

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, APRIL 3, 1990

SESSION OF 1990 174TH OF THE GENERAL ASSEMBLY

No. 23

### HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.d.t.

#### THE SPEAKER PRO TEMPORE (IVAN ITKIN) PRESIDING

#### PRAYER

REV. CLYDE W. ROACH, Chaplain of the House of Representatives, from Harrisburg, Pennsylvania, offered the following prayer:

Let us pray:

Almighty God, so often we think that we are relying on our own sufficiency to achieve our aims. We pursue our purposes as if You did not exist, and when our goals are reached, we believe that we have done it all by ourselves, forgetting that You provided the vision, the insight, and the ability for us to use. We acknowledge that every good and perfect gift comes from You.

Cause us always to look unto You, for it was You who made the heavens and the earth and created us from the dust of the ground.

When we forget Your blessings, remind us that Thine is the kingdom, the power, and the glory, forever and ever. Amen.

#### PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

#### JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, the approval of the Journal of Monday, April 2, 1990, will be postponed until printed. The Chair hears no objection.

#### COMMUNICATION FROM SPEAKER

##### SPEAKER PRO TEMPORE APPOINTED

The SPEAKER pro tempore. A communication from the Speaker, which the clerk will read.

The following communication was read:

April 3, 1990

To the Honorable House of Representatives:

This is to advise that I have appointed the Honorable Ivan Itkin, as Speaker Pro Tempore, for such portion of Tuesday, April 3, 1990, as may be necessary.

Sincerely,  
Robert W. O'Donnell  
Speaker

#### HOUSE BILLS INTRODUCED AND REFERRED

**No. 2426** By Representatives CHADWICK, BRANDT, JACKSON, FARGO, SEMMEL, MORRIS, DISTLER, LAUGHLIN, FAIRCHILD, MELIO, ANGSTADT, COY, CLYMER, COHEN, NOYE, MERRY, PESCI, PHILLIPS, HERSHEY, TRELLO, LEE, BARLEY, MAINE and PRESTON

An Act amending the act of April 28, 1937 (P. L. 417, No. 105), known as the "Milk Marketing Law," further providing for the term of certain licenses; and making an appropriation.

Referred to Committee on AGRICULTURE AND RURAL AFFAIRS, April 3, 1990.

**No. 2427** By Representatives CHADWICK, DISTLER, FARGO, COY, CARLSON, BRANDT, BROUJOS, HERSHEY, BOWLEY, MOEHLMANN, MERRY, SERAFINI, MORRIS, HALUSKA, DEMPSEY, LEE, CIVERA, BURD, ARGALL, MELIO, TRELLO, BARLEY, NOYE, JOHNSON, GEIST, BILLOW and E. Z. TAYLOR

An Act amending the act of April 7, 1982 (P. L. 228, No. 74), known as the "Noxious Weed Control Law," deleting a plant from the noxious weed control list.

Referred to Committee on AGRICULTURE AND RURAL AFFAIRS, April 3, 1990.

**No. 2428** By Representatives CHADWICK, RYBAK, NAILOR, FARGO, MRKONIC, BUNT, CAWLEY, GODSHALL, ARGALL, J. L. WRIGHT, COHEN, NOYE, GEIST, BARLEY, HESS, SAURMAN, ROBINSON, KONDRICH, LEVDANSKY, MELIO, CARLSON, HERMAN, DEMPSEY, FARMER, ANGSTADT, NAHILL, LANGTRY, B. SMITH, SERAFINI, PRESSMANN, DeLUCA, SEMMEL, VEON, ADOLPH, LASHINGER, BELARDI, KASUNIC, GIGLIOTTI, PETRARCA, LEH, TELEK, MAIALE,

MERRY, J. H. CLARK, McHALE,  
MARSICO and RITTER

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), known as the "Pennsylvania Election Code," further providing for absentee ballots for permanently disabled electors.

Referred to Committee on STATE GOVERNMENT,  
April 3, 1990.

**No. 2429** By Representatives CHADWICK,  
HECKLER, GODSHALL, COY, MORRIS,  
DISTLER, COLAIZZO, JOHNSON,  
PESCI, JAROLIN, FLEAGLE, LEH,  
DAVIES, VROON, J. L. WRIGHT,  
FARGO, BURD, FARMER, LANGTRY,  
LINTON, BIRMELIN, TIGUE, SEMMEL,  
BILLOW, NOYE, GEIST, DIETTERICK,  
BUNT, E. Z. TAYLOR, TRELLO,  
HERSHEY, FOX, LEE, DEMPSEY,  
ADOLPH, CARN, PITTS, MOEHLMANN,  
NAHILL, MARSICO and MICHLOVIC

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act," further providing for the coverage of the act.

Referred to Committee on LABOR RELATIONS,  
April 3, 1990.

**No. 2430** By Representatives STAIRS, DEMPSEY,  
GODSHALL, PETRARCA, McVERRY,  
LANGTRY, HALUSKA, FOX, SERAFINI,  
GEIST, JAROLIN, SEMMEL, DeLUCA,  
TRELLO, MELIO, J. TAYLOR,  
VAN HORNE, RAYMOND, HERMAN,  
CARLSON, TANGRETTI, STABACK,  
MARSICO, KASUNIC, MORRIS, CIVERA,  
JOHNSON, TELEK, E. Z. TAYLOR and  
J. H. CLARK

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), known as the "Public Welfare Code," providing for drug testing of employees of child day care facilities.

Referred to Committee on YOUTH AND AGING,  
April 3, 1990.

**No. 2431** By Representatives STISH, JAROLIN,  
DALEY, BELFANTI, GIGLIOTTI,  
HALUSKA, TANGRETTI, WOZNIAK,  
STUBAN and CORRIGAN

An Act amending the act of June 21, 1939 (P. L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act," further providing for compensation for disability from beryllium poisoning.

Referred to Committee on LABOR RELATIONS,  
April 3, 1990.

**No. 2432** By Representatives STABACK, CAWLEY,  
HASAY, TIGUE, BELARDI,  
CAPPABIANCA, PRESTON,  
TANGRETTI, B. SMITH, SERAFINI and  
BIRMELIN

An Act amending the act of May 28, 1937 (P. L. 955, No. 265), known as the "Housing Authorities Law," further providing for purchases that are not subject to advertisement and bidding.

Referred to Committee on LOCAL GOVERNMENT,  
April 3, 1990.

**No. 2433** By Representatives WASS, GAMBLE,  
FOSTER, CESSAR, S. H. SMITH and  
BILLOW

An Act amending the act of July 9, 1976 (P. L. 919, No. 170), entitled "An act providing for the approval or disapproval of applications for a permit relating to the construction or maintenance of improvements to real estate," further providing for certain insurance information to be set forth on all building permits.

Referred to Committee on LOCAL GOVERNMENT,  
April 3, 1990.

**No. 2434** By Representatives SAURMAN, FOX,  
GODSHALL, NOYE, DISTLER, MAIALE,  
MICOZZIE, TANGRETTI, NAHILL,  
DeLUCA, KENNEY, BRANDT, CARN,  
HALUSKA, J. L. WRIGHT, LASHINGER,  
PHILLIPS, TIGUE, BURD, MORRIS,  
D. R. WRIGHT, HOWLETT, BILLOW,  
CORNELL, COLAFELLA and HERMAN

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for operating privileges.

Referred to Committee on TRANSPORTATION, April 3,  
1990.

**No. 2435** By Representatives LINTON, ROEBUCK,  
PESCI, NAHILL, KOSINSKI, JOSEPHS,  
CIVERA, PETRARCA, J. L. WRIGHT,  
PHILLIPS, VROON, MORRIS,  
D. R. WRIGHT, BUNT, McVERRY,  
PISTELLA, CORRIGAN, SAURMAN,  
TANGRETTI, HUGHES, J. H. CLARK,  
McHALE, TRELLO, KENNEY, ACOSTA,  
E. Z. TAYLOR and JAMES

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for the passing of streetcars.

Referred to Committee on TRANSPORTATION, April 3,  
1990.

## SENATE MESSAGE

### ADJOURNMENT RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate  
April 2, 1990

RESOLVED, (the House of Representatives concurring),  
That when the Senate adjourns this week it reconvene on

Tuesday, April 17, 1990, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

**RESOLVED**, That when the House of Representatives adjourns this week it reconvene on Tuesday, April 17, 1990, unless sooner recalled by the Speaker of the House of Representatives.

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.

**BILLS REMOVED FROM TABLE**

The **SPEAKER** pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that the following bills be taken from the table and placed on the active calendar:

- HB 1777;
- HB 2333;
- HB 2362; and
- SB 1140.

On the question,

Will the House agree to the motion?

Motion was agreed to.

**LEAVES OF ABSENCE**

The **SPEAKER** pro tempore. Are there requests for leaves of absence?

The Chair, in its capacity as majority whip, requests that leaves of absence be granted for the gentleman from Lawrence, Mr. FEE; the gentleman from Washington, Mr. COLAIZZO; the gentleman from Philadelphia, Mr. PIEVSKY; the gentleman from Armstrong, Mr. PESCI; the gentleman from Philadelphia, Mr. MAIALE, all for today's session; and also requests a leave for a portion of today for the gentleman from Philadelphia, Mr. O'DONNELL.

Without objection, these leaves of absence will be granted.

The Chair now recognizes the minority whip.

Mr. HAYES. Thank you, Mr. Speaker.

I request a leave for the gentleman from Montgomery County, Mr. LASHINGER, for the day, and the gentleman from Union County, Mr. FAIRCHILD, until he returns from a funeral.

The **SPEAKER** pro tempore. Without objection, the leaves of absence will be granted.

**MASTER ROLL CALL**

The **SPEAKER** pro tempore. The Chair is about to take the master roll. Members will proceed to vote.

The following roll call was recorded:

**PRESENT—191**

Adolph	Dombrowski	LaGrotta	Ritter
Allen	Donatucci	Langtry	Robbins
Angstadt	Dorr	Laughlin	Robinson
Argall	Durham	Lee	Roebuck
Barley	Evans	Leh	Rudy
Battisto	Fargo	Lescovitz	Ryan
Belardi	Farmer	Levdansky	Rybak
Belfanti	Fleagle	Linton	Saloom
Billow	Flick	Lloyd	Saurman
Birmelin	Foster	Lucyk	Scheetz
Bishop	Fox	McCall	Schuler
Black	Freeman	McHale	Scrimenti
Blaum	Freind	McNally	Semmel
Bortner	Gallen	McVerry	Serafini
Bowley	Gamble	Maine	Smith, B.
Boyes	Gannon	Markosek	Smith, S. H.
Brandt	Geist	Marsico	Snyder, D. W.
Broujos	George	Mayerik	Snyder, G.
Bunt	Gigliotti	Melio	Staback
Burd	Gladeck	Merry	Stairs
Burns	Godshall	Michlovic	Steighner
Bush	Gruitza	Micozzie	Stish
Caltagirone	Gruppo	Miller	Strittmatter
Cappabianca	Hagarty	Moehlmann	Stuban
Carlson	Haluska	Morris	Tangretti
Carn	Harper	Mowery	Taylor, E. Z.
Cawley	Hasay	Mrkonic	Taylor, F.
Cessar	Hayden	Murphy	Taylor, J.
Chadwick	Hayes	Nahill	Telek
Civera	Heckler	Nailor	Thomas
Clark, B. D.	Herman	Noye	Tigue
Clark, D. F.	Hershey	O'Brien	Trello
Clark, J. H.	Hess	Olasz	Trich
Clymer	Howlett	Oliver	Van Horne
Cohen	Hughes	Perzel	Veon
Colafella	Itkin	Petrarca	Vroon
Cole	Jackson	Petrone	Wambach
Cornell	Jadlowiec	Phillips	Wass
Corrigan	James	Piccola	Weston
Cowell	Jarolin	Pistella	Williams
Coy	Johnson	Pitts	Wilson
DeLuca	Josephs	Pressmann	Wogan
DeWeese	Kaiser	Preston	Wozniak
Daley	Kasunic	Raymond	Wright, D. R.
Davies	Kenney	Reber	Wright, J. L.
Dempsey	Kondrich	Reinard	Wright, R. C.
Dietterick	Kosinski	Richardson	Yandrisevits
Distler	Kukovich	Rieger	

**ADDITIONS—1**

Acosta

**NOT VOTING—0**

**EXCUSED—9**

Colaizzo	Fee	Pesci
Dininni	Lashingner	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

**LEAVES CANCELED—2**

Fairchild O'Donnell

**BILL REREPORTED FROM COMMITTEE**

**HB 1946, PN 3313 (Amended)**

By Rep. SALOOM

An Act amending the act of April 12, 1951 (P. L. 90, No. 21), known as the "Liquor Code," further providing for the quota on the issuance of distributors licenses and retail licenses; and autho-

rizing the limited exchange of certain hotel licenses for restaurant licenses.

