.	O'Brien, B. F.	Taylor, E. Z.
Cole	Helfrick	O'Brien, D. M.	Taylor, F.
Cornell	Hoeffel	O'Donnell	Telek
Coslett	Honaman	Oliver	Thomas
Cowell	Hutchinson, A.	Perzel	Trello
Cunningham	Hutchinson, W.	Peterson	Vroon
DeMedio	Johnson, E. G.	Petrarca	Wachob
DeVerter	Johnson, J. J.	Piccola	Wargo
DeWeese	Jones	Pievsky	Wass
DiCarlo	Kanuck	Pistella	Wenger
Davies	Klingaman	Pitts	White
Dawida	Knight	Polite	Wilson
Dietz	Kolter	Pratt	Wilt
Dininni	Kowalyshyn	Pucciarelli	Wright, D. R.
Dombrowski	Kukovich	Punt	Wright, Jr., J.
Dorr	Lashingier	Pyles	Yohn
Duffy	Laughlin	Rappaport	Zeller
Durham	Lehr	Reed	Zitterman
Earley	Letterman	Richardson	Zord
Fee	Levi	Rieger	Zwilk
Fischer	Levin	Ritter	
Fisher	Lewis	Rocks	Seltzer,
Foster, W. W.	Livengood	Rodgers	Speaker
Foster, Jr., A.	Lynch, E. R.	Ryan	

NAYS—2

Burd	Itkin
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NOT VOTING—13

Barber	Hayes, D. S.	McVerry	Weidner
Beloff	Irvis	Pott	Williams
Dumas	Knepper	Rhodes	Yahner
Giammarco			

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. SWEET offered the following amendment:

Amend Sec. 4, page 19, by inserting between lines 28 and 29

(d) The insurance commissioner is hereby directed to disapprove any product liability rate filing made by any insurer or rating organization for a period of three years from the effective date of this act, except:

(1) Upon the written consent of the insured stating his reasons therefor, filed with and approved by the commissioner a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. The rate shall

become effective when such consent is filed and shall be deemed to meet the requirements of this act until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(2) A filing providing decreased rates for all or certain classes and categories of risks.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. Mr. Speaker, this first amendment is probably the most interesting of the amendments that I have. The other three are merely technical.

This amendment would in effect put a 3-year cap on products liability rates to be charged in Pennsylvania. If this bill is as good as it claims to be and as good as its sponsors contend that it is, then there is no reason why products liability rates should increase during the 3-year period that we are doing the study that even Mr. Mandarino agreed needs to be done on this problem.

So I do not really think there ought to be any opposition from those groups that have been supporting this bill to what I think is an eminently sensible amendment—a 3-year cap on products liability rates in Pennsylvania.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn. For what purpose does the gentleman rise?

Mr. YOHN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. YOHN. Mr. Speaker, my parliamentary inquiry is whether or not this amendment is germane to HB 1083. It appears to me that this is an amendment that should be made to the Rate Regulatory Act rather than to HB 1083, and I would inquire as to whether that is correct or not?

The SPEAKER. In response to the inquiry by the gentleman, Mr. Yohn, the Chair reads from rule 27: "Questions involving whether an amendment is germane to the subject shall be decided by the House."

Does the gentleman raise the question of germaneness?

Mr. YOHN. Yes, I do, Mr. Speaker.

The SPEAKER. The question of germaneness has been raised by the House. Those believing the amendment is germane shall vote "aye"; those who believe that the amendment is not germane shall vote "no."

The Chair recognizes the gentleman from Washington, Mr. Sweet, on the question of germaneness.

Mr. SWEET. Mr. Speaker, I would argue that this is certainly germane to the issue of product liability legislation in Pennsylvania. If we are going to limit the recoveries, limit the rights of certain people to sue on these theories, we should certainly be able to look at the rates at the same time.

I am told that in such legislation as the Medical Malpractice Act and also in no-fault insurance, there were rate freezes discussed; there were amendments presented, and

that at least in some of those bills such freezes were implemented into law. And I certainly think that this is an analogous situation. We ought to be looking at the whole enchilada at one time, which is, right to sue, limiting recoveries, statutes of limitations, and, most importantly, the premiums that manufacturers and retailers are going to pay. That is the whole reason for this bill, in my mind at least, and that is, to limit the ever-escalating that has been discussed as geometrically escalating insurance rates in Pennsylvania.

I have been a person who has supported the idea of product liability legislation, as my last vote on that board indicated, but I would certainly think that if we are going to do it, we should not be led down the primrose path and vote for a bill that limits rights of consumers and rights of working people, without limiting the insurance premiums involved. As in analogous circumstances in other similar bills, medical malpractice and no-fault insurance, rate freezes were discussed, and I think it is certainly germane to this legislation this afternoon. And I would ask that the vote on germaneness be in the affirmative.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, as I indicated in raising a point of parliamentary inquiry, I think the problem with the amendment is where it is most properly suited and what type of a bill or statute it should amend, and in terms of the proposal advanced by Mr. Sweet, I think that that should be an amendment to the Casualty and Surety Rate Regulatory Act, which makes provisions for the public hearings and makes provisions for the procedures that must be followed in making any types of rate regulations. If the gentleman will notice in the bill as it exists at the present time, we do have a provision that states that the Insurance Commissioner, within a 1-year period, must make whatever adjustments are required under the Rate Regulatory Act, and I think that is the direction to the Insurance Commissioner; it is not a change of that statute, whereas what Mr. Sweet is trying to do is basically an amendment to the Casualty and Surety Rate Regulatory Act, and I would therefore argue that it is not germane to HB 1083.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, I think the instance cited by Mr. Yohn proves precisely the opposite of what he says it proves. This bill as now stated deals with what the Insurance Commissioner shall do. Mr. Sweet's amendment deals with what the Insurance Commissioner shall do. The main reason for having the product liability bill in the first place is to protect the manufacturer from rising insurance rates. If it were not for the rising insurance rates, we would have no bill. This amendment is not germane to this bill. Germaneness does not mean anything.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Michlovic.

Mr. MICHLOVIC. Mr. Speaker, on the issue of germaneness to the bill, this amendment was offered in the

committee by the gentleman, Mr. Murphy. It was not challenged at that time as being nongermane; it was rejected by the committee, and if it was germane for a vote in the committee, it ought to be germane for a vote on the floor of the House.

I ask and urge the members to vote that this issue be germane to the bill and be included.

The SPEAKER. The question recurs, Does the House agree that the amendment is germane?

Those voting in the affirmative believe that the amendment is germane; those voting in the negative believe that the amendment is not germane. The members will proceed to vote.

The following roll call was recorded:

YEAS—104

Alden	Fryer	Livengood	Ritter
Austin	Gallagher	McCall	Rodgers
Barber	Gamble	McIntyre	Schmitt
Bennett	Gatski	McMonagle	Schweder
Berson	Geesey	Manderino	Seventy
Borski	George, C.	Michlovic	Shadding
Brown	George, M. H.	Milanovich	Shupnik
Burns	Goebel	Mrkonic	Spitz
Caltagirone	Goodman	Mullen	Steighner
Cappabianca	Gray	Murphy	Stewart
Chess	Halverson	Musto	Street
Clark, B. D.	Harper	Novak	Stuban
Clark, M. R.	Hoeffel	O'Brien, B. F.	Sweet
Cochran	Hutchinson, A.	O'Donnell	Taylor, F.
Cohen	Itkin	Oliver	Telek
Cole	Johnson, J. J.	Petrarca	Trello
Cowell	Jones	Pievsky	Wachob
Cunningham	Kanuck	Pistella	Wargo
DeMedio	Knight	Pott	Wass
DeWeese	Kolter	Pratt	White
Dawida	Kowalyszyn	Pucciarelli	Wright, D. R.
Dombrowski	Kukovich	Punt	Yahner
Duffy	Lashingier	Rappaport	Zeller
Durham	Laughlin	Reed	Zitterman
Earley	Letterman	Richardson	Zord
Fee	Levin	Rieger	Zwilk

NAYS—80

Anderson	Foster, Jr., A.	McClatchy	Salvatore
Armstrong	Freind	McKelvey	Scheaffer
Arty	Gallen	Mackowski	Serafini
Belardi	Gannon	Madigan	Sieminski
Bittle	Geist	Manmiller	Sirianni
Bowser	Gladeck	Micozzie	Smith, E. H.
Brandt	Grabowski	Miller	Spencer
Burd	Grieco	Moehlmann	Stairs
Cessar	Gruppo	Mowery	Swift
Cimini	Hasay	Nahill	Taylor, E. Z.
Cornell	Hayes, Jr., S.	Noye	Thomas
Coslett	Helfrick	O'Brien, D. M.	Vroon
DeVerter	Honaman	Perzel	Wenger
DiCarlo	Hutchinson, W.	Peterson	Wilson
Davies	Johnson, E. G.	Piccola	Wilt
Dietz	Klingaman	Pitts	Wright, Jr., J.
Dininni	Knepper	Polite	Yohn
Dorr	Lehr	Pyles	
Fischer	Levi	Rocks	Seltzer,
Fisher	Lewis	Ryan	Speaker
Foster, W. W.	Lynch, E. R.		

NOT VOTING—12

Beloff	Greenfield	McVerry	Taddonio
Dumas	Hayes, D. S.	Rhodes	Weidner
Giammarco	Irvis	Smith, L. E.	Williams

The question was determined in the affirmative, and the amendment was declared to be germane.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Pott.

Mr. POTT. Will the gentleman, Mr. Sweet, consent to a brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Pott, may proceed.

Mr. POTT. Mr. Speaker, does your amendment contain anything other than prohibiting a rate increase for product liability insurance?

Mr. SWEET. Not as I read it.

Mr. POTT. Mr. Speaker, does your amendment prohibit in any way an insurance company from canceling a subscriber's insurance, just simply denying to write product liability insurance for him?

Mr. SWEET. No.

Mr. POTT. Thank you, Mr. Speaker. I think the prime sponsor of the amendment answered the last question and indicates a very serious fallacy with this amendment. If an insurance company could not increase its rates and has determined itself that a rate increase would be necessary, it would have no other alternative other than to cancel a subscriber's insurance and thusly would be faced with a much more serious situation than just a rate increase. We would have Pennsylvanians without product liability insurance and the potential of not being able to obtain it. I oppose the adoption of the Sweet amendment for this reason, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Fisher.

Mr. D. M. FISHER. Mr. Speaker, I also rise to oppose the Sweet amendment for reasons very similar to those given by Mr. Pott. I think, however, just to add a couple of other points, it is hoped that this bill will bring about some certainty in the court law and in the law of product liability in the Commonwealth of Pennsylvania, but, as I said before, we are not sure. I couched my argument against the statement of Mr. Manderino, we are never certain of what is going to happen with legislation we pass. But Mr. Sweet's amendment is going to say no increases for 3 years.

Now the principal problem, as I see it, with the product liability and the product liability area, in addition to the fact that I believe we should attempt to define the tort law, is the cost and availability of insurance. Now if we put a cap, an absolute cap, on insurance rates for product liability in this Commonwealth, there is a very real possibility that some insurance companies will refuse to write this type of insurance in Pennsylvania. Thus, the availability problem is going to be more acute, and the people who we are trying to help through the passage of this legislation are going to be further harmed.

Now Mr. Sweet indicated, seemingly, that we adopted some sort of caps on insurance rates in the medical

malpractice legislation and no-fault legislation. We did not have any absolute cap in either of those pieces of legislation. In fact, I doubt that this General Assembly can impose any absolute caps in the insurance field, whether it be by an amendment to this act or by an amendment to the Insurance Code. For those reasons, I urge all the members to seriously consider the effect of this amendment. This is just not an amendment saying, okay, no more rate increases. If we could do it and we could get away with it, I perhaps would support it. But this is an amendment that is going to drive product liability insurance out of Pennsylvania and only make the crisis more acute. For those reasons, I urge opposition to the Sweet amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. I am very surprised at the opposition to this amendment. It seems to me that the whole rationale for doing this - the statute of repose, the many other sections in the bill - is to insure that manufacturers and retailers do not get driven out of business because their rates escalate to an astronomical degree. Now this is not an absolute cap forever; this is a freeze for the 3-year period that we are going to be doing this study that is included in the bill.

What I do not want to see happen is what many people perceive happened with the automobile no-fault situation. A bill was dramatically oversold to the public. People were told that if this bill passed, automobile insurance rates would stabilize. That has not been true.

The insurance industry has told the retailers and manufacturers of this state that one of the things that had to be abolished was the long tail of liability, the fact that 25, 30, 40 years down the road they could be liable for a tremendous verdict—and there is the helicopter case, and Mr. Manderino alluded to the Pinto situation, and others. That long tail of liability will be eliminated by this bill.

I am not saying we should reduce the rates. I am not saying a 15-percent cut for a year, which is what did happen in the automobile no-fault insurance law. What I am saying is that during the period where all this is going to be thrashed about, where we are going to get all this information together, we ought to be sure that the insurance industry does not continue to raise the rates in spite of our bill. I am a supporter of the bill. I just do not want to see the very people whom I am trying to help - the small manufacturers and the retailers of this state who are being driven out of business by a whole plethora of problems, including insurance rates - bludgeon everybody in this legislature into voting for a bill that later on does not do anything about the rates.

I really thought this was going to be agreed to and we would resolve this in 30 seconds. A 3-year cap on the rates during the study, I think, is a very minor concession by the insurance industry to insure both this legislature and also the retailers and manufacturers of this state that this bill, by eliminating the long tail of liability and by doing the other things that it is claimed it will do, does the job that

the industry claimed it would do and, instead, does not merely lead us down the road of reducing recovery, limiting standing to suit, and yet continue to have escalating rates.

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

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, in this bill we are asking the citizens of Pennsylvania who may be seriously injured from a defective product to take certain risks, and they are going to be taking risks if this bill passes. I think the Sweet amendment is a very reasonable request for a minimum risk by insurance companies. If this bill is so good—and people who know this say it is good—then this ought to lead to a reduction of the rates, and I think a bill providing merely a freeze - not a reduction, not the 10-, 15-, 20-, 25-percent reduction we are told is very likely, but a freeze - is a very, very reasonable request, and I would urge support of it.

The SPEAKER. The Chair recognizes the gentleman from Somerset, Mr. Halverson.

Mr. HALVERSON. Mr. Speaker, with all due respect to my colleague from Washington County, I must rise to oppose this amendment, and I think at first blush his amendment does sound like a reasonable approach. I think as a practical effect, the effect of the bill, once it is passed, will be that the Insurance Commissioner, realizing that reforms have been made in product liability, will certainly scrutinize any requests for rate increases. But what I do fear, in a general sense, is if we say that there shall be no increases for 3 years, there could be very serious consequences to Pennsylvania manufacturers. I am thinking of a situation where perhaps just due to a product being manufactured in Pennsylvania, even with the reforms in the new law that we hope to enact, he has trouble with his product liability. The insurance company will not be able to get a rate to compensate for the claims he is causing, and therefore, they will simply cancel his insurance and he will have to go out of business. So I think that we are really removing the commonsense thing from the hands of the Insurance Department and the regulators, and I would ask for a "no" vote.

The SPEAKER. The Chair recognizes the gentleman from Schuylkill, Mr. Hutchinson.

Mr. W. D. HUTCHINSON. Mr. Speaker, I am going to oppose this amendment not because I love insurance companies—and I suspect that perhaps we are going to be somewhat unhappy with maybe what they do even after this bill—but I am going to oppose the amendment because essentially what you are doing is you are trying to put a price control on a product. The main problem in the insurance situation, it seems to me, is not just the problem of price, but it is the problem of having availability, and anybody who has looked at the insurance problem, whether it is in the automobile field with no-fault, whether it is in the medical malpractice field as I have, or in the products liability field, knows the problem is availability as well as rates.

Now this looks good. Put a cap on it. We looked good when we put a 15-percent rollback with no-fault, and what happened there? And about 3 or 4 years ago, in medical malpractice we were going to study the rates, and we even appointed a committee, and I am a member of that committee. And we had some of the same things, I say to the gentleman, then that we have now. We are going to make reforms and the rates are going to roll back. The insurance companies I do not think cooperated with us on that committee, and we did not get a rollback.

Now I do not love insurance companies, but I would ask anybody—and I suggested this at the time that medical malpractice came up—if you really want to do something about insurance companies and their rates, there are two things that you could do, but nobody has the courage to come along and sponsor that kind of legislation and get it out of committee. The first of the things is to say to them, if you are going to write the lucrative stuff on which you make a lot of money, then you are going to have to also make a market available at reasonable rates on some of the tougher stuff. And the second thing is to take a hard look at the reserve method of accounting for insurance companies, and that is a technical problem, and to take a hard look at the fact that in setting their premiums under the law of this Commonwealth, the Insurance Commissioner has to look only at underwriting costs and cannot take into account the investment income on reserve. Nobody talks about that. If you want to take a look at it with that kind of study and do some legislation, I could support that with the proper study, but to say flat, right out, what you are going to do here is we are just going to say, no, we are going to put a cap on this thing no matter what happens, without making these other changes, does not make sense. I oppose the amendment.

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

The following roll call was recorded:

YEAS—104

Alden	Fischer	Livengood	Rieger
Austin	Fryer	McCall	Ritter
Barber	Gallagher	McIntyre	Rodgers
Beloff	Gamble	McKelvey	Schmitt
Bennett	Gatski	McMonagle	Schweder
Berson	Geesey	Manderino	Seventy
Borski	George, C.	Michlovic	Shadding
Brown	George, M. H.	Milanovich	Shupnik
Burns	Goebel	Miller	Spitz
Caltagirone	Gray	Moehlmann	Stairs
Cappabianca	Greenfield	Mrkonic	Steighner
Chess	Harper	Mullen	Stewart
Clark, B. D.	Hoeffel	Murphy	Street
Clark, M. R.	Hutchinson, A.	Musto	Stuban
Cochran	Itkin	Novak	Sweet
Cohen	Johnson, J. J.	O'Brien, B. F.	Taylor, F.
Cole	Jones	O'Donnell	Trello
Cowell	Kanuck	Oliver	Wachob
Cunningham	Knight	Petrarca	Wargo
DeMedio	Kolter	Pievsky	White
DeWeese	Kowalshyn	Pistella	Wright, D. R.
Dawida	Kukovich	Pratt	Yahner
Dombrowski	Lashingier	Pucciarelli	Zeller
Duffy	Laughlin	Rappaport	Zitterman
Durham	Letterman	Reed	Zord

Fee	Levin	Richardson	Zwilk
NAYS—84			
Anderson	Freind	McClatchy	Serafini
Armstrong	Gallen	Mackowski	Sieminski
Arty	Gannon	Madigan	Sirianni
Belardi	Geist	Manmiller	Smith, E. H.
Bittle	Gladeck	Micozzie	Smith, L. E.
Bowser	Goodman	Mowery	Spencer
Brandt	Grabowski	Nahill	Swift
Burd	Grieco	Noye	Taddonio
Cessar	Gruppo	O'Brien, D. M.	Taylor, E. Z.
Cimini	Halverson	Perzel	Telek
Cornell	Hasay	Peterson	Thomas
Coslett	Hayes, Jr., S.	Piccola	Vroon
DeVerter	Helfrick	Pitts	Wass
DiCarlo	Honaman	Polite	Wenger
Davies	Hutchinson, W.	Pott	Wilson
Dietz	Johnson, E. G.	Punt	Wilt
Dininni	Klingaman	Pyles	Wright, Jr., J.
Dorr	Knepper	Rocks	Yohn
Earley	Lehr	Ryan	
Fisher	Levi	Salvatore	Seltzer,
Foster, W. W.	Lewis	Scheaffer	Speaker
Foster, Jr., A.	Lynch, E. R.		

NOT VOTING—8

Dumas	Hayes, D. S.	McVerry	Weidner
Giammarco	Irvis	Rhodes	Williams

The question was determined in the affirmative, and the amendment was agreed to.

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

Mr. SWEET offered the following amendments:

Amend Sec. 1 (Sec. 5537), page 2, lines 27 through 30; page 3 lines 1 through 6, by striking out all of said lines on said pages

Amend Sec. 1 (Sec. 5537), page 3, line 7, by striking out "(4)" and inserting (3)

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

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. Mr. Speaker, I trust that the next three will not take nearly so much time, and I will not belabor the House with long explanations.

The second amendment, A4260—

The SPEAKER. Will the gentleman yield?

For what purpose does the gentleman, Mr. Yohn, rise?

Mr. YOHAN. I would like to interrupt the gentleman for just a minute if I could on this. It might save the House some time.

My understanding is that I believe Mr. Murphy is working on some language on this particular section of the bill which I think will meet everybody's purpose, and perhaps we can defer this to a later time to see if that cannot then go in as an agreed-to amendment.

Mr. SWEET. Okay, except, Mr. Speaker, Tip O'Neill once said he never goes along with any deal he is not part of, and I think he is a very wise man.

Mr. YOHAN. Well, I certainly thought Mr. Murphy would include you, Mr. Speaker.

AMENDMENTS TEMPORARILY WITHDRAWN

Mr. SWEET. Mr. Speaker, I will temporarily withdraw the amendment.

The SPEAKER. The gentleman, Mr. Sweet, temporarily withdraws his amendment.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. SWEET offered the following amendment:

Amend Sec. 2 (Sec. 8360), page 13, line 17, by striking out "AVAILABLE AND"

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. Mr. Speaker, there is a section of the bill on page 13, line 17—this is amendment, by the way, A4259—and that line indicates that a product must be reasonably available. The state of the art had to be reasonably available in order for that defense to be used. I believe this may be an agreed-to amendment?

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Yes, Mr. Speaker. I would urge support of this amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—184

Alden	Foster, Jr., A.	Livengood	Rocks
Anderson	Freind	Lynch, E. R.	Rodgers
Armstrong	Fryer	McCall	Ryan
Arty	Gallagher	McClatchy	Salvatore
Austin	Gallen	McIntyre	Scheaffer
Barber	Gamble	McKelvey	Schmitt
Belardi	Gannon	McMonagle	Schweder
Beloff	Gatski	Mackowski	Serafini
Bennett	Geesey	Madigan	Seventy
Berson	Geist	Manderino	Shadding
Bittle	George, C.	Manmiller	Shupnik
Borski	George, M. H.	Michlovic	Sieminski
Brandt	Gladeck	Micozzie	Sirianni
Brown	Goebel	Milanovich	Smith, E. H.
Burd	Goodman	Miller	Spitz
Burns	Grabowski	Moehlmann	Stairs
Caltagirone	Gray	Mowery	Steighner
Cappabianca	Greenfield	Mrkonic	Stewart
Cessar	Grieco	Mullen	Street
Chess	Gruppo	Murphy	Stuban
Cimini	Halverson	Musto	Sweet
Clark, B. D.	Harper	Nahill	Swift
Clark, M. R.	Hasay	Novak	Taddonio
Cochran	Hayes, Jr., S.	Noye	Taylor, E. Z.
Cohen	Helfrick	O'Brien, B. F.	Taylor, F.
Cole	Hoeffel	O'Brien, D. M.	Thomas
Cornell	Honaman	O'Donnell	Trello
Coslett	Hutchinson, A.	Oliver	Vroon
Cowell	Hutchinson, W.	Perzel	Wachob
Cunningham	Itkin	Peterson	Wargo
DeMedio	Johnson, E. G.	Petrarca	Wass
DeVerter	Johnson, J. J.	Piccola	Wenger
DeWeese	Jones	Pievsky	White
DiCarlo	Kanuck	Pistella	Wilson
Davies	Klingaman	Pitts	Wilt

Dawida	Knepper	Polite	Wright, D. R.
Dietz	Knight	Pott	Wright, Jr., J.
Dininni	Kolter	Pratt	Yahner
Dombrowski	Kowalshyn	Pucciarelli	Yohn
Dorr	Kukovich	Punt	Zeller
Duffy	Lashingier	Pyles	Zitterman
Durham	Laughlin	Rappaport	Zord
Earley	Lehr	Reed	Zwilk
Fee	Letterman	Richardson	
Fischer	Levi	Rieger	Seltzer,
Fisher	Levin	Ritter	Speaker
Foster, W. W.	Lewis		

NAYS—3

Smith, L. E.	Spencer	Telek
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NOT VOTING—9

Bowser	Hayes, D. S.	McVerry	Weidner
Dumas	Irvis	Rhodes	Williams
Giammarco			

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. SWEET offered the following amendment:

Amend Sec. 2 (Sec. 8363), page 15, lines 15 through 17, by striking out "PROOF OF GROSS NEGLIGENCE SHALL NOT" in line 15 and all of lines 16 and 17

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. This amendment may also be agreed to. This merely deletes a sentence in the section under punitive damages, which at least I, as one individual, thought was a bit unclear, and it leaves a very clear definition of reckless indifference. It does not muddy up what is a complicated difference between reckless indifference and gross negligence by merely eliminating one line. I ask for approval.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I am not sure that I agree with the comments of the gentleman, but I do agree with his amendment, and I urge support of the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—181

Alden	Foster, W. W.	Lynch, E. R.	Salvatore
Anderson	Foster, Jr., A.	McCall	Scheaffer
Armstrong	Fryer	McClatchy	Schmitt
Arty	Gallagher	McIntyre	Schweder
Austin	Gallen	McKelvey	Serafini
Barber	Gamble	McMonagle	Seventy
Belardi	Gannon	Mackowski	Shadding
Beloff	Gatski	Madigan	Shupnik
Bennett	Geesey	Manderino	Sieminski
Berson	Geist	Manmiller	Sirianni
Bittle	George, C.	Micozzie	Smith, E. H.
Borski	George, M. H.	Milanovich	Smith, L. E.
Bowser	Giammarco	Miller	Spencer
Brandt	Gladeck	Moehlmann	Spitz
Brown	Goebel	Mowery	Stairs

Burd	Grabowski	Mrkonic	Steighner
Burns	Greenfield	Mullen	Stewart
Caltagirone	Grieco	Murphy	Street
Cappabianca	Gruppo	Musto	Stuban
Cessar	Harper	Nahill	Sweet
Chess	Hasay	Novak	Swift
Cimini	Hayes, Jr., S.	Noye	Taddonio
Clark, B. D.	Helfrick	O'Brien, B. F.	Taylor, E. Z.
Clark, M. R.	Hoeffel	O'Donnell	Taylor, F.
Cochran	Honaman	Oliver	Telek
Cohen	Hutchinson, A.	Perzel	Thomas
Cole	Hutchinson, W.	Peterson	Trello
Cornell	Itkin	Petrarca	Wachob
Coslett	Johnson, E. G.	Piccola	Wargo
Cowell	Johnson, J. J.	Pievsky	Wass
Cunningham	Jones	Pistella	Wenger
DeMedio	Kanuck	Pitts	White
DeVerter	Klingaman	Polite	Wilson
DeWeese	Knepper	Pott	Wilt
DiCarlo	Knight	Pratt	Wright, D. R.
Davies	Kolter	Pucciarelli	Wright, Jr., J.
Dawida	Kowalyszyn	Punt	Yahner
Dietz	Kukovich	Pyles	Yohn
Dininni	Lashinger	Rappaport	Zeller
Dombrowski	Laughlin	Reed	Zitterman
Dorr	Lehr	Richardson	Zord
Duffy	Letterman	Rieger	Zwinkl
Durham	Levi	Ritter	
Fee	Levin	Rocks	Seltzer,
Fischer	Lewis	Rodgers	Speaker
Fisher	Livengood	Ryan	

NAYS—4

Earley	Freind	O'Brien, D. M.	Vroon
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NOT VOTING—11

Dumas	Halverson	McVerry	Weidner
Goodman	Hayes, D. S.	Michlovic	Williams
Gray	Irvis	Rhodes	

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. MURPHY offered the following amendments:

Amend Sec. 2 (Sec. 8354), page 7, line 9, by removing the comma after "subchapter" and inserting a period

Amend Sec. 2 (Sec.8354), page 7, line 9, by striking out "except as set forth in"

Amend Sec. 2 (Sec. 8354), page 7, lines 11 and 12, by striking out "SECTION 8358 (relating to failure to specify, instruct or warn)."

Amend Sec. 2 (Sec. 8358), page 11, lines 10 through 14, by striking out all of said lines

Amend Sec. 2 (Sec. 8358), page 11, line 15, by striking out "(b)" and inserting (a)

Amend Sec. 2 (Sec. 8358), page 11, line 28, by striking out "(c)" and inserting (b)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. Mr. Speaker, this is amendment A4257. Essentially, it amends section 8358 on page 11 by deleting lines 9 to 14, and that is the section that deals with the failure to specify, instruct, or warn.

Under present law a person can bring a strict liability suit for failure to instruct properly. The bill as it is now written limits the person to bring a lawsuit solely on the theory of negligence on failure to specify. There is a substantial difference in existing law and what this bill entails. I feel that it gives too much away and the consumer loses too much in gaining too little, and I would like to see this changed so that the consumer could continue to bring a lawsuit on the basis of failure to specify under the theory of strict liability. I urge your support of this amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I would oppose the amendment. Basically, what the amendment does is it says that in a duty-to-warn case, a case in which the liability of the defendant is predicated on the fact that he has not properly warned the plaintiff of some problem in connection with the product - there should be strict liability against the manufacturer. As a matter of practice, I think that in almost all these cases, if not all, the juries are going to make a determination as to whether, in their best judgment, the manufacturer should have issued some additional warning or made some change in the warning that they did issue, and therefore, a negligence standard is imposed by the jury, and I think that that is the proper standard in a case of a duty to warn.