#### LIQUOR CONTROL.

### BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

**HB 2425, PN 3297** By Rep. GEORGE

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," further providing for certain definitions.

#### CONSERVATION.

**SB 266, PN 1701** By Rep. COWELL

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, authorizing retirement credit for members of the Cadet Nurse Corps.

#### EDUCATION.

### REPORT SUBMITTED

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Allegheny, Mr. Petrone, who submits a report.

Mr. PETRONE. Thank you, Mr. Speaker.

I have the honor of presenting from the Joint State Government Commission the report of the boxing task force, which I was pleased to serve as chairman of. The report has been submitted and distributed. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

(Copy of report is on file with the Journal clerk.)

### WELCOMES

The SPEAKER pro tempore. At this time the Chair wishes to welcome students from Lycoming College with their advisers, Mary Wolf and Dr. Gigilo, who are the guests of Representatives Dempsey, Argall, Dan Clark, and Allen. These guests are located in the balcony. Would they please rise and be acknowledged.

The Chair is also pleased to welcome a group of students from the Queen of the World School in St. Marys. They are the guests of Jim Distler of Elk County, and they also are in the gallery. Will these students please rise and be recognized.

The Chair is also most happy to welcome Luella Kent, Shelby Seymour, and Richard Phillips, who are students at the Wattsburg Baptist Academy in Erie County. They are accompanied by Pastor Seymour, Janet Penmoyer, and Reverend Penmoyer, and they are the guests of Representative Tom Scrimenti. The students are located to the left of the Speaker, and their chaperons who are accompanying them are located in the balcony. Would they rise and be recognized.

The Chair is also delighted to welcome Dr. Hopkirk, William Worthington, and Bernie Ferris, who are the professor and students of the State and local government course from Villanova, and they are the guests of Representatives

Saurman and James Clark. They are located today to the left of the Speaker. Will they please rise and be recognized.

Also, the Chair is pleased to welcome Katie Darrow, who is a guest page being sponsored by Representative Fox, and she is located below the Speaker. Will she please rise and be acknowledged.

### MEMBER'S PRESENCE RECORDED

The SPEAKER pro tempore. The Chair wishes to acknowledge the presence of the gentleman from Philadelphia, Mr. Acosta, and without objection, his name will be added to the master roll. The Chair hears no objection.

### WELCOME

The SPEAKER pro tempore. The Chair is also pleased at this time to welcome students from the Wesleyan School from Indiana County, which is acknowledged as the Christmas Tree Capital of the World. Their instructor is Syd Stewart, and they today are the guests of Representative Paul Wass. They are located in the balcony. Will they please rise and be recognized.

### CALENDAR

#### BILLS ON SECOND CONSIDERATION

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

**SB 684, PN 1905; and SB 1131, PN 1380.**

#### BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1567, PN 3212**, entitled:

An Act reenacting and amending the act of February 2, 1966 (1965 P.L.1860, No. 586), entitled "An act encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts," further providing for the liability of a landowner and for the duty of a landowner; providing for recreational trespass; providing for damages for recreational trespass; and imposing penalties.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER pro tempore. 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?

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

YEAS—190



Acosta	Dombrowski	Langtry	Ritter
Adolph	Donatucci	Laughlin	Robbins
Allen	Dorr	Lee	Robinson
Angstadt	Durham	Leh	Roebuck
Argall	Evans	Lescovitz	Rudy
Barley	Fargo	Levdansky	Ryan
Battisto	Farmer	Linton	Rybak
Belardi	Fleagle	Lloyd	Saloom
Belfanti	Flick	Lucyk	Saurman
Billow	Foster	McCall	Scheetz
Birmelin	Fox	McHale	Schuler
Bishop	Freeman	McNally	Scrimenti
Black	Freind	McVerry	Semmel
Blaum	Gallen	Maine	Serafini
Bortner	Gamble	Markosek	Smith, B.
Bowley	Gannon	Marsico	Smith, S. H.
Boyes	Geist	Mayernik	Snyder, D. W.
Brandt	George	Melio	Snyder, G.
Broujos	Gigliotti	Merry	Staback
Bunt	Gladeck	Michlovic	Stairs
Burd	Godshall	Micozzie	Steighner
Burns	Gruitza	Miller	Stish
Bush	Gruppo	Moehlmann	Strittmatter
Caltagirone	Hagarty	Morris	Stuban
Cappabianca	Haluska	Mowery	Tangretti
Carlson	Harper	Mrkonic	Taylor, E. Z.
Cawley	Hasay	Murphy	Taylor, F.
Cessar	Hayden	Nahill	Taylor, J.
Chadwick	Hayes	Nailor	Telek
Civera	Heckler	Noye	Thomas
Clark, B. D.	Herman	O'Brien	Tigue
Clark, D. F.	Hershey	Olasz	Trello
Clark, J. H.	Hess	Oliver	Trich
Clymer	Howlett	Perzel	Van Horne
Cohen	Hughes	Petrarca	Veon
Colafella	Itkin	Petrone	Vroon
Cole	Jackson	Phillips	Wambach
Cornell	Jadlowiec	Piccola	Wass
Corrigan	James	Pistella	Weston
Cowell	Jarolin	Pitts	Williams
Coy	Johnson	Pressmann	Wilson
DeLuca	Kaiser	Preston	Wogan
DeWeese	Kasunic	Raymond	Wozniak
Daley	Kenney	Reber	Wright, D. R.
Davies	Kondrich	Reinard	Wright, J. L.
Dempsey	Kosinski	Richardson	Wright, R. C.
Dietterick	Kukovich	Rieger	Yandrisevits
Distler	LaGrotta		

NAYS—0

NOT VOTING—2

Carn Josephs

EXCUSED—9

Colaizzo	Fee	Pesci
Dininni	Lashingner	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

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

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

WELCOME

The SPEAKER pro tempore. The Chair is delighted to welcome 55 children and their chaperons from the St. Thomas/Good Counsel School in Villanova. They are the

guests of Representative James Clark, and they are located in the rear of the House chamber. Will they stand and be recognized.

BILLS ON THIRD  
CONSIDERATION CONTINUED

The House proceeded to third consideration of **SB 1518, PN 2007**, entitled:

An Act amending the act of December 12, 1973 (P. L. 397, No. 141), entitled "Teacher Certification Law," further providing for the Professional Standards and Practices Commission and for certain disciplinary proceedings; and making a repeal.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER pro tempore. 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?

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

YEAS—192

Acosta	Distler	Kukovich	Rieger
Adolph	Dombrowski	LaGrotta	Ritter
Allen	Donatucci	Langtry	Robbins
Angstadt	Dorr	Laughlin	Robinson
Argall	Durham	Lee	Roebuck
Barley	Evans	Leh	Rudy
Battisto	Fargo	Lescovitz	Ryan
Belardi	Farmer	Levdansky	Rybak
Belfanti	Fleagle	Linton	Saloom
Billow	Flick	Lloyd	Saurman
Birmelin	Foster	Lucyk	Scheetz
Bishop	Fox	McCall	Schuler
Black	Freeman	McHale	Scrimenti
Blaum	Freind	McNally	Semmel
Bortner	Gallen	McVerry	Serafini
Bowley	Gamble	Maine	Smith, B.
Boyes	Gannon	Markosek	Smith, S. H.
Brandt	Geist	Marsico	Snyder, D. W.
Broujos	George	Mayernik	Snyder, G.
Bunt	Gigliotti	Melio	Staback
Burd	Gladeck	Merry	Stairs
Burns	Godshall	Michlovic	Steighner
Bush	Gruitza	Micozzie	Stish
Caltagirone	Gruppo	Miller	Strittmatter
Cappabianca	Hagarty	Moehlmann	Stuban
Carlson	Haluska	Morris	Tangretti
Carn	Harper	Mowery	Taylor, E. Z.
Cawley	Hasay	Mrkonic	Taylor, F.
Cessar	Hayden	Murphy	Taylor, J.
Chadwick	Hayes	Nahill	Telek
Civera	Heckler	Nailor	Thomas
Clark, B. D.	Herman	Noye	Tigue
Clark, D. F.	Hershey	O'Brien	Trello
Clark, J. H.	Hess	Olasz	Trich
Clymer	Howlett	Oliver	Van Horne
Cohen	Hughes	Perzel	Veon
Colafella	Itkin	Petrarca	Vroon
Cole	Jackson	Petrone	Wambach
Cornell	Jadlowiec	Phillips	Wass
Corrigan	James	Piccola	Weston
Cowell	Jarolin	Pistella	Williams
Coy	Johnson	Pitts	Wilson
DeLuca	Josephs	Pressmann	Wogan
DeWeese	Kaiser	Preston	Wozniak

Daley	Kasunic	Raymond	Wright, D. R.
Davies	Kenney	Reber	Wright, J. L.
Dempsey	Kondrich	Reinard	Wright, R. C.
Dietterick	Kosinski	Richardson	Yandrisevits

NAYS—0

NOT VOTING—0

EXCUSED—9

Colaizzo	Fee	Pesci
Dininni	Lashinger	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

**WELCOME**

The SPEAKER pro tempore. The Chair at this time now wishes to welcome the members of the Pennsylvania Association of Realtors, who are the guests of the entire membership of the House, and they are located in the balcony. Would these individuals please rise and be recognized.

**BILLS ON THIRD CONSIDERATION CONTINUED**

The House proceeded to third consideration of **HB 1911, PN 2814**, entitled:

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," providing that no bond shall be required as a condition for issuance of a permit or license to a municipality.

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

**BILL TABLED**

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 1911, PN 2814, be placed upon the table.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.

\* \* \*

The House proceeded to third consideration of **HB 1912, PN 2815**, entitled:

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," providing that no bond shall be required as a condition for issuance of a permit to a municipality for land application of sewage sludge.

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

**BILL TABLED**

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 1912, PN 2815, be placed upon the table.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.

**BILLS REMOVED FROM TABLE**

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 1911 and HB 1912 be taken from the table and returned to the active calendar.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.

The SPEAKER pro tempore. The Chair recognizes the minority leader, Mr. Ryan.

Mr. RYAN. Mr. Speaker, could you advise the House as to whether or not you are in receipt of the override on SB 498 from the Senate? It is my understanding that the Senate, by a big vote, overrode the Governor's veto on SB 498. That bill passed this House 195 to 1, as I recall, and I am curious if the House is in possession of that.

The SPEAKER pro tempore. Mr. Minority Leader, we will have the clerk review the communications from the Senate to see if it is part of that group.

**BILLS ON THIRD CONSIDERATION CONTINUED**

The House proceeded to third consideration of **SB 1273, PN 1585**, entitled:

An Act amending the act of October 1, 1981 (P. L. 279, No. 94), entitled "An act providing for shade trees in incorporated towns," further providing for the membership of shade tree commissions.

On the question,  
Will the House agree to the bill on third consideration?  
Bill was agreed to.