When you have a product being manufactured and you are talking about a defect in the product, it is oftentimes impossible for the plaintiff to determine exactly what caused the defect, and for that reason we have strict liability in tort and the plaintiff is allowed to recover without proving negligence. But in the situation of a warning, it seems to me very clear that the plaintiff then can demonstrate what the warning was; both plaintiff and defendant can determine whether that was a proper warning; and a jury can make an adequate decision as to whether the warning was proper and not negligent. I would therefore oppose the amendment.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. Mr. Speaker, in providing for a person to bring a lawsuit under the theory of negligence, we are putting a substantial additional burden on the plaintiff. I think it is unnecessary in this case.

In this bill we have provided for the manufacturer to have considerable defenses that he does not now have in a court of law. I urge you to permit the consumer to continue to get into court under the theory of strict liability. I do not think that we should expect that a jury should give the benefit of a doubt to a plaintiff in a negligence case. I think it is important that he can bring that case on strict liability. I urge your support on this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—87

Alden	Earley	Letterman	Rieger
Austin	Fee	Levin	Ritter
Barber	Gallagher	McCall	Rodgers
Belardi	Gamble	Manderino	Schmitt
Beloff	Gatski	Michlovic	Schweder
Bennett	George, C.	Milanovich	Serafini
Berson	Grabowski	Mrkonic	Seventy
Borski	Greenfield	Mullen	Shadding
Burns	Halverson	Murphy	Shupnik
Caltagirone	Harper	Musto	Stewart
Cappabianca	Hoefel	Novak	Street
Chess	Hutchinson, A.	O'Brien, B. F.	Stuban
Clark, B. D.	Itkin	O'Donnell	Sweet
Cochran	Johnson, J. J.	Oliver	Taylor, F.
Cohen	Jones	Petrarca	Telek
Cole	Kanuck	Pievsky	Trello
Cowell	Knight	Pistella	Wachob
DeMedio	Kolter	Pratt	Wargo
DeWeese	Kowalshyn	Pucciarelli	White
Dawida	Kukovich	Rappaport	Zitterman
Dombrowski	Lashingier	Reed	Zwilk
Durham	Laughlin	Richardson	

NAYS—99

Anderson	Fryer	McKelvey	Sirianni
Armstrong	Gallen	McMonagle	Smith, E. H.
Arty	Gannon	Mackowski	Smith, L. E.
Bittle	Geist	Madigan	Spencer
Bowser	George, M. H.	Manmiller	Spitz
Brandt	Gladeck	Micozzie	Stairs
Brown	Goebel	Miller	Steighner
Burd	Goodman	Moehlmann	Swift
Cessar	Gray	Mowery	Taddonio
Cimini	Grieco	Nahill	Taylor, E. Z.
Clark, M. R.	Gruppo	Noye	Thomas
Cornell	Hasay	O'Brien, D. M.	Vroon
Coslett	Hayes, Jr., S.	Perzel	Wass
Cunningham	Helfrick	Peterson	Wenger
DeVerter	Honaman	Piccola	Wilson
DiCarlo	Hutchinson, W.	Pitts	Wilt
Davies	Johnson, E. G.	Polite	Wright, D. R.
Dietz	Klingaman	Pott	Wright, Jr., J.
Dininni	Knepper	Punt	Yahner
Dorr	Lehr	Pyles	Yohn
Duffy	Levi	Rocks	Zeller
Fischer	Lewis	Ryan	Zord
Fisher	Livengood	Salvatore	
Foster, W. W.	Lynch, E. R.	Scheaffer	Seltzer,
Foster, Jr., A.	McClatchy	Sieminski	Speaker
Freind			

NOT VOTING—10

Dumas	Hayes, D. S.	McVerry	Weidner
Geesey	Irvis	Rhodes	Williams
Giammarco	McIntyre		

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. MURPHY offered the following amendment:

Amend Sec. 1 (Sec. 5537), page 2, line 29, by inserting after "COMMENCED."

However, if the negotiated contractual obligation provides for a shorter period of limitation, such shorter period shall not be applicable to the rights of persons who were not parties to such negotiated contractual obligation.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. This is amendment A4447.

The SPEAKER. Will the gentleman yield?

Mr. MURPHY. A4921, excuse me.

The SPEAKER. The gentleman may proceed.

Mr. MURPHY. Mr. Speaker, presently in the legislation

Mr. YOHN. Mr. Speaker, excuse me. I have not seen a copy of the gentleman's amendment.

Mr. MURPHY. I am not sure that it has been circulated yet, Mr. Speaker. Has it been circulated? It has been, Mr. Speaker.

Mr. YOHN. This is A4921. Is that correct?

Mr. MURPHY. Yes; it is.

Mr. YOHN. Thank you.

Mr. MURPHY. On page 2, line 29, of the present bill, the bill permits the statute of repose to be negotiated to a shorter period of time than 12 years. My concern is that in doing that, for example, if two manufacturers would negotiate a shorter statute of repose, a worker who might be injured on that product would then not be able to recover even within the 12-year period of time if the negotiated statute of repose would be 2 years. I think it is important that we clarify the language of this legislation, because if we do not, we could conceivably end up in a situation of a manufacturer negotiating with another manufacturer on a 2-year statute of repose, having a worker get hurt on that piece of machinery, and not being able to collect even after 2 years but within the 12-year limit of the statute of repose that is now in the legislation. I think this language clarifies that issue, and I urge your support.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I agree with the gentleman. This does clarify the purpose of the bill. I would, therefore, urge support of the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—181

Alden	Fisher	Lewis	Salvatore
Anderson	Foster, W. W.	Livengood	Scheaffer
Armstrong	Foster, Jr., A.	Lynch, E. R.	Schmitt
Arty	Freind	McCall	Schweder
Austin	Fryer	McClatchy	Serafini
Barber	Gallagher	Madigan	Seventy
Belardi	Gallen	Manderino	Shadding
Beloff	Gamble	Manmiller	Shupnik
Bennett	Gannon	Michlovic	Sieminski
Berson	Gatski	Micozzie	Sirianni
Bittle	Geesey	Milanovich	Smith, E. H.
Borski	Geist	Miller	Smith, L. E.
Bowser	George, C.	Moehlmann	Spencer
Brandt	George, M. H.	Mowery	Spitz
Brown	Gladeck	Mrkonic	Stairs
Burd	Goebel	Mullen	Steighner
Burns	Goodman	Murphy	Stewart
Caltagirone	Grabowski	Musto	Stuban
Cappabianca	Gray	Nahill	Sweet
Cessar	Greenfield	Novak	Swift

Chess	Grieco	Noye	Taddonio
Cimini	Gruppo	O'Brien, B. F.	Taylor, E. Z.
Clark, B. D.	Halverson	O'Brien, D. M.	Taylor, F.
Clark, M. R.	Harper	O'Donnell	Telek
Cochran	Hasay	Oliver	Thomas
Cohen	Hayes, Jr., S.	Perzel	Trello
Cole	Helfrick	Peterson	Vroon
Cornell	Hoefel	Petrarca	Wachob
Coslett	Honaman	Piccola	Wargo
Cowell	Hutchinson, A.	Pievsky	Wass
Cunningham	Hutchinson, W.	Pistella	Wenger
DeMedio	Itkin	Pitts	White
DeVerter	Johnson, E. G.	Polite	Wilson
DeWeese	Johnson, J. J.	Pott	Wilt
DiCarlo	Jones	Pratt	Wright, D. R.
Davies	Kanuck	Pucciarelli	Wright, Jr., J.
Dawida	Klingaman	Punt	Yahner
Dietz	Knepper	Pyles	Yohn
Dininni	Knight	Rappaport	Zeller
Dombrowski	Kolter	Reed	Zitterman
Dorr	Kukovich	Richardson	Zord
Duffy	Lashinger	Rieger	Zwikl
Durham	Laughlin	Ritter	
Earley	Lehr	Rocks	Seltzer,
Fee	Letterman	Rodgers	Speaker
Fischer	Levi	Ryan	

NAYS—1

Mackowski

NOT VOTING—14

Dumas	Kowalyszyn	McMonagle	Street
Giammarco	Levin	McVerry	Weidner
Hayes, D. S.	McIntyre	Rhodes	Williams
Irvis	McKelvey		

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. MURPHY offered the following amendment:

Amend Sec. 2 (Sec. 8355), page 7, line 22 by inserting after "for" that portion of

On the question,

Will the House agree to the amendment?

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Brien. For what purpose does the gentleman rise?

Mr. D. M. O'BRIEN. Mr. Speaker, on the Sweet amendment A4258, I was recorded in the negative. I would like to be recorded in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Philadelphia, Mr. McKelvey. For what purpose does the gentleman rise?

Mr. McKELVEY. I would like to be recorded in the affirmative on the Sweet amendment A4258.

The SPEAKER. The gentleman's remarks will be spread upon the record.

CONSIDERATION OF HB 1083 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. This amendment A4447 attempts to clarify the language in the bill concerned with comparative responsibility, changing "for" to "that portion of", so that it is clear that a defendant should not be liable but for that portion of the injury or the damage caused by the alteration or modification.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, would the gentleman consent to interrogation?

The SPEAKER. The gentleman, Mr. Murphy, indicates that he will. The gentleman, Mr. Yohn, may proceed.

Mr. YOHN. Mr. Speaker, would the gentleman advise me, does the amendment say it is the amendment to page 7? Is that correct?

Mr. MURPHY. Yes, page 7, line 22.

Mr. YOHN. Now my copy of the bill on page 7 talks about the defense for product modification, alteration or deterioration. Is that correct?

Mr. MURPHY. Yes, that is correct.

Mr. YOHN. I am sorry, I see you are inserting the words; I thought you were deleting—

Mr. MURPHY. I am inserting "that portion of" and deleting "for".

Mr. YOHN. So, in other words, what you are saying now is that in the case of that defense, a defendant shall not be liable, and then you are adding for "that portion of" injury or damage caused by an alteration or modification. Is that correct?

Mr. MURPHY. Yes.

Mr. YOHN. I do not think that has anything to do with comparative responsibility then, but I understand what the gentleman is doing.

Mr. Speaker, I would have no objection to the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—183

Alden	Foster, Jr., A.	McCall	Ryan
Anderson	Freind	McClatchy	Salvatore
Armstrong	Fryer	McIntyre	Scheaffer
Arty	Gallagher	McKelvey	Schmitt
Austin	Gallen	McMonagle	Schweder
Barber	Gannon	Mackowski	Serafini
Belardi	Gatski	Madigan	Seventy
Bennett	Geesey	Manderino	Shadding
Berson	Geist	Manmiller	Shupnik
Bittle	George, C.	Michlovic	Sieminski
Borski	George, M. H.	Micozzie	Sirianni
Bowser	Goebel	Milanovich	Smith, E. H.
Brandt	Goodman	Miller	Smith, L. E.
Brown	Grabowski	Moehlmann	Spencer
Burd	Gray	Mowery	Spitz
Burns	Greenfield	Mrkonc	Stairs
Caltagirone	Grieco	Mullen	Steighner
Cappabianca	Gruppo	Murphy	Stewart
Cessar	Halverson	Musto	Street

Chess	Harper	Nahill	Stuban
Cimini	Hasay	Novak	Sweet
Clark, B. D.	Hayes, Jr., S.	Noye	Swift
Clark, M. R.	Helfrick	O'Brien, B. F.	Taddonio
Cochran	Hoeffel	O'Brien, D. M.	Taylor, E. Z.
Cohen	Honaman	O'Donnell	Taylor, F.
Cole	Hutchinson, A.	Oliver	Telek
Cornell	Hutchinson, W.	Perzel	Thomas
Coslett	Itkin	Peterson	Trello
Cowell	Johnson, E. G.	Petrarca	Vroon
Cunningham	Johnson, J. J.	Piccola	Wachob
DeMedio	Jones	Pievsky	Wargo
DeVerter	Kanuck	Pistella	Wass
DeWeese	Klingaman	Pitts	Wenger
DiCarlo	Knepper	Polite	White
Davies	Knight	Pott	Wilt
Dawida	Kolter	Pratt	Wright, D. R.
Dietz	Kowalyszyn	Pucciarelli	Wright, Jr., J.
Dininni	Kukovich	Punt	Yahner
Dombrowski	Laughlin	Pyles	Yohn
Dorr	Lehr	Rappaport	Zeller
Duffy	Letterman	Reed	Zitterman
Durham	Levi	Richardson	Zord
Earley	Levin	Rieger	Zwinkl
Fee	Lewis	Ritter	
Fischer	Livengood	Rocks	Seltzer,
Fisher	Lynch, E. R.	Rodgers	Speaker
Foster, W. W.			

NAYS—0

NOT VOTING—13

Beloff	Gladeck	Lashingner	Weidner
Dumas	Hayes, D. S.	McVerry	Williams
Gamble	Irvis	Rhodes	Wilson
Giammarco			

The question was determined in the affirmative, and the amendment was agreed to.

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

Mr. MURPHY offered the following amendment:

Amend Sec. 2 (Sec. 8352), page 4, by inserting after line 30
(7) Sells a product manufactured by a person who has been judicially declared insolvent or bankrupt or who has no identifiable successor in interest.

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

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. Mr. Speaker, this amendment attempts again to clarify the bill to be sure that if a manufacturer has been held judicially insolvent or bankrupt or has no identifiable success or an interest, that a person, a consumer, would then be able to bring a lawsuit to collect for damages or injury against the seller of the product. This attempts to avoid the situation where a manufacturer would be bankrupt and a person who would be grievously injured would then not be able to collect from anyone. This extends the liability only slightly to a seller in a case where a manufacturer does not exist and puts some responsibility on the seller to be sure that his products are well protected. I urge your support of this amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I too would urge support for the amendment. I would, however, point out to the members that this is not in the nature of a technical amendment as many of the others have been. This is a substantive change and it is one which I favor. I would urge support for the amendment.

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

The following roll call was recorded:

YEAS—179

Alden	Foster, W. W.	Livengood	Salvatore
Anderson	Foster, Jr., A.	Lynch, E. R.	Scheaffer
Armstrong	Freind	McCall	Schmitt
Arty	Gallagher	McClatchy	Schweder
Austin	Gallen	McKelvey	Serafini
Barber	Gamble	Mackowski	Seventy
Belardi	Gannon	Madigan	Shadding
Bennett	Gatski	Manderino	Shupnik
Berson	Geesey	Manmiller	Sieminski
Bittle	Geist	Michlovic	Sirianni
Borski	George, C.	Micozzie	Smith, E. H.
Bowser	George, M. H.	Milanovich	Smith, L. E.
Brandt	Gladeck	Miller	Spencer
Brown	Goebel	Moehlmann	Spitz
Burd	Goodman	Mowery	Stairs
Burns	Grabowski	Mrkonic	Steighner
Caltagirone	Greenfield	Mullen	Stewart
Cappabianca	Grieco	Murphy	Street
Cessar	Gruppo	Musto	Stuban
Chess	Halverson	Nahill	Sweet
Cimini	Harper	Novak	Swift
Clark, B. D.	Hasay	Noye	Taddonio
Clark, M. R.	Hayes, Jr., S.	O'Brien, B. F.	Taylor, E. Z.
Cochran	Helfrick	O'Brien, D. M.	Taylor, F.
Cohen	Hoeffel	O'Donnell	Telek
Cole	Honaman	Oliver	Thomas
Cornell	Hutchinson, A.	Perzel	Trello
Coslett	Hutchinson, W.	Peterson	Vroon
Cowell	Itkin	Petrarca	Wachob
Cunningham	Johnson, J. J.	Piccola	Wargo
DeMedio	Jones	Pievsky	Wass
DeVerter	Kanuck	Pistella	Wenger
DeWeese	Klingaman	Pitts	Wilson
DiCarlo	Knepper	Polite	Wilt
Davies	Knight	Pratt	Wright, D. R.
Dawida	Kolter	Pucciarelli	Wright, Jr., J.
Dietz	Kowalyszyn	Punt	Yahner
Dininni	Kukovich	Pyles	Yohn
Dombrowski	Lashingner	Rappaport	Zeller
Dorr	Laughlin	Reed	Zitterman
Duffy	Lehr	Richardson	Zord
Durham	Letterman	Ritter	Zwinkl
Earley	Levi	Rocks	
Fee	Levin	Rodgers	Seltzer,
Fischer	Lewis	Ryan	Speaker
Fisher			

NAYS—8

Fryer	Johnson, E. G.	McMonagle	Rieger
Gray	McIntyre	Pott	White

NOT VOTING—9

Beloff	Hayes, D. S.	McVerry	Weidner
Dumas	Irvis	Rhodes	Williams
Giammarco			

The question was determined in the affirmative, and the amendment was agreed to.

**MOTION TO PLACE HB 1083 ON
THIRD CONSIDERATION POSTPONED
CALENDAR**

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, due to the nature of the first amendment I have to offer, since it is extraordinarily complicated, I am wondering if I could beg the indulgence of the Speaker to hold this bill over and have this as the first item of business tomorrow morning.

The SPEAKER. It is not in the power of the Chair to make that decision; the House makes those decisions.

Mr. KUKOVICH. Well, then, I would like to make that motion, Mr. Speaker, to place HB 1083 on the third consideration postponed calendar.

The SPEAKER. It has been moved by the gentleman, Mr. Kukovich, that HB 1083 be placed on the third consideration postponed calendar.

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

The following roll call was recorded:

YEAS—89

Alden	Fee	Levin	Rieger
Arty	Freind	McCall	Ritter
Austin	Gallagher	McIntyre	Rodgers
Barber	Gamble	McMonagle	Schmitt
Bennett	Gannon	Manderino	Schweder
Berson	George, C.	Michlovic	Seventy
Borski	George, M. H.	Micozzie	Shadding
Brown	Goodman	Milanovich	Shupnik
Burns	Greenfield	Mrkonc	Spitz
Caltagirone	Halverson	Mullen	Stewart
Cappabianca	Harper	Musto	Street
Chess	Hoeffel	Novak	Suban
Clark, B. D.	Hutchinson, A.	O'Brien, B. F.	Sweet
Cochran	Itkin	O'Donnell	Taylor, F.
Cohen	Johnson, J. J.	Oliver	Trello
Cole	Jones	Petrarca	Wachob
Cowell	Kanuck	Pievsky	Wargo
DeMedio	Knight	Pistella	White
DeWeese	Kolter	Pratt	Yahner
Dawida	Kowalshyn	Pucciarelli	Zeller
Dombrowski	Kukovich	Reed	Zitterman
Durham	Laughlin	Richardson	Zwikl
Earley			

NAYS—96

Anderson	Gallen	McKelvey	Serafini
Armstrong	Gatski	Mackowski	Sieminski
Belardi	Geesey	Madigan	Sirianni
Bittle	Geist	Manmiller	Smith, E. H.
Bowser	Gladeck	Miller	Spencer
Brandt	Goebel	Moehlmann	Stairs
Burd	Grabowski	Mowery	Steighner
Cessar	Gray	Murphy	Swift
Cimini	Grieco	Nahill	Taddonio
Clark, M. R.	Gruppo	Noye	Taylor, E. Z.
Cornell	Hasay	O'Brien, D. M.	Telek
Coslett	Hayes, Jr., S.	Perzel	Thomas
Cunningham	Helfrick	Peterson	Vroon
DeVerter	Honaman	Piccola	Wass
DiCarlo	Hutchinson, W.	Pitts	Wenger
Davies	Johnson, E. G.	Polite	Wilson
Dietz	Klingaman	Pott	Wilt
Dininni	Knepper	Punt	Wright, D. R.
Dorr	Lashingner	Pyles	Wright, Jr., J.
Duffy	Lehr	Rappaport	Yohn
Fischer	Levi	Rocks	Zord

Fisher	Lewis	Ryan	
Foster, W. W.	Livengood	Salvatore	Seltzer,
Foster, Jr., A.	Lynch, E. R.	Scheaffer	Speaker
Fryer	McClatchy		

NOT VOTING—11

Beloff	Hayes, D. S.	McVerry	Weidner
Dumas	Irvic	Rhodes	Williams
Giammarco	Letterman	Smith, L. E.	

The question was determined in the negative, and the motion was not agreed to.

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

Mr. KUKOVICH offered the following amendments:

Amend Sec. 1 (Sec. 5537), page 1, lines 10 through 13; page 2, lines 1 through 9, by striking out all of said lines on said pages and inserting

(a) Useful safe life.—A manufacturer as defined in subsection (e) (relating to definition) may be liable for harm caused by the manufacturer's product during the useful safe life of that product. A manufacturer shall not be liable for injuries or damages caused by a product beyond its useful safe life unless the manufacturer has expressly warranted a longer useful safe life period during which such injuries or damages occurred. "Useful safe life" refers to the time during which the product reasonably can be expected to perform in a safe manner. In determining whether a product's useful safe life has expired, the trier of fact may consider:

- (1) The effect on the product of wear and tear or deterioration from natural causes.
- (2) The effect of climatic and other local conditions in which the product was used.
- (3) The policy of the user and similar users as to repairs, renewals and replacements.
- (4) Representations, instructions and warnings made by the product seller about the product's useful safe life.
- (5) Any modification or alteration of the product by a user or third party.

(b) Statutes of repose.—

(1) A claimant entitled to compensation under the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," may bring a product liability action against a manufacturer under this subchapter for harm that occurs within 25 years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type. For a product liability claim involving harm which occurred more than 25 years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established in subsection (a). Such presumption may be rebutted by a preponderance of the evidence. For the purposes of this title, a self-employed individual bringing a product liability action for harm caused by product use while such individual was engaged within the scope of his employment shall be deemed to be a claimant under this subsection.

(2) For product liability actions not included in paragraph (1) that involve harm occurring more than 12 years after delivery of the completed product to its first purchaser or lessee who was not in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established in subsection (a). Such presumption may be rebutted by a preponderance of the evidence.

Amend Sec. 1 (Sec. 5537), page 2, line 21, by striking out "(a)" and inserting (b)

Amend Sec. 1 (Sec. 5537), page 3, line 11, by striking out "(a)" and inserting (b)

Amend Sec. 1 (Sec. 5537), page 3, by inserting between lines 11 and 12

(e) Definition.—As used in this section, "product liability action" or "action" means any action brought for or on account of personal injury, illness, disease, disability, death or property damage caused by the manufacture, construction, design, formula, installation, preparation, assembly, testing, marketing, packaging, labeling or sale of any product or the failure to warn or protect against a danger or hazard in the use, misuse or unintended use of any product or the failure to provide proper instructions for the use of any product, including such an action brought under Title 13 (relating to commercial code).

Amend Bill, page 3, lines 19 through 30; pages 4 through 15, lines 1 through 30; page 16, lines 1 through 26, by striking out all of said lines on said pages and inserting

PRETRIAL PROCEDURES

Sec.

8301. Pretrial conference required.

8302. Issues to be addressed at pretrial conference.

8303. Court's function and discretion at pretrial conference.

TECHNOLOGICAL EXPERT WITNESSES

8311. Main technological expert witness required to be qualified.

8312. Criteria for qualification.

8313. Qualification procedure not applicable to medical experts.

SERIALIZED TRIAL

8321. Serialized trial mandated.

8322. Stages of serialized trial.

8323. Admissibility of evidence.

PRETRIAL PROCEDURES

§ 8301. Pretrial conference required.

In all product liability actions based upon the theory of strict liability in tort, the court shall direct the holding of a pretrial conference in accordance with the rules of civil procedure upon the expiration of the period for the filing of pleadings. The purpose of the pretrial conference shall be to clearly define the issues to be litigated and to clearly delineate and describe the essential nature and qualities of the product.

§ 8302. Issues to be addressed at pretrial conference.

In addition to any other matters required or allowed to be addressed at the pretrial conference, the following issues shall be considered by the parties and the court:

(1) Formulation of precise product description.

(2) Identification of the alleged defect in the product.

(3) Presentation and qualification of the parties' technological experts pursuant to sections 8311 (relating to main technological expert witness required to be qualified), 8312 (relating to criteria for qualification) and 8313 (relating to qualification procedure not applicable to medical experts).

(4) Presentation of the parties main technological expert's theories on which their opinions of the defect and causation rest. Each party shall designate one expert as its main technological expert if the party elects to present technological expert testimony; however, a party may elect not to present such evidence.

(5) Nature of the indicator evidence.

§ 8303. Court's function and discretion at pretrial conference.

(a) General rule.—The court shall direct and supervise the proceedings at the pretrial conference and may, at its discretion, engage independent technical consultants to aid in isolating relevant technical issues and formulating a neutral product description.

(b) Court's determinations.—In the event the parties are unable to agree at the conference on the formulation of the precise product description or the qualification of the main technological expert witnesses, the court shall make such determinations based upon the information presented. At the conclusion of the pretrial conference, the court shall make an order reciting the results of the conference. Such order shall be controlling during the subsequent course of the action.

TECHNOLOGICAL EXPERT WITNESSES

§ 8311. Main technological expert witness required to be qualified.

Each party in a product liability action based upon the theory of strict liability in tort shall designate one main technological expert witness, if technological expert testimony is to be offered, who shall be qualified at the pretrial conference pursuant to the provisions of this subchapter.

§ 8312. Criteria for qualification.

Each party at the pretrial conference shall demonstrate that its main technological expert witness meets the following criteria for qualification:

(1) The pervasive discipline, as identified by a given issue, is within the scope of the witness's background skills.

(2) The witness has undertaken self-education involving a legitimate application of his basic skills.

(3) The witness has established that he has been sufficiently thorough in acquiring this self-education to achieve a level of qualification consistent with the technical issues to be addressed at trial.

§ 8313. Qualification procedure not applicable to medical experts.

The provisions of this subchapter relating to the requirements for the qualification of main technological experts at the pretrial conference shall not be applicable to medical experts.

SERIALIZED TRIAL

§ 8321. Serialized trial mandated.

All trials resulting from product liability actions based on the theory of strict liability in tort shall be conducted as serialized trials in conformance with the provisions of this subchapter.

§ 8322. Stages of serialized trial.

The stages of the serialized trial shall be as follows:

(1) Presentation of neutral product description. The neutral product description developed during the pretrial conference shall be presented.

(2) Identification of product flaw. Evidence relating to the alleged flaw in the product shall be presented by the qualified technological expert witnesses.

(3) Technical causation. Evidence shall be presented relevant to the issue of whether or not the product flaw identified in paragraph (2) substantially contributed to the malfunction.

(4) Factual determination of technical causation. The issue identified in paragraph (3) relating to causation based upon evidence and testimony presented in stages (1) through (3) shall be submitted to the trier of fact for resolution. If the trier of fact finds that the product flaw identified in paragraph (2) substantially contributed to the malfunction, the trial shall continue. If the trier of fact finds that either there was no flaw in the product or if there was, it did not substantially contribute to the malfunction, the court shall dismiss the action.

(5) Performance standards. If the trial continues as a result of an affirmative finding in paragraph (4), evidence shall be presented relevant to the issue of whether the flaw identified in stage (2) was defective and unreasonably dangerous.

(6) Factual determination of performance standards. The issue of the defective and unreasonably dangerous nature of the product flaw based on evidence presented in stage (5) shall be submitted to the trier of fact for resolution. If the

trier of fact finds that the product flaw constituted a defect and was unreasonably dangerous, the trial shall continue. If the trier of fact finds that the product flaw did not constitute a defect and was not unreasonably dangerous, the court shall dismiss the action.

(7) Legal causation. If the trial continues as a result of an affirmative finding in paragraph (6), evidence shall be presented relevant to the issue of whether the malfunction in the product caused the injury for which damages are sought.

(8) Factual determination of legal causation. The issue of legal causation as provided for in stage (7) shall be submitted to the trier of fact for resolution. If the trier of fact finds that there was the required legal causation, the defendant shall be liable for the resulting damages. If the trier of fact finds that there was no legal causation, the court shall dismiss the action.

(9) Damages. If the trier of fact finds liability for the defendant pursuant to stage (8), evidence shall be presented relevant to the resulting damages.

(10) Factual determination of damages. The issue of damages shall be submitted to the trier of fact for its determination based on evidence presented in stage (9).

§ 8323. Admissibility of evidence.

Only evidence relevant to the particular stage of the seriated trial under consideration shall be admissible during that stage.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I have five amendments to this bill; however, this amendment is the most far-reaching. The others simply deal with various problems that I have seen with HB 1083. This bill is quite different, and if it would pass, I would not have to offer any of the other amendments except possibly one.

Mr. Speaker, I would ask the members to please try to bear with me. I am going to go through this step by step. If you will notice, on the back of A4912, there is a diagram which I think will help us go through it whenever we reach that section of the bill.

I would like to preface my explanation by saying that this bill is not the product of the Chamber of Commerce, the Trial Lawyers, Labor, or any interest group. In my opinion, it is the only intellectually honest approach to the problem in product liability.

I would like to say that I do feel that in the area of product liability, I think that we are faced with a problem, but I do not think that problem is with the law itself. It is rather two-fold, one being with the insurance industry and, secondly, being with legal procedure used to bring these cases to court, leading to serious actions and leading to too many settlements of cases that should not be settled.