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

YEAS—191

Acosta	Dombrowski	LaGrotta	Ritter
Adolph	Donatucci	Langtry	Robbins
Allen	Dorr	Laughlin	Robinson
Angstadt	Durham	Lee	Roebuck
Argall	Evans	Leh	Rudy
Barley	Fargo	Lescovitz	Ryan
Battisto	Farmer	Levdansky	Rybak
Belardi	Fleagle	Linton	Saloom
Belfanti	Flick	Lloyd	Saurman
Billow	Foster	Lucyk	Scheetz
Birmelin	Fox	McCall	Schuler
Bishop	Freeman	McHale	Scrimenti
Black	Freind	McNally	Semmel
Blaum	Gallen	McVerry	Serafini
Bortner	Gamble	Maine	Smith, B.
Bowley	Gannon	Markosek	Smith, S. H.
Boyes	Geist	Marsico	Snyder, D. W.
Brandt	George	Mayermik	Snyder, G.
Broujos	Gigliotti	Melio	Staback
Bunt	Gladeck	Merry	Stairs
Burd	Godshall	Michlovic	Steighner
Burns	Gruitza	Micozzie	Stish
Bush	Gruppo	Miller	Strittmatter
Caltagirone	Hagarty	Moehlmann	Suban
Cappabianca	Haluska	Morris	Tangretti
Carlson	Harper	Mowery	Taylor, E. Z.
Carn	Hasay	Mrkonic	Taylor, F.
Cawley	Hayden	Murphy	Taylor, J.
Cessar	Hayes	Nahill	Telek
Chadwick	Heckler	Nailor	Thomas
Civera	Herman	Noye	Tigue
Clark, B. D.	Hershey	O'Brien	Trello
Clark, D. F.	Hess	Olasz	Trich
Clark, J. H.	Howlett	Oliver	Van Horne
Clymer	Hughes	Perzel	Veon
Cohen	Itkin	Petrarca	Vroon
Colafella	Jackson	Petrone	Wambach
Cole	Jadlowiec	Phillips	Wass
Cornell	James	Piccola	Weston
Corrigan	Jarolin	Pistella	Williams
Cowell	Johnson	Pitts	Wilson
Coy	Josephs	Pressmann	Wogan
DeLuca	Kaiser	Preston	Wozniak
Daley	Kasunic	Raymond	Wright, D. R.
Davies	Kenney	Reber	Wright, J. L.
Dempsey	Kondrich	Reinard	Wright, R. C.
Dietterick	Kosinski	Richardson	Yandrisevits
Distler	Kukovich	Rieger	

NAYS—0

NOT VOTING—1

DeWeese

EXCUSED—9

Colaizzo	Fee	Pesci
Dininni	Lashingier	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

\* \* \*

The House proceeded to third consideration of **HB 1149, PN 1320**, entitled:

An Act designating a certain bridge on Township Route 415 in Stewardston Township, Potter County, as the Cross Fork Veterans Memorial Bridge.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER pro tempore. 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?

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

YEAS—192

Acosta	Distler	Kukovich	Rieger
Adolph	Stuban	LaGrotta	Ritter
Allen	Donatucci	Langtry	Robbins
Angstadt	Dorr	Laughlin	Robinson
Argall	Durham	Lee	Roebuck
Barley	Evans	Leh	Rudy
Battisto	Fargo	Lescovitz	Ryan
Belardi	Farmer	Levdansky	Rybak
Belfanti	Fleagle	Linton	Saloom
Billow	Flick	Lloyd	Saurman
Birmelin	Foster	Lucyk	Scheetz
Bishop	Fox	McCall	Schuler
Black	Freeman	McHale	Scrimenti
Blaum	Freind	McNally	Semmel
Bortner	Gallen	McVerry	Serafini
Bowley	Gamble	Maine	Smith, B.
Boyes	Gannon	Markosek	Smith, S. H.
Brandt	Geist	Marsico	Snyder, D. W.
Broujos	George	Mayermik	Snyder, G.
Bunt	Gigliotti	Melio	Staback
Burd	Gladeck	Merry	Stairs
Burns	Godshall	Michlovic	Steighner
Bush	Gruitza	Micozzie	Stish
Caltagirone	Gruppo	Miller	Strittmatter
Cappabianca	Hagarty	Moehlmann	Suban
Carlson	Haluska	Morris	Tangretti
Carn	Harper	Mowery	Taylor, E. Z.
Cawley	Hasay	Mrkonic	Taylor, F.
Cessar	Hayden	Murphy	Taylor, J.
Chadwick	Hayes	Nahill	Telek
Civera	Heckler	Nailor	Thomas
Clark, B. D.	Herman	Noye	Tigue
Clark, D. F.	Hershey	O'Brien	Trello
Clark, J. H.	Hess	Olasz	Trich
Clymer	Howlett	Oliver	Van Horne
Cohen	Hughes	Perzel	Veon
Colafella	Itkin	Petrarca	Vroon
Cole	Jackson	Petrone	Wambach
Cornell	Jadlowiec	Phillips	Wass
Corrigan	James	Piccola	Weston
Cowell	Jarolin	Pistella	Williams
Coy	Johnson	Pitts	Wilson
DeLuca	Josephs	Pressmann	Wogan
DeWeese	Kaiser	Preston	Wozniak
Daley	Kasunic	Raymond	Wright, D. R.
Davies	Kenney	Reber	Wright, J. L.
Dempsey	Kondrich	Reinard	Wright, R. C.
Dietterick	Kosinski	Richardson	Yandrisevits



Bunt	Gigliotti	Merry	Stairs
Burd	Gladeck	Michlovic	Steighner
Burns	Godshall	Micozzie	Stish
Bush	Gruppo	Miller	Strittmatter
Caltagirone	Hagarty	Moehlmann	Stuban
Cappabianca	Haluska	Morris	Tangretti
Carlson	Harper	Mowery	Taylor, E. Z.
Carn	Hasay	Mrkonic	Taylor, F.
Cawley	Hayden	Murphy	Taylor, J.
Cessar	Hayes	Nahill	Telek
Chadwick	Heckler	Nailor	Thomas
Civera	Herman	Noye	Tigue
Clark, B. D.	Hershey	O'Brien	Trello
Clark, D. F.	Hess	Olasz	Trich
Clark, J. H.	Howlett	Oliver	Van Horne
Clymer	Hughes	Perzel	Veon
Cohen	Itkin	Petrarca	Vroon
Colaella	Jackson	Petrone	Wambach
Cole	Jadlowiec	Phillips	Wass
Cornell	James	Piccola	Weston
Corrigan	Jarolin	Pistella	Williams
Cowell	Johnson	Pitts	Wilson
Coy	Josephs	Pressmann	Wogan
DeLuca	Kaiser	Preston	Wozniak
DeWeese	Kasunic	Raymond	Wright, D. R.
Daley	Kenney	Reber	Wright, J. L.
Davies	Kondrich	Reinard	Wright, R. C.
Dempsey	Kosinski	Richardson	Yandrisevits
Dietterick	Kukovich	Rieger	

NAYS—0

NOT VOTING—1

Gruitza

EXCUSED—9

Colaizzo	Fee	Pesci
Dininni	Lashingier	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

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

**WELCOMES**

The SPEAKER pro tempore. The Chair at this time would like to welcome Angela Laviola, the fourth grade poster winner in the Department of Education and DER recycling poster contest. She is with her teacher, Kathy Bowers, and Randy and Bridgett Wilhelm. They are the guests of the gentleman from York, Mr. Don Dorr, and they are located in the balcony. Would the guests please stand and be recognized.

The Chair also would like to recognize the members and guests of the Columbia Rotary Club. They are the guests of Ken Brandt and the other members of the Lancaster County delegation. Would these guests please rise and be acknowledged.

**ANNOUNCEMENT BY MR. COY**

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Franklin County, Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

Because of the fact that we will consider HB 916 this afternoon, I wanted to let the members know that the amendment

number which Representative Heckler and I will offer is amendment No. A1102. That is the latest amendment, so amendments that members would like to draft to that amendment should be drafted to that amendment number - A1102. Thank you.

**BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED**

**HB 2029, PN 3314 (Amended)**

By Rep. CALTAGIRONE

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for jurisdiction to enjoin certain nuisances in the City of Philadelphia.

JUDICIARY.

**HB 2296, PN 3315 (Amended)**

By Rep. CALTAGIRONE

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," further providing for penalties.

JUDICIARY.

**HB 2361, PN 3316 (Amended)**

By Rep. CALTAGIRONE

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," further providing for crime victims' compensation.

JUDICIARY.

**WELCOME**

The SPEAKER pro tempore. The Chair now wishes to welcome Paul Levine, a student at Lehigh University. He is the guest of Representative Pressmann, and Mr. Levine is to the left of the Speaker. Will he rise and be recognized.

**BILLS ON THIRD CONSIDERATION CONTINUED**

The House proceeded to third consideration of **SB 1310, PN 2046**, entitled:

An Act amending Title 15 (Corporations and Unincorporated Associations) of the Pennsylvania Consolidated Statutes, clarifying the fiduciary obligations of directors of corporations and other associations; clarifying certain definitions; adding provisions relating to control-share acquisitions; and providing for disgorgement by certain controlling shareholders following attempts to acquire control of certain corporations, for severance compensation for employees terminated following certain control-share acquisitions and for the effect of business combination transactions on labor contracts.

On the question,

Will the House agree to the bill on third consideration?

Mrs. HAGARTY offered the following amendments No. A1125:

Amend Sec. 5, page 18, line 29, by striking out "SECTIONS 2542 AND 2543(C) OF TITLE 15 ARE" and inserting Section 2542 of Title 15 is

Amend Sec. 5 (Sec. 2543), page 20, lines 4 through 19, by striking out all of said lines

Amend Sec. 8, page 64, by inserting after line 30

(c) Nothing in the history of the passage of this amendatory act, including the history of section 5 of this amendatory act, and other than section 5, nothing contained in this amendatory act shall be construed as having, or be deemed to have, any effect on the existing practice under Subchapter E of Chapter 25 or the interpretation, construction, scope or applicability of Subchapter E of Chapter 25 or as expressing any agreement or disagreement with any court interpretation relating to Subchapter E of Chapter 25. Further, nothing in this amendatory act shall be construed as having, or be deemed to have, any effect on the interpretation, construction, scope or applicability of any provision of this title, specifically including sections 511(b) and (c) (relating to standard of care and justifiable reliance) and 1721(c) and (d) (relating to board of directors), that are not explicitly amended by this amendatory act.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the lady, Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, this is an amendment which I am offering to SB 1310, the antitakeover bill.

The amendment I am offering today strikes a section which this legislature added in 1983, and it was referenced in this bill simply to provide a conforming amendment. What has happened is that in the last couple of days, the members of this House have received communications from the opponents of SB 1310 who have suggested that something that we did in 1983 - that is, when we provided that when a stockholder acquired more than 20 percent of the company, that that stockholder then had to make a tender offer for the rest of the company - the opponents of this legislation are now arguing that somehow that section could have applied to proxy contests. This section never applied to proxy contests. It does not apply to proxy contests in the new bill, and in order to clear up what has been a smokescreen and, frankly, a last-minute, desperate ploy in the eleventh hour by the opponents of this legislation, I am offering this amendment to take out that entire 1983 law from this bill so that there will be no further argument on that account.

The rest of this amendment, to make it further and more clear that there is nothing that we are doing today which could be construed to affect the 1983 law, simply states that very clearly, that we are not changing, by anything we do in this, any interpretation of that prior law.

And so I urge passage of this amendment. While it sounds complicated, all it really does is omit the section that the opponents of this bill have said troubles them. If it troubles them, we are taking it out. We never meant to do what they are suggesting that this bill does. So we want to remove that issue, which is a nonissue, from the debate, and I urge passage. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady and now recognizes the gentleman from Fayette, Mr. Taylor.

Mr. F. TAYLOR. At this time, Mr. Speaker, I will defer to Representative Bortner.

The SPEAKER pro tempore. The gentleman from York is in order and may proceed.

Mr. BORTNER. Thank you, Mr. Speaker.

I also support the Hagarty amendment and would echo many of the statements made by my colleague from Montgomery County.

The intent of the amendment to subchapter E was merely to codify existing law. No change was ever sought to laws that now exist. Unfortunately, this part of the bill has been misconstrued and has become but another red herring in the debate on this antitakeover legislation. There was never any intent to make any dramatic change or any dramatic impact on existing law.

What we have decided to do is that rather than try to fight that issue here, because there is a good deal of confusion over it, since it does not make any dramatic change to existing law and merely attempts to clarify what I think some of us felt may have been an ambiguity in existing law, we are going to introduce this amendment which removes that provision from the law.

I would urge you to support the amendment to clear up any confusion that may have been related by that section and then move on to full consideration of SB 1310, a very important piece of legislation. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and now recognizes the gentleman from Lancaster, Mr. Miller.

Mr. MILLER. I thank the distinguished Chair.

The gentleman from York and the lady from Montgomery County have offered a clarifying amendment that is in agreement with all parties in this matter, and I would encourage an affirmative vote by the membership. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Montgomery, Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment, Representative Hagarty.

The SPEAKER pro tempore. The lady consents to being interrogated. The gentleman may proceed.

Mr. GODSHALL. Does this amendment correct the situation in the bill as amended in committee last week by the Business and Commerce Committee? What sections are specifically covered by this amendment in the antitakeover legislation?

Mrs. HAGARTY. This amendment deals primarily with page 20. It takes out all the language on page 20 from lines 4 through I guess the end of line 19. The language from line 6, at least the substantive language, through line 15 was essentially the existing law. The language that was added in committee was lines 16, 17, and 18, which was simply added to conform with language added to the disgorgement section and the control-share section. That language reads, "In connec-

tion with the solicitation of proxies or consents by or on behalf of the corporation in connection with shareholder meetings or actions of the corporation.” That was simply conforming language. The problem is, that has been construed, by putting in that language, somehow an argument has been made, that the 1983 language could apply to proxy contests, which it was never intended to do. So we are just taking out that whole section.

Mr. GODSHALL. This amendment was just distributed and has only been available for, really, the last 10, 15 minutes. I thought this bill was going to be running this afternoon.

Mrs. HAGARTY. I am sorry. I cannot hear the interrogator, Mr. Speaker.

Mr. GODSHALL. I would just like to tell Representative Hagarty that I am having problems with the amendment—it was only distributed a few minutes ago—and what effect it actually has on the bill.

I am not sure; maybe you can help me, but you are excluding management from the provisions of this bill in more than one section. Will this amendment really not throw the whole thing into court as to who is responsible and who is not responsible and who falls under this legislation and who does not?

Mrs. HAGARTY. Understand, what the 1983 law did is it said that if you acquired more than 20 percent of a company, you had to make a tender offer for the rest of the company. By definition of that act, that never applied to management. Management would not be making a tender offer under this.

Mr. GODSHALL. Then why does this bill specifically preclude management from falling under the provisions of the bill?

Mrs. HAGARTY. This bill does not have anything to do with this safe harbor section. That was our 1983 law. We are just taking it out because we never intended to affect the 1983 law. We are making it clear that nothing we are doing in this law affects the 1983 law.

Mr. GODSHALL. Okay. This concludes my interrogation for the moment. I want to make some comments on it, and I may come back to you in a few minutes.

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

Mr. GODSHALL. In the definitions in this bill, on page 26, we have an “acquiring person.” An acquiring person does not necessarily have to be somebody who wants to take over the corporation. The definition of “acquiring person” is a person who makes or proposes to make a control-share acquisition, which is two or more people acting in concert, whether or not pursuant to an express agreement, for the purpose of acquiring, holding, and/or voting of stock. So any people getting together and having up to or over 20 percent are automatically, under this bill, an acquiring person.

Then we have “control-share acquisition”: “An acquisition, directly or indirectly, by any person of voting power over voting shares of a corporation....” A control-share acquisition, again, is the 20-percent definition on page 28, and it directly relates to an acquiring person with contract shares.

Now we go to page 33, and we find voting rights, and this is sort of unbelievable. What we say on page 33, at the top of the page, is, “General rule.—Control shares shall not have any voting rights unless a resolution approved by a vote of shareholders of the registered corporation at an annual or special meeting of shareholders pursuant to this subchapter restores to the control shares the same voting rights as other shares of the same class....”

### POINT OF ORDER

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Miller, from Lancaster rise?

Mr. MILLER. Mr. Speaker, I rise on a brief point of order with respect to germaneness. The debate the gentleman is engaging in would be perfectly appropriate if we were sitting here in 1983. This amendment merely attempts to correct the language of the 1983 act and does not have specific impact on the sections that the gentleman is referencing, and I would encourage the Chair to request the gentleman to keep his remarks on the amendment. Thank you, Mr. Speaker.

Mr. GODSHALL. Mr. Speaker, in rebuttal, it was mentioned that this amendment corrects a possible situation affecting proxy fights, and that information is contained on page 33 as it pertains to voting rights per share, so this directly has to do with proxy fights.

The SPEAKER pro tempore. The Chair will rule that since the subject matter has been contained in the bill, it would be subject to the scrutiny of the House and therefore will allow the member to continue, but confine your remarks to the contents of the bill and the amendment.

Mr. GODSHALL. Thank you, Mr. Speaker.

The maker of the amendment has said that with this addition to the bill, you will not have the problems pertaining to proxy fights; proxy fights would be allowed. I do not believe that that is the case. I think it would open up the bill for litigation, and as I said, on page 33 it further states how these rights would be taken away. Once you lose your rights, you in no way can get them back unless you sell your stock, et cetera, et cetera. I still do not see and cannot see how the Hagarty amendment corrects this situation, and when we are saying proxy fights, we are not even saying proxy fights to name anybody on the board of directors. We are saying proxy fights maybe to change the auditor of the corporation. You know, if you engage in a proxy fight, under this legislation you could lose your voting rights if you get together more than 20 percent of the stock, and maybe I could further interrogate Representative Hagarty on exactly how this amendment addresses those situations.

The SPEAKER pro tempore. Does the lady consent to being interrogated? The lady so consents. The gentleman from Montgomery is in order and may proceed.

Mrs. HAGARTY. In answer to that question, if that was a question, this amendment does not address proxy contests under the control-share section of this bill. This amendment has nothing to do with that issue, which is why Representative

Miller argued that you were not on the subject matter of the amendment.

Mr. GODSHALL. If the maker of the amendment is correct, we probably and possibly are a little bit better off with this amendment than without it. However, it still opens the avenue to a tremendous amount of court action and litigation if in fact this amendment would hold precedence over the 1983 law.

The SPEAKER pro tempore. Is the gentleman finished with his interrogation? The gentleman does not seek further recognition at this time.

The Chair now recognizes the gentleman from Fayette, Mr. Taylor.

Mr. F. TAYLOR. Thank you, Mr. Speaker.

May I say to you, Mr. Speaker, that we ought to accept the Hagarty amendment, because what it does in plain, simple language is it is the clarification amendment to that section which we had no intention to address, abuse, or in any way change. The Federal District Court a few years ago in the Pennwalt case left the waters muddy in that particular section. We are not attempting to un muddy the waters. We are just going to leave them just like they are. This has no effect.

It is a very good amendment, and it is an agreed-to amendment on both sides, and I would urge your affirmative vote for it.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—191

Acosta	Distler	Kukovich	Ritter
Adolph	Dombrowski	LaGrotta	Robbins
Allen	Donatucci	Langtry	Robinson
Angstadt	Dorr	Laughlin	Roebuck
Argall	Durham	Lee	Rudy
Barley	Evans	Leh	Ryan
Battisto	Fargo	Lescovitz	Rybak
Belardi	Farmer	Levdansky	Saloom
Belfanti	Fleagle	Linton	Saurman
Billow	Flick	Lloyd	Scheetz
Birmelin	Foster	Lucyk	Schuler
Bishop	Fox	McCall	Scrimenti
Black	Freeman	McHale	Semmel
Blaum	Freind	McNally	Serafini
Bortner	Gallen	McVerry	Smith, B.
Bowley	Gamble	Maine	Smith, S. H.
Boyes	Gannon	Markosek	Snyder, D. W.
Brandt	Geist	Marsico	Snyder, G.
Broujos	George	Mayernik	Staback
Bunt	Gigliotti	Melio	Stairs
Burd	Gladeck	Merry	Steighner
Burns	Godshall	Michlovic	Stish
Bush	Gruitza	Micozzie	Strittmatter
Caltagirone	Gruppo	Miller	Stuban
Cappabianca	Hagarty	Moehlmann	Tangretti
Carlson	Haluska	Morris	Taylor, E. Z.
Carn	Harper	Mowery	Taylor, F.
Cawley	Hasay	Mrkonic	Taylor, J.
Cessar	Hayden	Murphy	Telek
Chadwick	Hayes	Nahill	Thomas
Civera	Heckler	Nailor	Tigue
Clark, B. D.	Herman	Noye	Trello
Clark, D. F.	Hershey	O'Brien	Trich
Clark, J. H.	Hess	Olasz	Van Horne
Clymer	Howlett	Perzel	Veon
Cohen	Hughes	Petrarca	Vroon

Colafrella	Itkin	Petrone	Wambach
Cole	Jackson	Phillips	Wass
Cornell	Jadlowiec	Piccola	Weston
Corrigan	James	Pistella	Williams
Cowell	Jarolin	Pitts	Wilson
Coy	Johnson	Pressmann	Wogan
DeLuca	Josephs	Preston	Wozniak
DeWeese	Kaiser	Raymond	Wright, D. R.
Daley	Kasunic	Reber	Wright, J. L.
Davies	Kenney	Reinard	Wright, R. C.
Dempsey	Kondrich	Richardson	Yandrisevits
Dietterick	Kosinski	Rieger	

NAYS—0

NOT VOTING—1

Oliver

EXCUSED—9

Colaizzo	Fee	Pesci
Dininni	Lashingar	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

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

On the question,

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

Mr. GODSHALL offered the following amendments No. A1062:

Amend Title, page 1, line 4, by inserting after "definitions;" requiring certain disclosures by registered corporations;

Amend Sec. 4, page 8, line 17, by striking out "and 2502" and inserting , 2502 and 2511

Amend Sec. 4, page 18, by inserting between lines 26 and 27 § 2511. Financial reports to shareholders.

(a) General rule.—The requirements of section 1554 (relating to financial reports to shareholders) shall not apply to a registered corporation.

(b) Exception.—Subsection (a) does not apply to a registered corporation described in section 2502(2) (relating to registered corporation status) that has more than one shareholder.

(c) Disclosure.—A registered corporation described in section 2502(1)(i) (relating to registered corporation status), shall conspicuously state in each annual report to security holders that it distributes pursuant to Rule 14a-3(b) (17 CFR § 240.14a-3(b)) under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.), on or after (in printing this act in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes the Legislative Reference Bureau shall insert here in lieu of this statement the date which is 180 days after the effective date of this subsection) whether or not:

- (1) the corporation is subject to:
  - (i) section 1721(e) through (g) (relating to board of directors);
  - (ii) section 1770 (relating to interested shareholders);
  - (iii) Subchapter E (relating to control transactions);
  - (iv) Subchapter F (relating to business combinations);
  - (v) Subchapter G (relating to control-share acquisitions);



(vi) Subchapter H (relating to disgorgement by certain controlling shareholders following attempts to acquire control);

(vii) Subchapter I (relating to severance compensation for employees terminated following certain control-share acquisitions);

(viii) Subchapter J (relating to business combination transactions - labor contracts); and

(2) the corporation has issued any securities, contracts, warrants or other instruments authorized by section 2513 (relating to disparate treatment of certain persons).

The corporation shall not be required to augment the statement required by this subsection with a description of the effects of the provisions of law listed. If the corporation is subject to any of the provisions of law listed in paragraph (1) or has issued securities, contracts, warrants or other instruments authorized by section 2513, it shall include the following language in haec verba in the statement required by this subsection:

The rights of shareholders in the corporation may be limited by the indicated provisions of law that apply to the corporation. The corporation will promptly provide to any person who so requests, in writing, a copy of such provisions.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Montgomery, Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

What this amendment really is, is a disclosure statement to be included in the annual statement of a corporation protected by this legislation that there may be some effect on stockholder rights over and above what are normal stockholder rights, as we know them, for common stock in a corporation.

So this is, again, a statement, which is a compromise, really, that I worked out. People wanted to have a 180-day waiting period, which we put in. They also wanted it stated that it would not require three or four pages of data which is directly addressed by this amendment. So it is a disclosure statement that a corporation is protected under this legislation.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Lancaster, Mr. Miller.

Mr. MILLER. I thank the distinguished Speaker.

Mr. Speaker, the amendment before you is a bit of overkill. Fundamental disclosure is very important to all of us in any endeavor of statute law. It is important for the public and the consumer to be aware of what it is they are purchasing. You should know that both State and Federal SEC (Securities and Exchange Commission) laws require disclosure in any stock filing and any selling transaction which require essential disclosure. This legislature has already taken care of that with respect to its State stocks and securities exchange commission and the Federal Government certainly with respect to federally traded issues.

What Mr. Godshall would do is put a red flag next to Pennsylvania corporations and say to every stock purchaser and brokerage house that perhaps there is something wrong here; perhaps there is something more you ought to know beyond the normal and reasonable investigation of that corporation. It is a way to take a little pound of flesh out of Pennsylvania corporations that is wholly unnecessary and wholly inappropriate in this issue.