Mr. Speaker, if the members would look at page 1 of the bill, it deals with the statute of repose. The statute of repose provides a cutoff of 12 years on any actions in strict liability. Rather than completely wipe out that statute, I think the suggestion on page 1 is a moderate compromise, and that is, that when a product is defective and an action is brought, if it is brought in the workplace if it is a manufacturing piece of equipment, then the use for safe life would be 25 years. If the product is older than 25 years,

then there is a rebuttable presumption that it has passed the date and would be a bar to the plaintiff's case. They would need a preponderance of the evidence to rebut that presumption. The burden, therefore, is on the plaintiff.

The second part of the first page deals with nonworkplace products. Normally, we are talking about products in the home, and that lessens the degree of years. It would leave it at 12 years. Once again, though it would not be an absolute bar to strict liability action, but rather it would create rebuttable presumption with the burden, once again, on the plaintiff.

The second page, Mr. Speaker, is simply the same definition of product liability action that is in HB 1083.

Now we get to the real heart of this amendment.

The rest of this amendment takes out HB 1083, except for the first part, the statute of repose that we talked about, and the last part, which deals with insurance disclosure.

As I said when I first started to speak, I feel that the problem in product liability is not with the law; it is not with strict liability. And the reason I say that is that the insurance companies have admitted that of all the claims of product liability that are brought, only 2 to 4 percent ever go to court. And of that small percentage that do make it to court, 75 percent of those claims are found in favor of the defendant. Obviously, manufacturers in the business community are not being hurt by the application of the law itself.

Where they are being hurt is whenever many spurious claims, many actions are brought where the manufacturer really is not at fault; where the product is not defective under 402(a), the strict liability section. However, because of the fact there is an injured person, an injured client, an injured plaintiff, too often the insurance companies are willing to settle rather than go into court. Now the purpose of this amendment is to try to deal with and address that problem and try to prevent spurious actions.

I will try to go through this as carefully as I can.

The first part and the second part overlap a bit. There are three parts to the heart of this amendment to deal with pretrial procedure, technological expert witnesses, and the concept of seriated trial.

The purpose of pretrial procedures will be to focus on certain technological aspects of the case, and also to bring into play the qualification of expert witnesses, particularly what is identified in the bill as the main technological expert witness. The reason behind this is that too often a plaintiff's counsel, because they have a client who makes a good witness, who has been damaged, who has been injured, who will go into court and be able to prejudice the jury by putting that client on the stand, not even use the expert testimony the way they should but rather use it to plug loopholes in their case, and this whole subterfuge has a result of confusing the jury. The point is that the plaintiff's attorney knows this. The insurance companies know that; the defense bar knows that, and that is what leads to quick settlements not on the merits of the case, but simply

on the basis of expediency. That has been one of the main factors leading to an increase in product liability insurance rates.

I would suggest to you that by setting up this pre-trial procedure and by setting up a new basis of qualification for technological expert witnesses, we will begin to get around that problem. We will force expert witnesses to be qualified earlier, therefore forcing a plaintiff's counsel to bring them into the case earlier, and on the basis of qualification no longer will we depend solely on paper credentials. Expert witnesses will have to show to the court, in order to qualify to testify that they have done a certain amount of self-education on that particular type of product.

What this means is that once we get into the third part of the middle amendment, the seriated trial—and I would like you to look at the diagram on the back, and we will try to follow through with that—if you look at the first part what that means is that the product for the first time will be focused on at the beginning of the trial. The jury will not be prejudiced by any damages or any harm to the plaintiff, but rather there will be a neutral product description agreed to by both parties or formulated by an independent consultant appointed by the judge. So for the first time, a juror will be able to center and focus on the product itself.

Secondly, there will be the technological expert testimony regarding the flaw in the product. The plaintiff would have the burden of proving that there was a flaw. They would move on to the next aspect of the case, which would be to show technical causation.

The defense could move to have the jury answer the question of whether or not the flaw substantially contributed to that malfunction. If the jury does not find that it did, the case is over. If the answer is in the affirmative, the case continues to the question of whether the flaw was defective and unreasonably dangerous. That is defined in the case law of the courts of the Commonwealth of Pennsylvania.

Once again, if the answer is negative, the case is over; if the answer is in the affirmative, we proceed to the question of legal causation of whether or not this flaw, whether there was a flaw, whether it substantially contributed, whether it was unreasonably dangerous and defective, and, if so, did it actually cause this injury. If that is the case, then the defendant would be liable, as they should be. Then and only then, do we go to the question of damages for the plaintiff, which they would have to prove with medical testimony.

Mr. Speaker, I would suggest to you that if trial counsel know in advance that they have got to prove their case in this manner, and keeping in mind that the plaintiff's attorneys in products liability cases deal on a contingency fee, they certainly will not take a bad case, a case which they know on the technological aspects they cannot prove, because they know the insurance companies will then not be willing to settle early on. They know that the insurance companies will not follow the general rule of thumb that if they can pay off the \$40,000, so be it, despite the merits of the case.

Mr. Speaker, we will start to address this problem and this issue in an honest manner.

I would also suggest that the heart of this is that if we adopt HB 1083 the way that it is now, that sometime, somewhere, some of our constituents are going to be an innocent injured person with a valid claim and not have a chance to prove it in court.

If we adopt this amendment bad cases will be thrown out, but the truly innocent injured person with the valid, legal case will get their day in court. Mr. Speaker, it is the fair approach; I think that it is the only correct approach; I think we can have our cake and eat it too. We can prevent the extra litigation that is going on in our society, and yet still give those with a proper case a chance to be heard. If we accept HB 1083 the way it is now, it is my opinion that we will destroy the incentive of manufacturers to make safe products.

Conversely, I think that this amendment, by its very nature is going to encourage the manufacture of safe products.

Mr. Speaker, I would ask the members not to listen to the various interest groups. I would ask them to look at this amendment very hard, and I think this is the right way to go and I would appreciate their support, if they really want to solve the product liability problem in this state. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I rise to oppose the amendment.

First off, I think the members should realize that this is basically in its initial stages, at least, except for the language about the seriated trials; it is basically a redraft of the original Manderino amendment, because this bill takes out all of the sections of the bill as it exists at the present time, except for the disclosure provisions and the rate review provisions. So it leaves those in, and, in that respect, it is the same as the Manderino amendment. It also substitutes the useful safe life for the existing statutory repose, but it does leave that section in.

Now getting on to the seriated trial provision that the gentleman is proposing, I think—and obviously the gentleman is very well-intentioned and is trying to help solve a problem—but I think there are a number of difficulties with the amendment as it is suggested.

First off, the basic procedures set forth for a pretrial procedure and the seriated trial in the amendment should be done by rule of court rather than by a statute of this state. The 1968 constitution provided that the Supreme Court shall take care of all these matters that are subject to rulemaking procedures and the legislature should not be involved in those items.

So I think that, on the merits, this is an item that should be handled by the Supreme Court through the rulemaking procedure, and, in fact, if we attempt to enact it by statutes, the Supreme Court may very well rule that the statute is unconstitutional as violating its rulemaking procedures.

Substantively, I think there is a major defect in the amendment in that it means that in every single product liability case—this is not a “may” amendment; it is a “shall” amendment. In every single product liability case—the jury is going to have to go out on four separate occasions and make a decision. You give them some of the evidence or part of the evidence and they go out and make a decision. If they find for the defendant at that time, the case is over. Then you give them a little bit more of the evidence and they go out and make another decision, and if they find for the defendant again, the case is over. They go through that four separate times. And I think that that is a very basic defect with this amendment, because, one, it is going to be very cumbersome; and, two, it is very much to the advantage of the defendant because he has four shots at winning the case rather than one shot; and, three, I think it is a mistake to give the jury part of the information and expect them to make a decision at that time.

I would point out to the members that this proposal is before us for the first time today; not the first time today, but it is before the House for the first time. It is a very complex proposal. It was not considered in committee. It was not suggested in committee. It is the type of thing that should be reviewed very carefully. There should be hearings on it; there should be extensive committee discussion, and I do not think it should be considered by this House at this late moment in its consideration of HB 1083.

The idea suggested by the gentleman was suggested by a law professor in an article which appeared in 1974. To my knowledge, no other expert in the field of product liability reform has used this idea since that time as a valid concept that they feel should be advocated. So I think that at this date in the game, it is just too late to consider it here. It appears to me on the surface to be a bad idea, but at the very least it should be subject to hearings and further debate rather than inserted in the bill at this time. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I feel that I have to respond to Mr. Yohn's comments.

First of all, I think that he misrepresented the purpose of this amendment in his first statement when he said that it was the same as the Manderino amendment. It is totally different. Mr. Manderino's approach was that there was no problem in product liability except with the insurance companies, and he gutted the whole bill except for that. I partially agree with that. However, I think there is another problem and I elucidated what it was, and that is with the trial procedure.

I am not saying that there is no problem; let us gut the bill. I am saying there is a problem and this is the way to deal with it. So I think it is misleading to make that statement.

Secondly, it was brought up that the Supreme Court would not like this. Obviously. I would submit to you though that the Supreme Court has gone along with other

times when this body has suggested ways to handle a trial procedure. Accelerated rehabilitative disposition is one aspect that has been done in the criminal law field.

The executive director of the Civil Procedural Rules Committee of the Pennsylvania Supreme Court has been contacted and made aware of this amendment. I intend to write to him and urge him to try to put this trial language in by rule. However, the law is such that they would not necessarily have the right to strike it out of the law.

Thirdly, Mr. Yohn talked about an advantage to the defendant. Now, once again, if we take HB 1083 the way it is, there will be a huge advantage to the defendant because some plaintiffs with good cases will not even have a chance to bring a strict liability action. They will be out of court without a chance.

The testimony and the evidence that would be put in through this seriated trial procedure is evidence that should be put into a trial to prove the case anyway. The elements are the same. The only problem is right now in a case the elements are confused. Both attorneys for the defense and the plaintiff confuse these issues, confuse the jury, and decisions are not made on their merits.

The purpose of this seriated trial and the way that it is laid out is to avoid confusion; to give a jury the chance to make a decision on the important questions at each stage of the trial, the only intelligent way a jury can decide these cases.

There was a comment made about no other experts having become involved in this. Well, that is true and part of that is because the experts who did this original study under grant by the National Science Foundation were the only ones who had actual trial transcripts. They did not use the normal law professor attitude of reading appellate cases, which gives you no basis in fact for the substance of the problems in a trial.

I will agree that this is new; that it is innovative, but I refuse not to bring ideas to this chamber because they are new, especially if it is the right idea. And, again, if we really want to solve this problem, I would suggest that you consider what I have said, consider that I think there have been no valid arguments against this, and vote in favor of this amendment.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, I rise to support the amendment proposed by the gentleman, Mr. Kukovich.

My original speech on this matter before this House earlier today talked about the way to solve the problem, if a problem exists so far as the insurance company charging what manufacturers are unable to pay in premiums for product liability. Mr. Yohn concedes that this particular amendment would have its effect in saying that the amendment favors the defendant. Now who is the defendant in a product liability case? That is the manufacturer. It favors the manufacturer because the manufacturer has three different points, in the determination of the issue of whether damages should be paid, to have it determined in his favor that damages will not be paid.

What we are really saying with the Kukovich amendment is that many times whether or not a manufacturer should be responsible for the injuries that an individual suffered does not depend on liability, does not depend on whether the case has been proven step by step under the law as it should be, but everyone handling these kinds of cases, whether for the manufacturer and the insurance company, or whether for the plaintiffs, will agree that the sympathy that a jury has to make a determination in favor of an injured person certainly comes into play in the determination and the final verdict. Now no one will deny that that is the case. That means that the premium being paid by that manufacturer for his products liability insurance, in part, is being paid for claims that should not have ever gotten to the jury. But a judge looking at the injured plaintiff will allow questions to be decided by that jury that under the law should not be decided by that jury, but the case should have been taken away from the jury under the law by the judge. But that does not happen because of the sympathy that both juries and judges have for the injured victim.

Now when I said if a problem exists, there are alternative ways to solve that problem, Mr. Kukovich has proposed an alternative way to solve that problem, and his alternative way does not take one right away from an injured person. It does not make it more difficult for him to prove his case under the law. It may make it more difficult for him to get a damage verdict in a case that he should not get a damage verdict, but under the law no rights are taken away from him. No burden is placed upon him higher than the present law of Pennsylvania places on him, except that decisions will be made step by step: Was the product defective? If the product was defective, there is an awful lot of testimony that will come in on the technology of the matter. Sometimes whether that product is defective will get mixed up with the jury's sympathy to try to award that injured person with some monetary damage award because there are children to feed, there is a life snuffed out, or there is a disabled person before the court and the jury. So sometimes in court, whether or not the product was defective really gets mixed up with the wants and desires and sympathies of a jury to award the verdict.

What we are saying is, let us make that initial step and let us make that additional determination or that first determination before we go on to proving damages and bringing an injured party before the courts.

Then there is a second step, when Mr. Kukovich took you through the diagram, and a third step, and then the final determination of damages. It will be only in that final determination of damages that sympathy will come into play. It will not affect the jury in its determination of whether a defect existed, whether that defect was the proximate cause of the accident, or whether or not an intervening force came in and altered the product. All of those decisions will be made before damages are determined if, in fact, the plaintiff can prove his case to that point, and I submit to you that it is a way of cutting down the total cost of product liability and product liability insurance

premiums in this Commonwealth without affecting that injured person who has a right, without sympathy, under the law to be awarded damages. And when we have an alternative approach that we think will work—and I will take Mr. Fisher's word - nobody is sure what will work. We are not sure that HB 1083 is going to work. Well, if you are not sure that 1083 is going to work and you have a viable alternative—proposed after decent and in-depth study of the problem by people who understand the problem, then we ought to opt for that viable alternative that is apt to have the same or better results than taking rights away from victims, even victims who have a right to recover under our law. The difference is, the Kukovich amendment takes only the award of damages away from that person who under the law should not have been awarded damages in the first place but ends up getting there in a compromise situation because of a jury's sympathy. House bill 1083 takes rights away from everybody, whether that person ought to, under the present law of Pennsylvania, be awarded damages, or whether he has one of those frivolous cases that will be taken out of the realm of decision by the seriated trial. I think we ought to opt for the Kukovich alternative to solve the problem that we are being told exists. I ask for an adoption of the Kukovich amendment.

The SPEAKER. The Chair recognizes the gentleman from Greene, Mr. DeWeese.

Mr. DeWEESE. Mr. Speaker, as of this moment we have heard lawyers speak on the issue. For just a few brief moments, you are going to hear a lay person speak on the issue.

Mr. Yohn commented that this was an idea of a law professor in 1974, and, to his knowledge, nobody else had heard much about it. Well, Ferdinand and Isabella heard about an idea a long time ago that had been around for years and years and years and they took a chance. It takes a lot of temerity and brass and brilliance, like Allen Kukovich, to come up with an idea like this, sir. And to cut through all of the recondite legal arguments that have prevailed so far this afternoon, let me call upon good old boys like Punt and Davies, and members on this side of the aisle, too.