We would encourage you to think about those items, particularly with respect to penalizing Pennsylvania's own corporations by our own BCL (Business Corporation Law) amendment that Mr. Godshall would offer, and suggest that you resoundingly vote "no" on this issue. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from York, Mr. Bortner, prepared to speak at this time? The gentleman is in order and may proceed.

Mr. BORTNER. Thank you, Mr. Speaker.

I would just briefly like to endorse the remarks of Representative Miller.

This amendment may sound fairly innocuous, and on its face I suppose it is. I think those of us who support this legislation have been trying to make the argument that this is not going to hurt Pennsylvania businesses, that this is not going to hurt investments in Pennsylvania companies, and it is hard for me to imagine why we would want to attach some special significance to this legislation, put it in annual statements, as Representative Miller said, run up the red flag to investors who may be looking at Pennsylvania corporations.

There is another concern. While this amendment says that the corporation shall not be required to augment the statement required, there is concern that if this limited language is placed into the annual statement, the SEC may require additional language and more detail. We do not require that provisions of the law—and that is what we are talking about—be included in annual statements. It is hard for me to understand why we should make a special exception for this one provision.

I would urge you to vote against what I believe is an unnecessary amendment.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Fayette, Mr. Taylor.

Mr. F. TAYLOR. Thank you, Mr. Speaker.

I would urge a resounding defeat of this amendment.

What it says in essence is that we ought to be afraid of Pennsylvania corporations that have taken and we have given this advantage to. There are 24 other States in the United States that have this provision, and they do not require that to be a red flag tagged on their financial statements at the end of the year. I would further say that what we ought to be saying on that tag, if we are going to put it on the end of a financial statement, is that Pennsylvania corporations are now protected from the corporative raiders - the ones who come in and destroy our communities and our jobs and our corporations and walk away and leave bare bones there. That is what I think ought to be on there if we are going to put anything

on, that this law is a good law for Pennsylvania - Pennsylvania jobs and Pennsylvania corporations.

I would ask for a resounding defeat of this amendment.

**POINT OF ORDER**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Davies. For what purpose does the gentleman rise?

Mr. DAVIES. Mr. Speaker, a point of order.

The gentleman is speaking on what should be on it, not what the gentleman is addressing. He is not speaking to what the gentleman's amendment is drawn to. He is speaking on something else that is supposed to appear on it. It is completely not to the point.

The SPEAKER pro tempore. Well, the gentleman's remarks are concluded, so I think it is academic at this point.

Does the gentleman, Mr. Godshall, prefer to speak for the second time now? The gentleman is in order and may proceed.

Mr. GODSHALL. I guess I have heard, first of all, from Representative Bortner that this legislation will have no effect on the corporations of Pennsylvania. It will have absolutely, in fact, no effect at all. I have heard that it is going to be protection against corporate raiders. It will to a degree. But what it is also taking away is fundamental rights of the shareholders of corporations who are the real owners of the corporation. If it will not hurt the businesses of Pennsylvania, then there should be no real problem as far as putting a disclosure statement like this in here.

Unfortunately, we have heard from every financial institution practically in the country. We have heard from many of the pension fund advisers that they indeed do feel that there is going to be a problem with this legislation not only for our corporations but, really, for the shareholders of those corporations. The only way that anybody could really tell what regulations these corporations are under would be to go to the SEC in Washington. It might take 3 or 4 months to figure it all out if you are a real good lawyer. Other than that, a person wishing to buy stock in a company, say, coming from someplace out in Indiana or wherever, would have almost no way of knowing that there are special regulations which persist for Pennsylvania corporations only as far as takeover, and no other State has an antitakeover bill that contains the disgorgement provision that this bill does.

Again I would ask for a positive vote on this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

**YEAS—17**

Allen	Fox	Heckler	Tigue
Argall	Gannon	Johnson	Vroon
Bunt	Gladeck	Lucyk	Wambach
Carn	Godshall	Pressmann	Weston
Cawley			

**NAYS—174**

Acosta	Donatucci	Lee	Ritter
Adolph	Dorr	Leh	Robbins
Angstadt	Durham	Lescovitz	Robinson
Barley	Evans	Levdansky	Roebuck
Battisto	Fargo	Linton	Rudy
Belardi	Farmer	Lloyd	Ryan
Belfanti	Fleagle	McCall	Rybak
Billow	Flick	McHale	Saloom
Birmelin	Foster	McNally	Saurman
Bishop	Freeman	McVerry	Scheetz
Black	Freind	Maine	Schuler
Blaum	Gallen	Markosek	Scrimenti
Bortner	Gamble	Marsico	Semmel
Bowley	Geist	Mayernik	Serafini
Boyes	George	Melio	Smith, B.
Brandt	Gigliotti	Merry	Smith, S. H.
Broujos	Gruitza	Michlovic	Snyder, D. W.
Burd	Gruppo	Micozzie	Snyder, G.
Burns	Hagarty	Miller	Staback
Bush	Haluska	Moehlmann	Stairs
Caltagirone	Harper	Morris	Steighner
Cappabianca	Hasay	Mowery	Stish
Carlson	Hayden	Mrkonic	Strittmatter
Cessar	Hayes	Murphy	Stuban
Chadwick	Herman	Nahill	Tangretti
Civera	Hershey	Nailor	Taylor, E. Z.
Clark, B. D.	Hess	Noye	Taylor, F.
Clark, D. F.	Howlett	O'Brien	Taylor, J.
Clark, J. H.	Hughes	Olasz	Telek
Clymer	Itkin	Oliver	Thomas
Cohen	Jackson	Perzel	Trello
Colafella	Jadlowiec	Petrarca	Trich
Cole	James	Petrone	Van Horne
Cornell	Jarolin	Phillips	Veon
Corrigan	Josephs	Piccola	Wass
Cowell	Kaiser	Pistella	Williams
Coy	Kasunic	Pitts	Wilson
DeLuca	Kenney	Preston	Wogan
Daley	Kondrich	Raymond	Wozniak
Davies	Kosinski	Reber	Wright, D. R.
Dempsey	Kukovich	Reinard	Wright, J. L.
Dietterick	LaGrotta	Richardson	Wright, R. C.
Distler	Langtry	Rieger	Yandrisevits
Dombrowski	Laughlin		

**NOT VOTING—1**

DeWeese

**EXCUSED—9**

Colaizzo	Fee	Pesci
Dininni	Lashing	Pievsky
Fairchild	Maiale	
		O'Donnell, Speaker

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 on third consideration as amended?

Mr. PRESSMANN offered the following amendments No. A1015:

Amend Sec. 6 (Sec. 2574), page 53, line 13, by inserting before "Any"

(a) General rule.—

Amend Sec. 6 (Sec. 2574), page 54, by inserting between lines 4 and 5

(b) Restriction.—Profit received as a result of this section must be used by the corporation for investment in its facilities in

this Commonwealth or for investment opportunities within this Commonwealth.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Lehigh, Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, my amendment is very simple, I think. What the purpose of my amendment is, is to say that if the disgorgement provision within the hostile takeover law is ever used, the profits from that would have to stay in Pennsylvania; that those corporations would have to invest it in Pennsylvania, within this Commonwealth, and not take the money to South Carolina or Georgia or Taiwan or South Korea but keep it here to create jobs in Pennsylvania.

I ask for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

We have no objection to this amendment and thank the gentleman, Mr. Pressmann, for his suggestion. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Berks, Mr. Gallen, is recognized.

Mr. GALLEN. Mr. Speaker, I rise to oppose this amendment.

Really, what this amendment does is penalize those people who hold stock in a company and it penalizes Pennsylvania stockholders as well, and I think this amendment should be defeated. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman, Mr. Taylor, seek recognition at this time?

Mr. F. TAYLOR. Thank you, Mr. Speaker.

I have very mixed emotions about the real impact of this amendment. Thank goodness we have a severability clause in the legislation. I feel that it will probably be declared unconstitutional, as it will be looked upon as an additional tax. But in all good conscience here today, I think we may just agree to this, and probably that section, if it is taken to the courts, will be declared unconstitutional and it will go down the drain, but I will agree to it and let it go in for the time being.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, I just got a fiscal note on this amendment a few minutes ago. I think the rest of you did, too. There is a very interesting comment in the fiscal note, and the reason for saying it will not cost any money or rather that the effect would be minimal is that it is not very likely that anybody would ever realize such profits, and those profits would never be coming back to the corporation anyhow, so the cost would be minimal.

So I think it is rather ridiculous to even have this amendment in the books. Just do not make a bad thing even worse.

The SPEAKER pro tempore. The question recurs, will the House adopt the Pressmann amendment?

The Chair recognizes the gentleman, Mr. Pressmann, for the second time.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I am glad the gentleman, Mr. Taylor, spoke, and I have listened to his wisdom, and that is why we have courts, and we will let the courts decide that.

Listening to Mr. Vroon, I think I agree with him up to a point. I think the disgorgement provision is a bit absurd, and I am hoping this maybe will improve on that. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

#### YEAS—128

Acosta	Dorr	Lloyd	Saloom
Angstadt	Evans	Lucyk	Saurman
Barley	Fargo	McCall	Scheetz
Battisto	Farmer	McHale	Schuler
Belardi	Freeman	McNally	Scrimenti
Belfanti	Gamble	Maine	Semmel
Billow	George	Markosek	Serafini
Bishop	Gigliotti	Mayerik	Smith, B.
Blaum	Gruitza	Melio	Snyder, G.
Bortner	Gruppo	Michlovic	Staback
Bowley	Haluska	Miller	Stairs
Brandt	Harper	Morris	Steighner
Broujos	Hayden	Mrkonic	Stish
Bunt	Hershey	Murphy	Strittmatter
Caltagirone	Howlett	O'Brien	Suban
Cappabianca	Hughes	Olasz	Tangretti
Carn	Itkin	Oliver	Taylor, F.
Cawley	James	Petrarca	Taylor, J.
Civera	Jarolin	Petrone	Telek
Clark, B. D.	Johnson	Pistella	Thomas
Cohen	Josephs	Pitts	Tigue
Colafella	Kaiser	Pressmann	Trello
Cole	Kasunic	Preston	Trich
Corrigan	Kenney	Raymond	Van Horne
Cowell	Kosinski	Richardson	Veon
Coy	Kukovich	Rieger	Wambach
DeLuca	LaGrotta	Ritter	Williams
DeWeese	Langtry	Robbins	Wogan
Daley	Laughlin	Robinson	Wozniak
Davies	Lescovitz	Roebuck	Wright, D. R.
Dombrowski	Levdansky	Rudy	Wright, R. C.
Donatucci	Linton	Rybak	Yandrisevits

#### NAYS—64

Adolph	Dempsey	Hayes	Nailor
Allen	Dietterick	Heckler	Noye
Argall	Distler	Herman	Perzel
Birmelin	Durham	Hess	Phillips
Black	Fleagle	Jackson	Piccola
Boyes	Flick	Jadlowiec	Reber
Burd	Foster	Kondrich	Reinard
Burns	Fox	Lee	Ryan
Bush	Freind	Leh	Smith, S. H.
Carlson	Gallen	McVerry	Snyder, D. W.
Cessar	Gannon	Marsico	Taylor, E. Z.
Chadwick	Geist	Merry	Vroon
Clark, D. F.	Gladeck	Micozzie	Wass
Clark, J. H.	Godshall	Moehlmann	Weston
Clymer	Hagarty	Mowery	Wilson
Cornell	Hasay	Nahill	Wright, J. L.

## NOT VOTING—0

## EXCUSED—9

Colaizzo	Fee	Pesci
Dininni	Lashingner	Pievsky
Fairchild	Maiale	
		O'Donnell, 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 on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. 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?

On that question, the Chair recognizes the gentleman from Fayette, Mr. Taylor.

Mr. F. TAYLOR. Thank you, Mr. Speaker.

First, I would like to say that my thanks go out to the minority staff and my staff for working long and hard and many hours on perfecting this bill that came from the Senate. It was a good bill when it came from the Senate. It is a much better bill today, except for one little thing that just went in, and we will talk about that later.