The SPEAKER. Will the gentleman please confine his remarks to the amendment before us?

Mr. DeWEESE. Mr. Speaker, I am convinced that nonlegal members of this body who take a good look at seriated trials will realize that one reason that we have difficulty in product liability cases is because the actions in the beginning are not dealt with precisely and technically. Anybody who has a hand cut off in an accident, even if it is his own fault, will come into a courtroom represented by beguiling, unctuous, wealthy counsel, and, for some reason, the companies will give in and settle the case for \$20,000, \$30,000, \$50,000, over and over and over again. Therefore, our product liability situation becomes more complex and more expensive. Seriated trials are an answer; they are a workable answer, and I submit that it is not all that complicated. I hope that we can collectively join Mr. Kukovich in support of this measure. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Fisher.

Mr. D. M. FISHER. Mr. Speaker, it is a little bit tough to follow my good friend from Greene County with his remarks; however, let me just once again try to put this amendment in perspective.

Addressing myself to one thing that Mr. DeWeese just said and something that Mr. Kukovich indicated, I do not think it is quite true, if in fact the third part of the Kukovich amendment was adopted into law and remained law, if our Supreme Court would not strike it as being violative of their rulemaking process. Mr. Kukovich seemed to indicate that perhaps unwarranted settlements will not be forthcoming if this procedure were followed. I do not think this is so.

Section 8302 states as follows: "In addition to any other matters required or allowed to be addressed at the pretrial conference," and then we address ourselves to the Kukovich standards. I submit to the members of the House that that issue of damages, that big issue of damages, is most certainly going to be addressed at that pretrial conference, and notwithstanding whether we have seriated trials or bifurcated trials or quadfurcated trials, whatever we want to call them. There are going to be settlements in cases where the plaintiff has a case and in cases where the plaintiffs do not have cases. Let me submit that that is what is going to happen. We are not going to be able to preclude settlements in our courts.

Now what the Kukovich amendment does, in my opinion, is this: It replaces a statute of repose which exists in the bill in its current form that has some certainty—12 years for strict liability and really no time period for negligence—with the useful life standard. The useful life standard does not, does not have sufficient certainty to address the insurance problem which this bill attempts to address.

Secondly, what does the second part of the Kukovich amendment do? The second part of the Kukovich amendment strips the remainder of the bill, except for the reporting requirements that everybody basically is in agreement we should have. The second part of this amendment strips the bill, and I submit to the members of the House that we need these sections of the bill to bring back some balance in the product liability tort law in the Commonwealth of Pennsylvania.

Now what will happen if we adopt the Kukovich amendment? We are going to have an uncertain statute of limitations; we are going to have current tort law, which, in the words of the Federal Interagency Tax Force, is probably the most liberal in the land; and, thirdly, we are not going to have the seriated trials. We are not going to have them. Now this procedure which Mr. Kukovich is asking the House to consider is a novel procedure. There is no question Mr. Kukovich has put a lot of effort into advocating this procedure. He in fact knows what he is talking about with this procedure, but it has been around in Pennsylvania since 1974. This was not written in some law journal in California or Florida or New Jersey. This was written in the

Duquesne University Law Journal. It has not been accepted by the courts of this Commonwealth. Now what makes you think we are going to be able to force on the courts to accept, in their rulemaking powers, the third part of the Kukovich amendment? What they are going to do, if the Kukovich amendments pass with HB 1083, they are going to strike the third part of the bill. We are going to have an indefinite statute of limitations; we are going to have no change in current law. If you want to support the Kukovich amendment, you are going to support a bill which is going to do nothing. For these reasons I urge the members who are interested in adopting legislation that will bring some product liability reform to Pennsylvania, to reject the Kukovich amendment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—74

Austin	Gatski	Manderino	Rieger
Barber	George, C.	Michlovic	Rodgers
Berson	Gray	Micozzie	Schmitt
Borski	Greenfield	Milanovich	Schweder
Burns	Harper	Mrkonic	Seventy
Caltagirone	Hoeffel	Mullen	Shadding
Chess	Hutchinson, A.	Musto	Shupnik
Clark, B. D.	Johnson, J. J.	Novak	Stairs
Cochran	Jones	O'Brien, B. F.	Stewart
Cohen	Kanuck	Oliver	Street
Cole	Knight	Petrarca	Stuban
Cowell	Kolter	Pievska	Taylor, F.
DeMedio	Kowalshyn	Pistella	Trello
DeWeese	Kukovich	Pratt	Wachob
Dombrowski	Laughlin	Pucciarelli	Wargo
Fee	Letterman	Punt	White
Fischer	McCall	Reed	Yahner
Gallagher	McIntyre	Richardson	Zitterman
Gamble	McMonagle		

NAYS—111

Alden	Foster, Jr., A.	Livengood	Serafini
Anderson	Freind	Lynch, E. R.	Sieminski
Armstrong	Fryer	McClatchy	Sirianni
Arty	Gallen	McKelvey	Smith, E. H.
Belardi	Gannon	Mackowski	Smith, L. E.
Bennett	Geesey	Madigan	Spencer
Bittle	Geist	Manmiller	Spitz
Bowser	George, M. H.	Miller	Steighner
Brandt	Gladeck	Moehlmann	Sweet
Brown	Goebel	Mowery	Swift
Burd	Goodman	Murphy	Taddonio
Cessar	Grabowski	Nahill	Taylor, E. Z.
Cimini	Grieco	Noye	Telek
Clark, M. R.	Gruppo	O'Brien, D. M.	Thomas
Cornell	Halverson	O'Donnell	Vroon
Coslett	Hasay	Perzel	Wass
Cunningham	Hayes, Jr., S.	Peterson	Wenger
DeVerter	Helfrick	Piccola	Wilson
DiCarlo	Honaman	Pitts	Wilt
Davies	Hutchinson, W.	Polite	Wright, D. R.
Dawida	Johnson, E. G.	Pott	Wright, Jr., J.
Dietz	Klingaman	Pyles	Yohn
Dininni	Knepper	Rappaport	Zeller
Dorr	Lashinger	Ritter	Zord
Duffy	Lehr	Rocks	Zwinkl
Durham	Levi	Ryan	
Earley	Levin	Salvatore	Seltzer,
Fisher	Lewis	Scheaffer	Speaker
Foster, W. W.			

NOT VOTING—11

Beloff	Giammarco	Itkin	Weidner
Cappabianca	Hayes, D. S.	McVerry	Williams
Dumas	Irvis	Rhodes	

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. KUKOVICH offered the following amendments:

Amend Sec. 1 (Sec. 5537), page 1, lines 10 through 13; page 2, lines 1 through 9, by striking out all of said lines and inserting

(a) Useful safe life.—A manufacturer as defined in section 8352 (relating to definitions) may be liable for harm caused by the manufacturer's product during the useful safe life of that product. A manufacturer shall not be liable for injuries or damages caused by a product beyond its useful safe life unless the manufacturer has expressly warranted a longer useful safe life period during which such injuries or damages occurred. "Useful safe life" refers to the time during which the product reasonably can be expected to perform in a safe manner. In determining whether a product's useful safe life has expired, the trier of fact may consider:

(1) The effect on the product of wear and tear or deterioration from natural causes.

(2) The effect of climatic and other local conditions in which the product was used.

(3) The policy of the user and similar users as to repairs, renewals and replacements.

(4) Representations, instructions and warnings made by the product seller about the product's useful safe life.

(5) Any modification or alteration of the product by a user or third party.

(b) Statutes of repose.—

(1) A claimant entitled to compensation under the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," may bring a product liability action against a manufacturer under this subchapter for harm that occurs within 25 years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type. For a product liability claim involving harm which occurred more than 25 years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established in subsection (a). Such presumption may be rebutted by a preponderance of the evidence. For the purposes of this title, a self-employed individual bringing a product liability action for harm caused by product use while such individual was engaged within the scope of his employment shall be deemed to be a claimant under this subsection.

(2) For product liability actions not included in paragraph (1) that involve harm occurring more than 12 years after delivery of the completed product to its first purchaser or lessee who was not in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established in subsection (a). Such presumption may be rebutted by a preponderance of the evidence.

Amend Sec. 1 (Sec. 5537), page 2, line 21 by striking out "(a)" and inserting (b)

Amend Sec. 1 (Sec. 5537), page 3, line 11, by striking out "(a)" and inserting (b)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, this amendment does not need much explanation because it was the first page of the prior amendment. Once again, I think it is very unfair to enact the statute of repose in this Commonwealth. I think the more moderate, compromising approach and setting up a term of years in useful life, one for the workplace, one for the home, is reasonable. Once again, we are giving the benefit of the doubt to the manufacturer, to the business, and placing the burden on the consumer to rebut that presumption that is heavily weighted against them. I think this is more than reasonable and I would appreciate your support.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I would oppose the amendment.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the bill in its present form places a limitation on when an action can be brought for a defect in a product that injured someone. All of us have received, I am sure, communications from many people. One of the communications I received against HB 1083 came from Pennsylvania's AFL-CIO, and one of the provisions that they talked about in their opposition letter was the useful safe life of a product. In manufacture of heavy equipment, heavy machinery, there is no question the manufacturer intends that the useful safe life of that product be well beyond 12 years. They finance well beyond 12 years in many cases on those large machines, large implements of manufacture, and all Mr. Kukovich is saying here is, if there is a useful safe life of the product which extends beyond 12 years, we ought not, we ought not to limit a person from recovery who happens to be injured on that particular piece of equipment or that particular machine, if in fact it was intended to have a useful safe life beyond the 12-year period of the statute of repose that HB 1083 imposes. It seems to me it is logical, it is reasonable, and we ought to adopt the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—92

Alden	Fischer	Letterman	Richardson
Austin	Gallagher	Levin	Rieger
Barber	Gamble	McCall	Ritter
Bennett	Gatski	McIntyre	Rodgers
Berson	George, C.	McMonagle	Schmitt
Borski	George, M. H.	Manderino	Schweder
Bowser	Goodman	Michlovic	Seventy
Brown	Gray	Micozzie	Shadding
Burns	Greenfield	Mrkonic	Shupnik
Caltagirone	Harper	Mullen	Stairs
Cappabianca	Helfrick	Murphy	Steighner
Chess	Hoefel	Musto	Stewart
Clark, B. D.	Hutchinson, A.	Novak	Street
Cochran	Itkin	O'Brien, B. F.	Stuban

Cohen	Johnson, J. J.	O'Donnell	Sweet
Cole	Jones	Oliver	Taylor, F.
Cowell	Kanuck	Petrarca	Trello
DeMedio	Knight	Pievsky	Wachob
DeWeese	Kolter	Pistella	Wargo
DiCarlo	Kowalshyn	Pratt	White
Dawida	Kukovich	Pucciarelli	Yahner
Dombrowski	Lashingner	Rappaport	Zitterman
Fee	Laughlin	Reed	Zwinkl

NAYS—94

Anderson	Freind	McClatchy	Sieminski
Armstrong	Fryer	McKelvey	Sirianni
Arty	Gallen	Mackowski	Smith, E. H.
Belardi	Gannon	Madigan	Smith, L. E.
Bittle	Geesey	Manmiller	Spencer
Brandt	Geist	Miller	Spitz
Burd	Gladeck	Moehlmann	Swift
Cessar	Goebel	Mowery	Taddonio
Cimini	Grabowski	Nahill	Taylor, E. Z.
Clark, M. R.	Grieco	Noye	Telek
Cornell	Gruppo	O'Brien, D. M.	Thomas
Coslett	Halverson	Perzel	Vroon
Cunningham	Hasay	Peterson	Wass
DeVerter	Hayes, Jr., S.	Piccola	Wenger
Davies	Honaman	Pitts	Wilson
Dietz	Hutchinson, W.	Polite	Wilt
Dininni	Johnson, E. G.	Pott	Wright, D. R.
Dorr	Klingaman	Punt	Wright, Jr., J.
Duffy	Knepper	Pyles	Yohn
Durham	Lehr	Rocks	Zeller
Earley	Levi	Ryan	Zord
Fisher	Lewis	Salvatore	
Foster, W. W.	Livengood	Scheaffer	Seltzer,
Foster, Jr., A.	Lynch, E. R.	Serafini	Speaker

NOT VOTING—10

Beloff	Hayes, D. S.	Milanovich	Weidner
Dumas	Irvis	Rhodes	Williams
Giammarco	McVerry		

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. KUKOVICH offered the following amendment:

Amend Sec. 4, page 19, by inserting between lines 11 and 12
(xv) Whether or not the company sets reserves for product liability insurance claims filed and the annual earnings of each such reserve by property and casualty category for the past five years and each year thereafter.

(xvi) Whether or not the company sets reserves for any claims for product liability losses which have been incurred but not reported and the annual earnings of such reserves for the past five years and each year thereafter.

(xvii) All reserves established in connection with each property and casualty line or type of insurance.

On the question,

Will the House agree to the amendment?

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman. For what purpose does the gentleman rise?

Mr. LETTERMAN. I rise to a point of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. LETTERMAN. Mr. Speaker, I think that the Speaker would be better off and might not get in so many arguments later on if he would let the reading up on the board until after he has announced what it is. It is just a suggestion.

The SPEAKER. The Chair does not lock the machine. The machine is locked by the clerk in front.

Mr. LETTERMAN. But you are taking the vote down before you are making the announcement. I am suggesting you make the announcement prior to taking the vote off.

The SPEAKER. The announcement on the vote is taken from the board. It is the same as it is in the machine. This is one of the advantages of the new rollcall system. You have immediate results.

Mr. LETTERMAN. Well, I would appreciate it if you would just leave it on there long enough for us to look up there and read it. I do not know about the rest of you, but my eyes are so damned fooled on that material over there. You cannot even see it from here.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, this amendment deals with adding language to the last portion of the bill dealing with insurance company disclosure. Now if you remember back 45 minutes ago when we first started these amendments, I talked about the problem in product liability being two-pronged, and one of those prongs being the insurance companies. Now the insurance companies are using some nice little accounting procedures to tell us that they are having losses. Now the purpose of that is to gain them two advantages. It gives them a nice income tax break; it also gives them an argument to go to our Insurance Commission with and say they need their rates raised, and to go to the legislature and say they need bills restricting consumers' rights.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Yohn. For what purpose does the gentleman rise?

Mr. YOHN. I rise to a point of parliamentary inquiry. What amendment are we discussing?

The SPEAKER. Will the gentleman yield?

Mr. KUKOVICH. A4665.