But anyway, I think what you can do is sum this up as a PPJCC bill. What do I mean by that? This is a bill that will protect Pennsylvania jobs, Pennsylvania corporations, and Pennsylvania communities, and let me say to you, Mr. Speaker, I have been in this legislature for a few years; I have never seen a piece of legislation that has ever come to this floor of this House that has had such wide support from community leaders, industrial people, the business community, and labor. You will not get that opportunity too often, and I think we ought to send a message with this bill to the corporate raiders who have come into Pennsylvania and laid waste to our corporations by forcing them to buy back their own stocks and practically bankrupt them. We ought to say to them a clear message today that this bill is about Pennsylvania; this bill is about protecting jobs, protecting our communities, and protecting our corporations, and say to them that Pennsylvania is no longer going to be the playground for the greed of Wall Street and of those investment people who come in here and take millions of dollars out of our corporations and take it back and stuff it in their pockets. That day is over.

This bill will not outlaw takeovers altogether, but it is certainly going to make that proposition a lot more difficult for them to participate, and as I said, Pennsylvania will not be that playground. We are saying to you here today, let us give Pennsylvania corporations that protection; let us give Pennsylvania communities that protection and Pennsylvania jobs that protection. This is a Pennsylvania bill, and I would ask for a strong affirmative vote. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I also rise to support this legislation that Representative Taylor has been speaking on behalf of.

I think one of the main things to consider in this bill is that it will introduce into corporate decisionmaking some balance. It will require that not only are the rights of shareholders considered but the rights of stakeholders as well - the employees, the people in the communities, the people who supply products to companies.

One of the main provisions of this bill, the section that deals with duties of corporate directors, will not dramatically change Pennsylvania law, but it will change it. It still says that management has to take into account the best interests of the corporation, but it recognizes that the best interests of the corporation include a number of different constituencies in addition to shareholders. It includes employees, customers, the community, and they all have to be considered in determining whether their actions are in the best long-term interest of the company. Maximizing shareholders' value is not the only interest that has to be considered. Those other constituencies also will be taken into consideration under this legislation.

The corporate raiders and the investment bankers will continue to defend their actions and have so far with a long litany of well-rehearsed arguments, and you have heard most of them. They talk about protecting shareholders' rights and that this protects the positions of well-entrenched management and that this is going to make it difficult to get rid of unproductive divisions, but I think the real agenda that we ought to be remembering is that they are motivated by one thing—and Representative Taylor focused on it—and that is short-term profits and greed. If you look at any of the corporations that have gone through bankruptcies as a result of the takeovers, I think you would see who the real losers are. They are not the investors, but they are the people - the people who are affected by these decisions.

In the final analysis, the one thing that the takeovers have done, I believe, is made America and American businesses less competitive. I believe that this legislation will make America more competitive and, in the long run, will make investing in Pennsylvania corporations more attractive. Thank you, Mr. Speaker.

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

Mr. DAVIES. Thank you, Mr. Speaker.

Will the gentleman, Mr. Taylor, stand for a few questions?

The SPEAKER pro tempore. The gentleman has agreed to be interrogated, and the gentleman from Berks may proceed.

Mr. DAVIES. Mr. Speaker, how many opt-out provisions are there in the legislation, and how does the corporation bring those opt-out provisions into play?

Mr. F. TAYLOR. I am having difficulty hearing the gentleman. I am trying to get the earphones to work.

Mr. DAVIES. Mr. Speaker, I will rephrase the question.

Yesterday in discussion in caucus, there were several opt-out options mentioned in caucus. Just how many opt-out options are there, and what is the play in how those opt-out options are brought about?

Mr. F. TAYLOR. There are basically three opt-out options, and those are preserved for the board of directors, that they have that opportunity to opt out within the 90-day provision and also under the provision of control shares. In other words, there are three basic ones that are there, and they have the right to opt out at those different junctures. If they opt out, they do not have the option of coming back in at a later date.

Mr. DAVIES. All right. Now, they could opt out of any one of those three opt-outs—is that it?—or they could opt out of two or three or any combination of those three. Is that correct?

Mr. F. TAYLOR. That is correct.

Mr. DAVIES. And again, this is strictly with the board of directors of the corporation?

Mr. F. TAYLOR. Right.

Mr. DAVIES. All right. Is there any provision in this that the ordinary stockholder would be able to bring anything to bear upon that board of directors to consider any of the opt-outs? Is there a provision that they may have the board of directors make such a consideration?

Mr. F. TAYLOR. No; none.

Mr. DAVIES. What protection does the ordinary stockholder have in the legislation in reference to management and management's decisions or the directors' decisions relative to any of the provisions of the legislation? What ordinary recourse would a person with only maybe, say, 1,000 shares or 500 shares of the corporation have?

Mr. F. TAYLOR. I believe that the shareholder always has the right to bring a suit of breach of fiduciary responsibility to that shareholder, even if he only in fact has one or two shares, and if he feels that he has been aggrieved to that extent, he has that redress.

Mr. DAVIES. As I understand it, there is no provision for the stockholder to have any consideration other than the annual stockholders' meeting, that there is no way that the stockholder or a small group of stockholders can opt into consideration of any one of the opt-out options available. Is that correct?

Mr. F. TAYLOR. That is correct.

Mr. DAVIES. What protection would the ordinary stockholder have against whether it is a trumped-up or whatever consideration? It may be the consideration that I have been hearing, that this is going to insulate management and may even insulate poor management in the corporate structure or management that is not really moving with the times or is not keeping up with the marketplace.

Mr. F. TAYLOR. I am of the belief that this is not going to insulate management to that degree. They are still going to have the ability to change the board of directors. They are still going to have the ability to at least make their thoughts known to the board of their dissatisfaction. They can, if they are suc-

cessful with enough votes, get control of the board and therefore have new direction on the management.

Mr. DAVIES. I believe that somewhere—and I am not privileged to your hearing process—one of the managers of one of our State pension funds had some concerns with how this would insulate the corporate management in Pennsylvania against the normal give-and-take of competition, and in your deliberations, do you have any answers to those concerns?

Mr. F. TAYLOR. I think that my answer— And I do not mean to be curt about it, but I think that our Pennsylvania pension board ought to be investing more than 3 percent in Pennsylvania corporations. I think that they have tried to make a mountain out of a molehill here, because our same pension board has deliberately gone out to the State of Indiana and invested about \$20 million into State corporations out there that are incorporated under the laws of Indiana, which has a law similar to this that has not stifled them whatsoever in the State of Indiana and has not stifled our pension board from taking Pennsylvania retiree moneys to the State of Indiana. If they were so concerned, they ought to have brought back their money from Indiana and put it into Pennsylvania corporations. I think that 3-percent investment in our corporations does not speak highly of that retirement board over there in trying to build real strength in Pennsylvania corporations. That is my answer to them.

Mr. DAVIES. In the structuring of the legislation and concerning itself with Pennsylvania corporations, how many of such Pennsylvania corporations have been raided by the tactics that you are protecting them against in this legislation, let us say over the last decade? Now, I am not to include, as I understand, corporations that were not incorporated in Pennsylvania that did come under the raider spell, which, of course, would be Fruehauf and the like. But how many of those said Pennsylvania corporations have we had an experience with that would be protected under the provisions in the last 10 years?

Mr. F. TAYLOR. I could give you a list of them: Koppers, Safeway, G. C. Murphy. There are about 8 or 10 that have been the direct victims of corporative raiders in Pennsylvania. I do not have the complete list in front of me, but I think there are 7 or 8 or 10 of them, and some that were not incorporated in Pennsylvania but had a dramatic impact on our Pennsylvania communities.

Mr. DAVIES. Thank you, Mr. Speaker.

If I might ask one question of Representative Miller on that same plane, in reference to the activity of the stockholder relative to his function within the framework of the legislation.

The SPEAKER pro tempore. The gentleman from Lancaster consents to being interrogated, and the gentleman may proceed.

Mr. MILLER. I thank the Chair.

Mr. Speaker, in specific response to Representative Davies' question and the questions of many members of this General Assembly on that same issue of shareholders' rights, one of the key elements of the amendment language that Representa-

tive Taylor was kind enough to place into the bill in our House Business and Commerce Committee is found on page 47, section (b), under "Limitations," and it reads—and it is very straightforward copy—"The purpose of this subchapter is not to affect legitimate shareholder activity that does not involve putting a corporation 'in play' or involve seeking to acquire control of the corporation. Specifically, the purpose of this subchapter..." is designed to not do those two things. We felt it extremely important to preserve those normal shareholders' rights on a whole range of corporate governance questions, such as cumulative voting or staggered boards or other corporate matters such as environmental issues or the issue of conducting business in a foreign country. We felt that we needed to clearly outline that those issues were not precluded by this statute and that normal shareholder activity with respect to corporate governance questions may still take place as it has traditionally with respect to the will of the shareholders, and I thank the Speaker.

Mr. DAVIES. Mr. Speaker, to either one of the gentlemen in the same vein, at any time in your deliberations or in your discussion of the legislation, was there any thought given to allowing the stockholders to intervene in any of this process by which they can get a consideration by the corporate structure and the board to put in play any one of the three options? At any time have you considered a small segment of the stockholders being able to bring about the consideration of the board and management considering any one of the opt-outs of your legislation?

Mr. F. TAYLOR. I think consideration was given to it, and I think that Representative Miller's explanation explains that, that they have that provision that they can exercise if they see fit to.

Mr. DAVIES. But as I understand it, Mr. Speaker, that is only within the framework of the structure in which the annual stockholders' meeting is brought together? There is no action, possible or potential, for the small stockholder or group of small stockholders to be able to intervene while this process is taking place. Is that correct, or am I missing something in the provisions that were read by Representative Miller?

Mr. F. TAYLOR. I will respond briefly to that.

The present law does not permit shareholders to do that, to call special meetings. That is under the present law. So we did not do any damage to that at all. That is present law. They just cannot do it now.

The SPEAKER pro tempore. Does the gentleman from Lancaster, Mr. Miller, seek recognition?

Mr. MILLER. Thank you, Mr. Speaker.

In response to Representative Davies' question on the three options, it is within the fiduciary responsibility of management and the board of directors of a given corporation in Pennsylvania to opt in or choose not to opt in under the provisions of this bill. Mr. Davies is correct. It is further the right of any shareholder or group of shareholders of a corporation that is not in play to take their appropriate legal sanction and legal recourse to challenge that action under the traditional

fiduciary-duty section of our BCL in Pennsylvania, and for that matter, most every other BCL in the country. So the gentleman is correct on one instance, but it is not an unusual circumstance or indeed a circumstance that is unheard of. It happens all the time where the stockholders challenge the board of directors with respect to the exercise of their fiduciary responsibility. It is a standard stockholder right, and that is not impinged by this piece of legislation. Thank you, Mr. Speaker.

Mr. DAVIES. Mr. Speaker, may I have just one minute to have a conference?

The SPEAKER pro tempore. Is the gentleman from Berks finished with the interrogation?

Mr. DAVIES. Yes.

The SPEAKER pro tempore. Okay. The gentleman is now in order and may proceed to debate the bill.

Mr. DAVIES. Could I have just one minute before the debate?

The SPEAKER pro tempore. The House will stand at ease.

(Conference held.)

The SPEAKER pro tempore. The House will come to order.

The gentleman, Mr. Davies, is in order and may proceed.

Mr. DAVIES. Mr. Speaker, in light of the discussion with the gentleman, I asked Legislative Reference to have an amendment drafted to this legislation which would alleviate one of my concerns that I have in relation to this legislation. I know that it is late. If it is not forthcoming before we run it, I will not offer it. If it is forthcoming before the final vote on the bill, I would offer the amendment. And I know that it is out of order to address the amendment.

My concern about the legislation is the matter that the small stockholder in no manner, shape, or form in the ordinary procedure of corporate structure is going to have any input into the decisions of the corporation of either opting out on any one of the provisions, which I think are good provisions of the bill. My only concern is that, again, it is purely a managerial decision, and with the potential of insulating management in any shape or form in this legislation in holding the stockholders to a potential of that existing, that is why I would offer that amendment if it is here in time. If not, I would not.

The SPEAKER pro tempore. The Chair wishes to advise the member that we are on final passage of the legislation, and if the member would like the House to consider an amendment, he will have to make an appropriate motion either to postpone consideration of the bill at this time or place it on the table or some other similar motion.

Mr. DAVIES. I would not entertain any motion. I may later. I will let the debate continue. If the amendment is here, well and good. If the amendment is not here, well and good again.

The SPEAKER pro tempore. The Chair understands the gentleman.