Mr. YOHN. I would support the amendment. I thought that might shorten the debate somewhat.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—169

Alden	Fryer	Lewis	Salvatore
Anderson	Gallagher	Livengood	Scheaffer
Armstrong	Gallen	Lynch, E. R.	Schmitt
Arty	Gamble	McCall	Schweder
Austin	Gatski	McClatchy	Serafini
Barber	Geesey	McIntyre	Seventy
Belardi	Geist	McKelvey	Shadding
Bennett	George, C.	McMonagle	Shupnik
Berson	George, M. H.	Mackowski	Sieminski
Bittle	Gladeck	Manderino	Sirianni
Borski	Goebel	Manmiller	Smith, E. H.
Bowser	Goodman	Michlovic	Spencer
Brandt	Grabowski	Micozzie	Spitz
Brown	Gray	Milanovich	Steighner
Burns	Greenfield	Miller	Stewart
Caltagirone	Grieco	Moehlmann	Street
Cappabianca	Gruppo	Mowery	Stuban
Cessar	Halverson	Mrkonic	Sweet
Chess	Harper	Mullen	Taddonio
Cimini	Hasay	Murphy	Taylor, E. Z.
Clark, B. D.	Hayes, Jr., S.	Musto	Taylor, F.
Cochran	Helfrick	Novak	Thomas
Cohen	Hoeffel	Noye	Trello
Cole	Honaman	O'Brien, B. F.	Vroon
Cornell	Hutchinson, A.	O'Brien, D. M.	Wachob
Coslett	Hutchinson, W.	O'Donnell	Wargo
Cowell	Itkin	Oliver	Wass
Cunningham	Johnson, E. G.	Perzel	Wenger
DeMedio	Johnson, J. J.	Piccola	White
DiCarlo	Jones	Pievsky	Wilson
Davies	Kanuck	Pistella	Wilt
Dawida	Klingaman	Pitts	Wright, D. R.
Dininni	Knepper	Polite	Wright, Jr., J.
Dorr	Knight	Pratt	Yahner
Duffy	Kolter	Pucciarelli	Yohn
Durham	Kowalyszyn	Punt	Zeller
Earley	Kukovich	Rappaport	Zitterman
Fee	Lashinger	Reed	Zord
Fischer	Laughlin	Richardson	Zwilk
Fisher	Lehr	Ritter	
Foster, W. W.	Letterman	Rocks	Seltzer,
Foster, Jr., A.	Levi	Rodgers	Speaker
Freind	Levin	Ryan	

NAYS—9

Burd	Madigan	Peterson	Stairs
Dietz	Nahill	Pyles	Swift
Gannon			

NOT VOTING—18

Beloff	Dumas	Petrarca	Smith, L. E.
Clark, M. R.	Giammarco	Pott	Telek
DeVerter	Hayes, D. S.	Rhodes	Weidner
DeWeese	Irvis	Rieger	Williams
Dombrowski	McVerry		

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Mr. KUKOVICH offered the following amendments:

Amend Sec. 2 (Sec. 8352), page 5, line 1, by striking out "not" where it appears the last time

Amend Sec. 2 (Sec. 8352), page 5, lines 2 and 3, by striking out "merely because HE places or has placed a private label on a product, if" and inserting unless

On the question,

Will the House agree to the amendments?

Mr. KUKOVICH. I had some good stuff—
The SPEAKER. Will the gentleman yield?
Will the clerk inform the Chair what the number of the amendment is before us?

Mr. KUKOVICH. It is on the board, Mr. Speaker.

The SPEAKER. The parliamentarian is in error this time.

The question recurs,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, this will be the last amendment I will offer.

Mr. YOHN. Mr. Speaker, I agree to the amendment.

Mr. KUKOVICH. Thanks, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—185

Alden	Freind	Lynch, E. R.	Salvatore
Anderson	Fryer	McCall	Scheaffer
Armstrong	Gallagher	McClatchy	Schmitt
Arty	Gallen	McIntyre	Schweder
Austin	Gamble	McKelvey	Serafini
Barber	Gannon	McMonagle	Seventy
Belardi	Gatski	Mackowski	Shadding
Bennett	Geesey	Manderino	Shupnik
Berson	Geist	Manmiller	Sieminski
Bittle	George, C.	Michlovic	Sirianni
Borski	George, M. H.	Micozzie	Smith, E. H.
Bowser	Gladeck	Milanovich	Smith, L. E.
Brandt	Goebel	Miller	Spencer
Brown	Goodman	Moehlmann	Spitz
Burns	Grabowski	Mowery	Stairs
Caltagirone	Gray	Mrkonic	Steighner
Cappabianca	Greenfield	Mullen	Stewart
Cessar	Grieco	Murphy	Street
Chess	Gruppo	Musto	Stuban
Cimini	Halverson	Nahill	Sweet
Clark, B. D.	Harper	Novak	Swift
Clark, M. R.	Hasay	Noye	Taddonio
Cochran	Hayes, Jr., S.	O'Brien, B. F.	Taylor, E. Z.
Cohen	Helfrick	O'Brien, D. M.	Taylor, F.
Cole	Hoeffel	O'Donnell	Telek
Cornell	Honaman	Oliver	Thomas
Coslett	Hutchinson, A.	Perzel	Trello
Cowell	Hutchinson, W.	Peterson	Vroon
Cunningham	Itkin	Petrarca	Wachob
DeMedio	Johnson, E. G.	Piccola	Wargo
DeVerter	Johnson, J. J.	Pievsky	Wass
DeWeese	Jones	Pistella	Wenger
DiCarlo	Kanuck	Pitts	White
Davies	Klingaman	Polite	Wilson
Dawida	Knepper	Pott	Wilt
Dininni	Knight	Pratt	Wright, D. R.
Dombrowski	Kolter	Pucciarelli	Wright, Jr., J.
Dorr	Kowalyszyn	Punt	Yahner
Duffy	Kukovich	Pyles	Yohn
Durham	Lashinger	Rappaport	Zeller
Earley	Laughlin	Reed	Zitterman
Fee	Lehr	Richardson	Zord
Fischer	Letterman	Rieger	Zwilk
Fisher	Levi	Ritter	
Foster, W. W.	Levin	Rocks	Seltzer,
Foster, Jr., A.	Lewis	Rodgers	Speaker
	Livengood	Ryan	

NAYS—2

Burd Madigan

NOT VOTING—9

Beloff Hayes, D. S. McVerry Weidner
Dumas Irvis Rhodes Williams
Giammarco

The question was determined in the affirmative, and the amendments were agreed to.

RECONSIDERATION OF VOTE
ON AMENDMENT TO HB 1083

The SPEAKER. The Chair recognizes the minority whip. Mr. MANDERINO. Mr. Speaker, I move that the Kukovich amendment A4531, which was defeated on the 28th day of January, be reconsidered.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I second the motion.

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

The following roll call was recorded:

YEAS—177

Alden	Fisher	Levin	Scheaffer
Anderson	Foster, W. W.	Lewis	Schmitt
Armstrong	Foster, Jr., A.	Livngood	Schweder
Arty	Freind	Lynch, E. R.	Serafini
Austin	Fryer	McCall	Seventy
Barber	Gallagher	McClatchy	Shadding
Belardi	Gallen	McIntyre	Shupnik
Bennett	Gamble	McMonagle	Sieminski
Berson	Gannon	Mackowski	Sirianni
Bittle	Gatski	Madigan	Smith, E. H.
Borski	Geesey	Manderino	Smith, L. E.
Bowser	Geist	Manmiller	Spencer
Brandt	George, C.	Michlovic	Spitz
Brown	George, M. H.	Micozzie	Stairs
Burd	Gladeck	Milanovich	Steighner
Burns	Goebel	Miller	Stewart
Caltagirone	Goodman	Moehlmann	Street
Cappabianca	Grabowski	Mowery	Stuban
Cessar	Gray	Mrkonic	Sweet
Chess	Greenfield	Mullen	Swift
Cimini	Grieco	Murphy	Taddonio
Clark, B. D.	Gruppo	Musto	Taylor, E. Z.
Clark, M. R.	Halverson	Nahill	Taylor, F.
Cochran	Harper	Novak	Telek
Cohen	Hasay	Noye	Thomas
Cole	Hayes, Jr., S.	O'Brien, B. F.	Trello
Cornell	Helfrick	O'Donnell	Vroon
Coslett	Hoefel	Oliver	Wachob
Cowell	Honaman	Petrarca	Wargo
Cunningham	Hutchinson, A.	Piccola	Wenger
DeMedio	Hutchinson, W.	Pievsy	White
DeVerter	Itkin	Pistella	Wilson
DeWeese	Johnson, J. J.	Pitts	Wilt
DiCarlo	Jones	Pott	Wright, D. R.
Davies	Kanuck	Pratt	Wright, Jr., J.
Dawida	Klingaman	Pucciarelli	Yahner
Dietz	Knepper	Punt	Yohn
Dininni	Knight	Pyles	Zeller
Dombrowski	Kolter	Rappaport	Zitterman
Dorr	Kowalshyn	Reed	Zord
Duffy	Kukovich	Richardson	Zwilk
Durham	Lashinger	Rieger	
Earley	Laughlin	Ritter	Seltzer,
Fee	Lehr	Rodgers	Speaker
Fischer	Levi	Ryan	

NAYS—7

Johnson, E. G. O'Brien, D. M. Peterson Rocks
McKelvey Perzel Polite

NOT VOTING—12

Beloff Hayes, D. S. McVerry Wass
Dumas Irvis Rhodes Weidner
Giammarco Letterman Salvatore Williams

The question was determined in the affirmative, and the motion was agreed to.

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

Mr. KUKOVICH reoffered the following amendments:

Amend Sec. 1 (Sec. 5537), page 1, lines 10 through 13; page 2, lines 1 through 9, by striking out all of said lines and inserting

(a) Useful safe life.—A manufacturer as defined in section 8352 (relating to definitions) may be liable for harm caused by the manufacturer's product during the useful safe life of that product. A manufacturer shall not be liable for injuries or damages caused by a product beyond its useful safe life unless the manufacturer has expressly warranted a longer useful safe life period during which such injuries or damages occurred. "Useful safe life" refers to the time during which the product reasonably can be expected to perform in a safe manner. In determining whether a product's useful safe life has expired, the trier of fact may consider:

(1) The effect on the product of wear and tear or deterioration from natural causes.

(2) The effect of climatic and other local conditions in which the product was used.

(3) The policy of the user and similar users as to repairs, renewals and replacements.

(4) Representations, instructions and warnings made by the product seller about the product's useful safe life.

(5) Any modification or alteration of the product by a user or third party.

(b) Statutes of repose.—

(1) A claimant entitled to compensation under the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," may bring a product liability action against a manufacturer under this subchapter for harm that occurs within 25 years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type. For a product liability claim involving harm which occurred more than 25 years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established in subsection (a). Such presumption may be rebutted by a preponderance of the evidence. For the purposes of this title, a self-employed individual bringing a product liability action for harm caused by product use while such individual was engaged within the scope of his employment shall be deemed to be a claimant under this subsection.

(2) For product liability actions not included in paragraph (1) that involve harm occurring more than 12 years after delivery of the completed product to its first purchaser or lessee who was not in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established in subsection (a). Such presumption may be rebutted by a preponderance of the evidence.

Amend Sec. 1 (Sec. 5537), page 2, line 21 by striking out "(a)" and inserting (b)

Amend Sec. 1 (Sec. 5537), page 3, line 11, by striking out "(a)" and inserting (b)

On the question recurring,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, normally I do not like to move for reconsideration, but the vote was so close on the useful safe life amendment, I think it is important that we consider what we are doing. When I drafted that amendment, my concern was that with the 12-year statute of repose, that might be fair for a normal product, and part of that amendment was to include a 12-year rebuttable presumption, useful safe life for nonworkplace products. However, when we get out into the factory, whenever we get out where people are working around heavy machinery, the useful safe life is normally much longer than 12 years. Normally it is 25 years. That is not an arbitrary figure picked out of the air. And I am suggesting to you that a lot of us are going to have constituents who are going to be hurt at work. That is where most product liability suits come from, and it is going to be a very unfair cut-off. Twelve years is just basically unfair. And I would suggest to you that the 25-year useful safe life is the fair way to go. Keep in mind that, once again, the burden is on the consumer to rebut that presumption. So this is a change from current law. It is aiding the manufacturer; it is aiding the defendant. It is a compromise, and I would appreciate your support to reconsider your vote and give us an affirmative vote on this amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Yohn.

Mr. YOHN. Mr. Speaker, I oppose the amendment. The purpose of the statute of repose is to put into law some definite predictable date at which manufacturers and their insurance companies know that there will be no further liability. I think that by substituting for that a useful safe life concept, we have in effect generated lots of work for the lawyers of the future of this Commonwealth, because any resourceful lawyer is going to be able to make an argument on product evidence that a product that he is concerned with had a longer useful safe life than was originally thought and for that reason his plaintiff should be allowed to recover. So I think that generally what we are doing is increasing the litigation that will be involved in cases of this nature.

Secondly, I would say to you that there is no predictability, using the useful safe life concept, so that it will not help with the insurance rates. The statute of repose is one area of HB 1083 that can be helpful in reducing the insurance rates, but if you lose the predictability by going to the uncertain concept of useful safe life, you are going to lose that advantage. And, finally, I would point out to you that, under the amendment as proposed, even after the time periods that are set forth for the statute of repose in this

amendment, there is still a rebuttable presumption at a later date, so that the statute of repose can be overcome by evidence at the time of the trial. I would therefore suggest that this amendment is reintroducing uncertainty into an area where we are trying to reduce it to a greater certainty, and, therefore, the amendment should be opposed.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I have to respond to that briefly. Mr. Speaker, this amendment does add more certainty than we have under the law now, and keep in mind we are dealing with people out in the workplace who have machines that should last 20 to 25 years. If they are injured, if they lose a hand 12 years and 1 day afterwards, they cannot bring an action under strict liability. They will be cut off. That is inherently unfair. We will provide the certainty. Frankly, I am tired of being told that we are trying to provide certainty to underwriters. I do not think that is a valid argument. I think we are being used. I would appreciate your support for the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—99

Alden	Fischer	Letterman	Rieger
Austin	Gallagher	Levin	Ritter
Barber	Gamble	Livengood	Rodgers
Bennett	Gannon	McCall	Schmitt
Berson	Gatski	McIntyre	Schweder
Borski	George, C.	McMonagle	Seventy
Brown	George, M. H.	Manderino	Shadding
Burns	Goodman	Michlovic	Shupnik
Caltagirone	Grabowski	Micozzie	Stairs
Cappabianca	Gray	Milanovich	Steighner
Chess	Greenfield	Mrkonic	Stewart
Clark, B. D.	Harper	Mullen	Street
Cochran	Helfrick	Murphy	Stuban
Cohen	Hoeffel	Musto	Sweet
Cole	Hutchinson, A.	Novak	Taylor, F.
Cowell	Itkin	O'Brien, B. F.	Telek
DeMedio	Johnson, J. J.	O'Donnell	Trello
DeWeese	Jones	Oliver	Wachob
DiCarlo	Kanuck	Petrarca	Wargo
Dawida	Knight	Pievsky	White
Dombrowski	Kolter	Pistella	Wright, D. R.
Duffy	Kowalshyn	Pratt	Yahner
Durham	Kukovich	Pucciarelli	Zitterman
Earley	Lashingier	Reed	Zwilk
Fee	Laughlin	Richardson	

NAYS—88

Anderson	Fryer	Madigan	Sieminski
Armstrong	Gallen	Manmiller	Sirianni
Arty	Geesey	Miller	Smith, E. H.
Belardi	Geist	Moehlmann	Smith, L. E.
Bittle	Gladeck	Mowery	Spencer
Bowser	Goebel	Nahill	Spitz
Brandt	Grieco	Noye	Swift
Burd	Gruppo	O'Brien, D. M.	Taddonio
Cessar	Halverson	Perzl	Taylor, E. Z.
Cimini	Hasay	Peterson	Thomas
Clark, M. R.	Hayes, Jr., S.	Piccola	Vroon
Cornell	Honaman	Pitts	Wass
Coslett	Hutchinson, W.	Polite	Wenger
Cunningham	Johnson, E. G.	Pott	Wilson
DeVerter	Klingaman	Punt	Wilt
Davies	Knepper	Pyles	Wright, Jr., J.
Dietz	Lehr	Rappaport	Yohn

Dininni	Levi	Rocks	Zeller
Dorr	Lewis	Ryan	Zord
Fisher	Lynch, E. R.	Salvatore	
Foster, W. W.	McClatchy	Scheaffer	Seltzer,
Foster, Jr., A.	McKelvey	Serafini	Speaker
Freind	Mackowski		

NOT VOTING—9

Beloff	Hayes, D. S.	McVerry	Weidner
Dumas	Irvis	Rhodes	Williams
Giammarco			

The question the determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill as amended on third consideration?

Bill as amended was agreed to.

Ordered, That the bill as amended be prepared for final passage.

RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Sieminski.

Mr. SIEMINSKI. Mr. Speaker, I ask unanimous consent to suspend the rules for the immediate consideration of a resolution.

The SPEAKER. Will the gentleman, Mr. Sieminski, send the resolution to the desk?

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—178

Alden	Fryer	McCall	Ryan
Anderson	Gallen	McClatchy	Salvatore
Armstrong	Gamble	McIntyre	Scheaffer
Arty	Gannon	McKelvey	Schmitt
Barber	Gatski	McMonagle	Schweder
Belardi	Geesey	Mackowski	Serafini
Bennett	Geist	Madigan	Seventy
Berson	George, C.	Manderino	Shadding
Bittle	George, M. H.	Manmiller	Shupnik
Borski	Gladeck	Micozzie	Sieminski
Bowser	Goebel	Milanovich	Sirianni
Brown	Goodman	Miller	Smith, E. H.
Burd	Grabowski	Moehlmann	Smith, L. E.
Burns	Gray	Mowery	Spencer
Caltagirone	Greenfield	Mrkonic	Spitz
Cappabianca	Grieco	Mullen	Stairs
Cessar	Gruppo	Murphy	Steighner
Cimini	Halverson	Musto	Stewart
Clark, B. D.	Harper	Nahill	Street
Clark, M. R.	Hasay	Novak	Stuban
Cochran	Hayes, Jr., S.	Noye	Swift
Cohen	Helfrick	O'Brien, B. F.	Taddonio
Cole	Hoeffel	O'Brien, D. M.	Taylor, E. Z.
Cornell	Honaman	O'Donnell	Taylor, F.
Coslett	Hutchinson, A.	Oliver	Telek
Cowell	Hutchinson, W.	Perzel	Thomas
Cunningham	Itkin	Peterson	Trello
DeMedio	Johnson, E. G.	Petrarca	Vroon
DeVertter	Johnson, J. J.	Piccola	Wargo
DeWeese	Jones	Pievsky	Wass
DiCarlo	Kanuck	Pistella	Wenger
Davies	Klingaman	Pitts	White
Dawida	Knepper	Polite	Wilson
Dietz	Knight	Pott	Wilt
Dininni	Kolter	Pratt	Wright, D. R.

Dombrowski	Kowalshyn	Pucciarelli	Wright, Jr., J.
Dorr	Lashingner	Punt	Yahner
Duffy	Laughlin	Pyles	Yohn
Durham	Lehr	Rappaport	Zeller
Earley	Letterman	Reed	Zitterman
Fee	Levi	Richardson	Zord
Fischer	Levin	Rieger	Zwikl
Fisher	Lewis	Ritter	
Foster, W. W.	Livengood	Rocks	Seltzer,
Foster, Jr., A.	Lynch, E. R.	Rodgers	Speaker

NAYS—1

Freind

NOT VOTING—17

Austin	Gallagher	Kukovich	Sweet
Beloff	Giammarco	McVerry	Wachob
Brandt	Hayes, D. S.	Michlovic	Weidner
Chess	Irvis	Rhodes	Williams
Dumas			

The question was determined in the affirmative, and the motion was agreed to.

RESOLUTION ADOPTED

The following resolution was read:

In the House of Representatives,
 WHEREAS, The 1980 Summer Olympic Games are scheduled to be held in Moscow, Union of Soviet Socialist Republics; and

WHEREAS, The Union of Soviet Socialist Republics regards the holding of the Olympic Games in Moscow as "..... convincing testimony to the general recognition of the historic importance and correctness of the foreign policy course of our country (USSR), of the enormous services of the Soviet Union in the struggle for peace"; and

WHEREAS, The naked, aggressive and unwarranted military actions of the Union of Soviet Socialist Republics in the independent nation of Afghanistan has been considered by many to be the greatest threat to world peace since the conditions which precipitated World War II; therefore be it

RESOLVED (the Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the President of the United States, the Congress of the United States and the United States Olympic Committee to continue their efforts to either remove the games from Moscow or boycott the 1980 Summer Olympic Games; and be it further

RESOLVED, That the Chief Clerk of the House of Representatives transmit copies of this resolution to the President of the United States, the presiding officers of the Congress of the United States and the Chairman of the United States Olympic Committee.

- EDMUND J. SIEMINSKI
- JOHN E. SCHEAFFER
- FRED C. NOYE
- A. J. DeMEDIO
- THOMAS J. FEE
- TERRY L. PUNT
- CLARENCE E. DIETZ
- A. K. HUTCHINSON
- S. E. HAYES
- RICHARD A. GEIST
- R. R. FISCHER
- RICHARD J. CESSAR
- JOHN E. PETERSON
- STANFORD I. LEHR
- JOHN HOPE ANDERSON
- HARRY E. BOWSER
- GEORGE KANUCK

GREGG L. CUNNINGHAM
 VERN PYLES
 THOMAS P. GANNON
 JEFFREY E. PICCOLA
 JOSEPH A. PETRARCA
 PAUL WASS
 SAMUEL RAPPAPORT
 CAMILLE GEORGE
 D. R. WRIGHT
 HENRY LIVENGOOD
 GERALD J. SPITZ
 LEONARD Q. GRUPPO
 M. JOSEPH ROCKS
 JOHN M. PERZEL
 JAMES M. BURD
 ROGER A. MADIGAN
 W. W. FOSTER
 NOAH W. WENGER
 NICHOLAS B. MOEHLMANN
 JUNE N. HONAMAN
 GIBSON E. ARMSTRONG
 RONALD GAMBLE
 RITA CLARK
 KATHRYNANN W. DURHAM
 JOHN ALDEN
 WILLIAM K. KLINGAMAN
 WILLIAM D. MACKOWSKI
 EDWARD W. HELFRICK
 CARMEL SIRIANNI
 ELINOR Z. TAYLOR
 E. H. SMITH
 ROOSEVELT I. POLITE
 THOMAS J. McCALL

On the question,

Will the House adopt the resolution?

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Sieminski.

Mr. SIEMINSKI. Mr. Speaker, last week I made some brief remarks on the resolution, and the minority leader asked that we hold it over until this week for more sponsors. Mr. Speaker, we have 50 cosponsors to this resolution. A copy of the resolution was presented to each member this morning. I think you have had time to read it. I do not think we need to debate it further. I would move the resolution, Mr. Speaker.

The SPEAKER. The question is on the resolution. Those in favor will vote "aye"; opposed "no." The members will proceed to vote.

On the question recurring,

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—179

Alden	Foster, Jr., A.	Livengood	Ryan
Anderson	Fryer	Lynch, E. R.	Salvatore
Armstrong	Gallagher	McCall	Scheaffer
Arty	Gallen	McClatchy	Schmitt
Austin	Gamble	McIntyre	Schweder
Barber	Gannon	McKelvey	Serafini
Belardi	Gatski	McMonagle	Seventy
Bennett	Geesey	Mackowski	Shadding
Berson	Geist	Madigan	Shupnik
Bittle	George, C.	Manderino	Sieminski
Borski	George, M. H.	Manmiller	Sirianni
Brandt	Gladeck	Micozzie	Smith, E. H.
Brown	Goebel	Milanovich	Smith, L. E.

Burd	Goodman	Miller	Spencer
Burns	Grabowski	Mochlmann	Spitz
Caltagirone	Gray	Mowery	Stairs
Cappabianca	Greenfield	Mrkonic	Steighner
Cessar	Grieco	Mullen	Stewart
Chess	Gruppo	Murphy	Street
Cimini	Halverson	Musto	Suban
Clark, B. D.	Harper	Nahill	Swift
Clark, M. R.	Hasay	Novak	Taddonio
Cochran	Hayes, Jr., S.	Noye	Taylor, E. Z.
Cohen	Helfrick	O'Brien, B. F.	Taylor, F.
Cole	Hoeffel	O'Brien, D. M.	Telek
Cornell	Honaman	O'Donnell	Thomas
Coslett	Hutchinson, A.	Oliver	Trello
Cowell	Hutchinson, W.	Perzel	Wachob
Cunningham	Johnson, E. G.	Peterson	Wargo
DeMedio	Johnson, J. J.	Petrarca	Wass
DeVerter	Jones	Piccola	Wenger
DeWeese	Kanuck	Pievsky	White
DiCarlo	Klingaman	Pistella	Wilson
Davies	Knepper	Pitts	Wilt
Dawida	Knight	Polite	Wright, D. R.
Dietz	Kolter	Pott	Wright, Jr., J.
Dininni	Kowalshyn	Pratt	Yahner
Dombrowski	Kukovich	Pucciarelli	Yohn
Dorr	Lashingier	Punt	Zeller
Duffy	Laughlin	Pyles	Zitterman
Durham	Lehr	Reed	Zord
Earley	Letterman	Richardson	Zwinkl
Fee	Levi	Ritter	
Fischer	Levin	Rocks	Seltzer,
Fisher	Lewis	Rodgers	Speaker
Foster, W. W.			

NAYS—2

Freind Vroon

NOT VOTING—15

Beloff	Hayes, D. S.	Michlovic	Sweet
Bowser	Irvis	Rappaport	Weidner
Dumas	Itkin	Rhodes	Williams
Giammarco	McVerry	Rieger	

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

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. Mr. Speaker, I have several motions. First, I move that the following bills be taken from the table:

HB 1528, HB 2123 and SB 188.

On the question,

Will the House agree to the motion?

Motion was agreed to.

HB 1528 RECOMMITTED

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. Mr. Speaker, I move that HB 1528 be recommitted to the Liquor Control Committee.

On the question,

Will the House agree to the motion?

Motion was agreed to.

BILLS Tabled

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. Mr. Speaker, I move that HBs 182, 200, 269 and 1155 be placed on the table. That bill, HB 1155, is on the 15th day, Mr. Speaker, and after that motion is agreed to, I plan on moving to have it placed back on the active calendar.

The SPEAKER. The gentleman, Mr. Hayes, moves that HB 1155, HB 182, HB 200, and HB 269 be placed on the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. I move that HB 1155 be removed from the table and placed on the calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

ADDITIONS OF SPONSORS

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. Mr. Speaker, I request that the following Representatives be added to sponsorship of bills:

HB 1479, Dietz; HB 2040, McIntyre; HB 2109, Kanuck and Gladeck; HB 1957, Borski; and HB 2118, Novak.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Knepper. For what purpose does the gentleman rise?

Mr. KNEPPER. Mr. Speaker, I was out of the room when the vote was taken on HB 1650, PN 2285, and I would like the record to show that I would have voted in the affirmative, had I been here.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Erie, Mr. Bowser. For what purpose does the gentleman rise?

Mr. BOWSER. Mr. Speaker, I would like to be recorded in the affirmative on the last machine vote on the House resolution for the Olympics.

The SPEAKER. The gentleman's remarks will be spread upon the record.

HB 739 REMOVED FROM TABLE AND PLACED ON CALENDAR

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Kolter.

Mr. KOLTER. Mr. Speaker, all I ask is that HB 739 be removed from the table for tomorrow's calendar.

The SPEAKER. It is moved by the gentleman from Beaver, Mr. Kolter, that HB 739 be taken from the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies. For what purpose does the gentleman rise?

Mr. DAVIES. I rise to a point of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. DAVIES. In the heat of debate on the prior bill, a member referred to me as a "good old boy." I am assured by that member that in the heat of that debate, the term was just merely to establish the fact that I am a non-lawyer. So I, of course, want the record to plainly show that that is the definition for a "good old boy." Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

SENATE MESSAGE**AMENDED HOUSE BILL RETURNED FOR CONCURRENCE**

The Senate returned the following House bill with amendments in which concurrence of the House is requested:

HB1904, PN 2716

The SPEAKER. The bill will appear on the calendar.

BILLS SIGNED BY SPEAKER

The following bills, having been prepared for presentation to the Governor, were signed by the Speaker:

SB 735, PN 1443

An Act amending the act of July 28, 1953 (P.L. 723, No. 230), entitled, as amended, "Second Class County Code," authorizing the making of grants to nonprofit art corporations.

SB 857, PN1444

An Act amending the act of March 7, 1901 (P.L. 20, No. 14), entitled "Second Class City Law," authorizing grants to be made to nonprofit art corporations by cities of the second class and second class A.

BILLS AND RESOLUTION PASSED OVER

The SPEAKER. Without objection, all remaining bills and the resolution on today's calendar will be passed over.

The Chair hears no objection.

SENATE MESSAGE**ADJOURNMENT RESOLUTION FOR CONCURRENCE**

The Senate presented the following resolution for concurrence:

In the Senate, January 28, 1980

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, February 4, 1980 and when the House of Representatives adjourns this week it reconvene on Monday, February 4, 1980.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

ADJOURNMENT

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Cappabianca.

Mr. CAPPABIANCA. Mr Speaker, I move that this House do now adjourn until Tuesday, January 29, 1980, at 11 a.m., e.s.t.

On the question,

Will the House agree to the motion?

Motion was agreed to, and (at 6:11 p.m., e.s.t.) the House adjourned.