The Chair now recognizes the gentleman from Montgomery, Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

Very briefly, I just want to cover a couple of points and then give you a scenario what could happen under this bill.

We have had pension advisers from California to Flint, Michigan, to New York to Pennsylvania telling us and telling you that there was going to be an effect, and a drastic effect, under this legislation as far as purchasing stocks from Pennsylvania corporations that choose to protect themselves under this, and I do not believe all those pension advisers who are the ones that make the decisions—and a lot of them make the decisions on which stock to buy—are totally wrong.

There has been article after article in the newspapers telling you about the problems with this bill, and there are problems with this bill. We put an amendment in last Monday or Tuesday morning. Wednesday's edition of the New York Times quoted a law professor from Columbia University who said, "It would be a devastating blow to corporate democracy and shareholder rights,"—and shareholder rights—"and it's hard to believe that anyone who understands how our system works would want to promulgate this sort of thing."

Professor Goldschmid, who made that statement, also said that what this legislation would do, it would prove to be an absolute insulation of incompetent management, and he said, some of our management by human nature cannot be the best.

He also said that labor and industry may prove to be very shortsighted with this legislation. The management of our corporations must be competent and be aggressive in order to compete today. They do not compete in the Pennsylvania economy or U.S. economy; they compete in the world economy or global economy. With the isolation of management, it defeats the purpose of aggressive and competent management. We are totally isolating management in these corporations as we have it today.

I just want to give you one case scenario, and I just wish you would bear with me for a second.

The small-town bank, the small-town bank, stocks are sold—and stocks are sold through one of the exchanges; they are publicly offered. But if a family such as my own—which is not the case—has 5 percent of the stock in that bank, if we approach a few of the other stockholders in the community and come up with 20 percent, once we come up to that 20-percent figure—this may be to put maybe one or two new board members on or even change, as I said before, an accounting firm which we do not think is necessarily giving the best service to the bank—what happens? What happens when we reach that 20-percent figure? If you look at page 33 of the bill, it tells you exactly what happens. Once you reach that 20-percent mark, you no longer have the right to vote your stock. You have to go before the corporation, and then there is a vote of the rest of the stockholders to see if you should be able to vote that stock, and with that, your voting rights to your stock are taken away, as far as I can see, forever, because later on on page 33, on line 18, it says "Restoration of voting rights," and it says, "Any control shares that do not have voting rights accorded to them by approval

of a resolution of shareholders as provided by subsection (a) or the voting rights of which lapse pursuant to subsection (b) shall regain such voting rights...." You are going to regain such voting rights on transfer of your stock to a person other than the acquiring person. So in other words, you can sell your stock, and with the selling of that stock, again, the voting rights to that stock will come back and go along with the stock.

Then there is another little zinger that comes in, and this is what could happen, even if you want to change the accounting firm that is working with the company. If you go to page 40, you will see that "...the corporation may redeem all control shares from the acquiring person at the average of the high and low sales price of shares of the same class and series as such prices are specified on a national securities exchange...." It does not say how long and at what time they can do this, but at any time in the future, they can come back to my family and the others that had agreed to go along with me on trying to change a couple of members of the board or whatever, they can come back and say that now we are going to buy your stock as of the market price effective as of this day, and I have no right to stop them under this legislation.

You know, what this legislation has done is taken effectively away the fundamental and basic rights of shareholders. I do not think it is good for Pennsylvania labor, I do not think it is good for Pennsylvania industry, and I do not think it is good for the State of Pennsylvania. Thank you.

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

Mr. MURPHY. Thank you, Mr. Speaker.

Mr. Speaker, I have a question for either Mr. Miller or Mr. Taylor. Will either rise for interrogation?

The SPEAKER pro tempore. Mr. Miller has agreed to be interrogated, and the gentleman from Allegheny may proceed.

Mr. MURPHY. Thank you.

Mr. Speaker, as I read page 55, "SEVERANCE COMPENSATION FOR EMPLOYEES TERMINATED FOLLOWING CERTAIN CONTROL-SHARE ACQUISITIONS," and then I refer to page 28 to try to read the definition of "control-share acquisition," I get confused. I guess I am trying to figure out, what are control-share acquisitions? Does that include a friendly merger? If two companies agree to have one be purchased, is that a control-share acquisition?

Mr. MILLER. Mr. Speaker, it is not, under the definition of this bill. The answer to the gentleman's question is no.

Mr. MURPHY. I guess in drafting this legislation then, Mr. Speaker, my concern is why we limit those severance benefits we are giving to employees to only control-share acquisitions. Why do we not, if it is such a good community-oriented benefit, provide it to all acquisitions and mergers that take place in the Commonwealth?

Mr. MILLER. Mr. Speaker, a frank response to my good friend, Mr. Murphy, is that we are dealing with the issue of hostile takeovers—



Mr. MURPHY. I understand that.

Mr. MILLER. —and we did not want to load down our BCL with that broader issue that you raised - certainly a viable issue; certainly one that this legislature will need to face at some point in time. But in attempting to restrict our focus, we restricted the issue to hostile takeovers. For example, that language would have protected the Gulf people out in your part of the State.

Mr. MURPHY. I understand that, Mr. Speaker.

Do I then assume, Mr. Speaker, that the business community in this Commonwealth in supporting this bill also supports severance benefits for employees terminated through voluntary termination?

Mr. MILLER. Forgive me, Mr. Speaker. I did not hear the end of the gentleman's question. Again?

Mr. MURPHY. Mr. Speaker, I asked you then if whether we can assume that the corporations in Pennsylvania supporting this legislation support the concept of severance benefits to employees who are voluntary terminated?

Mr. MILLER. Mr. Speaker, I would respond to the gentleman that to the best of my knowledge, I would be careful with that assumption, because the issue has not been broached as part of the antitakeover bill, only with respect to hostile takeovers.

Mr. MURPHY. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair now recognizes the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Just briefly I wanted to respond to some of the comments made by Representative Godshall in reflecting what we have heard from our pension board.

Representative Godshall commented that all of these investors cannot be wrong and that we have heard from many investors. I do not think it is a question of wrong or right. I think what this legislature must keep in mind is that we have two competing philosophies of business. The reason you are hearing from our pension board that this bill is not a bill that they want is because they are investors, purely and simply. They have only one interest that I have been able to determine, having listened to them, and that is the price of stock. Their only interest, just as all of the big investors, is the ability to make money on stock. The faster they make it, the quicker they make it, the better and happier they are. They have in no way the interest at heart of Pennsylvania communities, of Pennsylvania employees, and of Pennsylvania stockholders in conjunction with that greater interest. That is what this bill seeks to do, because the competing interest over just the investor interest is the interest of the corporation. This bill preserves the best interests of the corporation but recognizes that we, as a General Assembly, have a greater interest than just that of the investor community, that our interest is in the overall health and economy and welfare of our Pennsylvania corporations.

For that reason I urge a "yes" vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady.

The Chair now recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I do not want to belabor this point, but I believe the question that has been raised about pensions probably has concerned people more than any other issue. I think Representative Hagarty has spoken articulately to that issue.

The question was raised, can all these pension managers be wrong? and the answer is no. But I think you should realize, in many cases, they are no better than the corporate raiders. They are motivated and are looking for quick profits on their investments.

The money that is earned by those pension funds— And I understand that one of the State pension funds earned a tremendous amount of money at the expense of Gulf Oil. That did not put one additional penny into the pockets of any of the people that are earning pensions from those funds. As everybody knows, here your retirement is set. It is a vested benefit, and the only way it gets increased is when we decide that the public employees are entitled to a cost-of-living adjustment. So none of those profits go back to the people that serve them.

My mother is a long-time teacher's aide and is going to be retiring under the Public School Employees' Retirement System, and I know she does not want her pension fund enhanced at the expense of my uncle, who has worked for 30 years at Armstrong. You know, think about the people whom this directly impacts on. You have not heard any opposition from the people that represent State workers, and I think there is a good reason for that: They support this legislation.

The argument about the pension fund is another red herring. These people are answerable to no one, and I think you ought to disregard that argument and vote "yes" on the bill. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Berks, Mr. Davies, for the second time.

Mr. DAVIES. Thank you, Mr. Speaker.

I will not belabor the issue and hold it for the amendment, because the gentleman, Mr. Miller, explained to me how the amendment is flawed. I would seek Mr. Miller's assistance when this goes to conference or its consideration of the amendments in the Senate to possibly get some kind of language that may address the concern about the stockholder in the interim between, let us say, an annual meeting just a few weeks ago and when this would transpire in a year's period of time. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?

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

YEAS—181

Acosta	Dombrowski	Langtry	Robbins
Adolph	Donatucci	Laughlin	Robinson
Allen	Dorr	Lescovitz	Roebuck
Angstadt	Durham	Levdansky	Rudy



Argall	Evans	Linton	Ryan
Barley	Fargo	Lloyd	Rybak
Battisto	Farmer	Lucyk	Saloom
Belardi	Fleagle	McCall	Saurman
Belfanti	Flick	McHale	Scheetz
Billow	Foster	McNally	Schuler
Bishop	Fox	McVerry	Scrimenti
Black	Freeman	Maine	Semmel
Blaum	Gallen	Markosek	Serafini
Bortner	Gamble	Marsico	Smith, B.
Bowley	Gannon	Mayernik	Smith, S. H.
Boyes	Geist	Melio	Snyder, D. W.
Brandt	George	Merry	Snyder, G.
Broujos	Gigliotti	Michlovic	Staback
Bunt	Gladeck	Micozzie	Stairs
Burd	Gruitza	Miller	Steighner
Burns	Gruppo	Moehlmann	Stish
Bush	Hagarty	Morris	Strittmatter
Caltagirone	Haluska	Mowery	Suban
Cappabianca	Harper	Mrkonic	Tangretti
Carlson	Hasay	Murphy	Taylor, E. Z.
Carn	Hayden	Nahill	Taylor, F.
Cessar	Hayes	Nailor	Taylor, J.
Civera	Heckler	Noye	Telek
Clark, B. D.	Herman	O'Brien	Thomas
Clark, D. F.	Hershey	Olasz	Tigue
Clark, J. H.	Hess	Oliver	Trello
Clymer	Howlett	Perzel	Trich
Cohen	Hughes	Petrarca	Van Horne
Colafrilla	Jackson	Petrone	Veon
Cole	Jadlowiec	Phillips	Vroon
Cornell	James	Piccola	Wambach
Corrigan	Jarolin	Pistella	Wass
Cowell	Johnson	Pitts	Williams
Coy	Josephs	Preston	Wilson
DeLuca	Kaiser	Raymond	Wogan
DeWeese	Kasunic	Reber	Wozniak
Daley	Kondrich	Reinard	Wright, D. R.
Davies	Kosinski	Richardson	Wright, J. L.
Dempsey	Kukovich	Rieger	Wright, R. C.
Dieterick	LaGrotta	Ritter	Yandrisevits
Distler			

**NAYS—11**

Birmelin	Freind	Kenney	Pressmann
Cawley	Godshall	Lee	Weston
Chadwick	Itkin	Leh	

**NOT VOTING—0**

**EXCUSED—9**

Colaizzo	Fee	Pesci
Diminni	Lashingner	Pievsky
Fairchild	Maiale	O'Donnell, Speaker

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

**MATERIAL SUBMITTED FOR THE RECORD**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Cessar.

Mr. CESSAR. Thank you, Mr. Speaker.

For the record, I would like to offer some letters on SB 1310.

The SPEAKER pro tempore. The gentleman will submit his letters for the record.

Mr. CESSAR submitted the following material for the Legislative Journal:

City of Pittsburgh  
Sophie Masloff, Mayor

March 21, 1990

The Honorable Richard J. Cessar  
Commonwealth of Pennsylvania  
House of Representatives  
P.O. Box 57  
Harrisburg, PA 17120

Dear Rick:

You are absolutely correct in your view that corporate takeovers have had a major, negative impact on Pittsburgh and Allegheny County. In 1985, we estimated that the regional income lost due to the Gulf Oil acquisition was over \$74,000,000 per year (see attached). In today's dollars, that would approach \$100,000,000 per year. Gulf contributed over \$2,000,000 annually to charitable and cultural organizations in the region, and Gulf executives provided visible and effective leadership for many civic and charitable causes.

The impact of the Koppers takeover is much more difficult to measure, due largely to the fact that they and their spin-offs continue to operate in the region. It is clear, however, that control of this important construction materials company no longer remains in Pittsburgh.

As you know, Pittsburgh corporations continue to confront the prospect of a hostile takeover - USX by Carl Ichan and National Intergroup by Centaur. Your support of Senate Bill 1310 will help us all to maintain a strong corporate presence in western Pennsylvania.

Very truly yours,  
Sophie Masloff

SM/CS/mkw  
Attachment

**GULF OIL TAKEOVER IMPACT**

Gulf Oil Corporation Community Contributions

- \$2,000,000 to over 50 charitable organizations in 1982
- \$360,000 to United Way in 1983
- \$4,000,000 per year to WQED for production of National Geographic Special
- \$3,500,000 to University of Pittsburgh over the years
- 450 graduates of Pitt hired by Gulf
- \$500,000 to the Pittsburgh Symphony
- \$1,400,000 to Carnegie Institute
- \$2,000,000 to Carnegie Mellon University
- \$350,000 for a building at West Penn Hospital
- \$250,000 for a career planning program at Chatham College
- Service by Gulf executives in civic and charitable causes including Symphony Society, the United Way, and U.S. Savings Bond Campaign.

Direct Employment and Income impacts on Region

Direct Gulf Employment	1800
X average annual salary	<u>\$30,000</u>
Earned Income Lost	\$54,000,000 p.a.
Spinoff Employment	
(.6 X direct)	1080
X average annual salary	<u>\$19,000</u>

Earned Income Lost	<u>\$20,520,000</u> p.a.
Total Income	
Lost to Region	\$74,520,000 p.a.
Total Job Loss	2880
State Income Tax Loss	\$1,800,000 p.a.
City of Pittsburgh	
Employment Tax Loss	
(assuming .33	
city Residency)	\$910,000 p.a.
Pittsburgh City Planning/March 1985	

#### PROFILE: GULF CORP. — Pittsburgh, PA

In 1984, corporate raider T. Boone Pickens made an unsuccessful attempt to acquire Gulf, a Pittsburgh-based oil company. While Pickens and his partners realized an incredible \$760 million in the aborted takeover bid, Gulf was forced into a desperate merger with Chevron Corporation.

Headquartered in San Francisco, Chevron consolidated its newly acquired Gulf holdings by selling approximately 4,200 gas stations and a refinery in Philadelphia as well as closing the Gulf Building in Pittsburgh. Tragically, the result for many Pennsylvania residents was relocation, forced early retirement, or simply unemployment. In Pittsburgh alone nearly 1,500 jobs were lost in the transition, while across the country, 10,000 jobs were threatened.

In Pittsburgh, the effects beyond job losses were devastating. As the largest corporation in Pittsburgh, Gulf contributed a great deal to the community as a supporter of civic and charitable organizations. The "oil giant" sponsored more than 50 Pittsburgh institutions — including the Pittsburgh Symphony and the University of Pittsburgh. Due to the decline of government support for these institutions in the 1980s, many of them depended on corporations like Gulf for help. With Gulf's dismemberment, these institutions, and the city of Pittsburgh, lost not only a major employer, but a generous benefactor.

#### References

1. Lenard, Henry, "Getting Down to Business With T. Boone Pickens," Pittsburgh Business Times & Journal (March 30, 1987).
2. "Chevron Takeover of Gulf Gets Final FTC Approval," Wall Street Journal, 16 (October 25, 1984).
3. "Chevron Units' Sale Seen Near," The New York Times, 23 (November 9, 1985).
4. Hayes, Thomas C., "Chevron Plans to Close Gulf's Headquarters," The New York Times, D1 (November 29, 1984).
5. Wells, Ken and Carol Hymowitz, "Chevron's Plans for Gulf Consolidation Could Cost 10,000 Jobs by End of 1985," Wall Street Journal, 4 (November 29, 1984).
6. Teltsch, Kathleen, "Merger Fever Affecting Corporate Philanthropy," The New York Times, \_\_\_ (January 21, 1985).

#### VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Dauphin, Mr. Wambach.

Mr. WAMBACH. Thank you, Mr. Speaker.

Mr. Speaker, on the Godshall amendment A1062 to SB 1310, I inadvertently voted in the affirmative. I wanted to be recorded in the negative.

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

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, I would ask that you and/or the Parliamentarian give some thought to how I might call up for override the Senate bill—the number of which I forget right now; 498—later this afternoon. I will be asking that as a matter of parliamentary inquiry after lunch.

The SPEAKER pro tempore. The Chair thanks the gentleman and will give consideration to that proposal.

#### RECESS

The SPEAKER pro tempore. The Chair wishes to announce a recess until 2:15 p.m.

#### AFTER RECESS

The time of recess having expired, the House was called to order.

#### THE SPEAKER (ROBERT W. O'DONNELL) PRESIDING

#### BILL SIGNED BY SPEAKER

The Chair gave notice that he was about to sign the following bill, which was then signed:

#### SB 971, PN 2037

An Act amending the act of July 1, 1989 (P. L. 136, No. 28), entitled "Athletic Code," further providing for the State Athletic Commission and its duties; and further providing for the Medical Advisory Board.

#### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair adds the name of Robert O'Donnell to the master roll.

#### CALENDAR CONTINUED

#### BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2116, PN 3210**, entitled:

An Act providing for a capital project for the construction of a new prison; authorizing the Department of General Services to enter into lease/purchase agreements for prison space; authorizing capital budget projects for certain option purchases; providing for the issuance of bonds; making appropriations authorizing indebtedness with the approval of the electors, to make low-interest loans to counties for county or multicounty regional prison facilities; and authorizing the Department of Corrections to contract with county or regional prison facilities for the housing of State inmates.

On the question,

Will the House agree to the bill on third consideration?

Mr. DeWEESE offered the following amendments No. A1135:

Amend Title, page 1, lines 4 and 5, by striking out all of line 4 and "PRISON; AUTHORIZING" in line 5 and inserting

Authorizing

Amend Table of Contents, page 1, lines 16 through 21; page 2, lines 1 through 4, by striking out all of said lines on said pages and inserting

CHAPTER 1  
PRELIMINARY PROVISIONS

Section 101. Short title.

Section 102. Declaration of policy.

Amend Table of Contents, page 2, lines 8 through 10, by striking out all of said lines

Amend Table of Contents, page 2, line 11, by striking out "306" and inserting

303

Amend Table of Contents, page 2, line 12, by striking out "307" and inserting

304

Amend Bill, page 3, lines 7 through 30; pages 4 through 7, lines 1 through 30; page 8, lines 1 through 11, by striking out all of said lines on said pages and inserting

CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Prison Facilities Improvement Act.

Section 102. Declaration of policy.

The General Assembly finds and declares as follows:

(1) The Commonwealth faces a serious problem in the overcrowded prisons.

(2) Expeditious procedures are required to resolve the problem.

Amend Sec. 301, page 8, line 16, by striking out "TWO" and inserting

three

Amend Sec. 301, page 8, line 18, by striking out "AND THE OTHER" and inserting

, one

Amend Sec. 301, page 8, line 19, by inserting after "COMMONWEALTH"

and one maximum security prison to be located in Greene County

Amend Sec. 302, page 8, line 22, by striking out "UNLESS THE COMMONWEALTH EXERCISES" and inserting

, subject to the exercise of

Amend Sec. 302, page 8, line 22, by inserting after "OPTION"

by the Commonwealth

Amend Sec. 302, page 8, by inserting between lines 27 and 28

(c) Timing.—The lease agreement shall be executed prior to the commencement of construction. The lease term shall commence upon execution of a lease, at the time the facility is ready for operation or on any date certain prior to the occupancy of the facility.

(d) Assignability.—Each lease agreement shall provide that it may be assigned by the developers with the concurrence of the Commonwealth and shall be in such form that it may be used, as security for a loan or loans to finance the acquisition and construction of the facility.

Amend Sec. 302, page 8, line 28, by striking out "(C)" and inserting

(e)

Amend Sec. 302, page 8, line 30, by striking out "(D)" and inserting

(f)

Amend Sec. 302, page 9, line 8, by striking out "(E)" and inserting

(g)

Amend Sec. 304, page 10, lines 4 through 7, by striking out "DEMONSTRATED PARTICIPATION" in line 4 and all of lines 5 through 7

Amend Sec. 307, page 11, line 4, by striking out "\$158,000,000" and inserting

\$263,000,000

Amend Sec. 307, page 11, line 14, by striking out all of said line and inserting

(1) Department of Corrections \$263,000,000

Amend Sec. 307, page 11, by inserting between lines 26 and 27

(iii) State Correctional Institution - Greene County

(A) Program development and acquisition of a 1,000-bed facility constructed under lease/purchase agreement in Greene County

105,000,000

Amend Sec. 307, page 12, line 20, by striking out "\$158,000,000" and inserting

\$263,000,000

On the question,

Will the House agree to the amendments?

**FILMING PERMISSION**

The SPEAKER. The Chair gives permission to John Dille of "The People's Business" for filming on the House floor today.

**CONSIDERATION OF HB 2116 CONTINUED**

The SPEAKER. On the amendment, the Chair recognizes Mr. DeWeese.

Mr. DeWEESE. HB 2116, amendment A1135, has been discussed with the other side of the aisle quite extensively, and we have agreed to take the design/construct language out of the measure and to allow the additional facility - the third facility - to become a lease/purchase facility. Nothing will be done with the modular unit language that is in the current bill, and the county assistance language remains the same.

I would ask for adoption of the amendment.

The SPEAKER. On the amendment, the Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, if I may, on page 5 of the bill, lines 16 and 17, that sentence really should be back in the bill. It was deleted by mistake. The language should be "Although cost shall be considered as a factor, it need not be the determinative factor." I have ordered that amendment. I am not trying to tie up the bill. I will send it over to the Senate if need be to be considered there.

The other mistake in the drafting of the amendment, Mr. Speaker, is on page 2, and I believe Reference Bureau could correct this if it had to. In the index they have stricken sections 303, 304, and 305. In reality, 303, 304, and 305 should still be in the index. Sections 303, 304, and 305 are in your amendment. You neglect in the amendment to put them back in the index, and I think it is the type thing that Reference Bureau could do.

But I just want the record to reflect that there were these two mistakes.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

I support the DeWeese amendment with the provisos expressed by the minority leader.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

Would the gentleman, Mr. DeWeese, yield to interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman may proceed.

Mr. PICCOLA. Thank you, Mr. Speaker.

It is my understanding, based upon a reading of the amendment and the analysis provided by the maker of the amendment, that this will delete the State-owned Greene County facility and add to the bill a Greene County facility to be constructed under the lease/purchase arrangements contained in the bill, thereby making three lease/purchase facilities. Could the gentleman inform the House as to the reasons for shifting the Greene County facility from a State-owned facility to one that is privately owned?

Mr. DEWEESE. The fast-tracking initiative that we were first attempting to pursue was not acceptable to all parties, and after working with the Republican leadership, we concluded that this would be the only acceptable measure while at the same time expediting the situation to some considerable degree. The other two facilities were a lease/purchase initially in the bill, and it was our intention to try to expedite even further than a lease/purchase. This ran into some problems, so we thought that we would make all three facilities within the bill the same.

Mr. PICCOLA. May I then conclude from the gentleman's remarks that the lease/purchase procedure which we are, I believe for the first time, authorizing for the construction of prisons in the Commonwealth by private contractors, may we conclude that the gentleman believes that this will accomplish the construction of those facilities much more rapidly than a publicly owned and constructed facility?

Mr. DEWEESE. The construction of the facilities under these circumstances would be expedited.

Mr. PICCOLA. But, Mr. Speaker, would the timeframe required for the construction and initial operation of the lease/purchase facility be less than the timeframe required for the publicly owned and operated facility previously contained in the bill?

Mr. RYAN. Mr. Speaker?

The SPEAKER. Will the gentleman suspend?

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, if the gentleman, Mr. DeWeese, would yield to me for a moment, I would like to try and answer this question.

The SPEAKER. Will the gentleman, Mr. DeWeese, yield?

The gentleman may continue.

Mr. RYAN. Mr. Speaker, this bill and what it entails bothered me a great deal all last week. We spent a lot of time on it. I had any number of meetings with the gentleman, Mr. DeWeese, and his staff.

Today I spoke to Secretary Jannetta, the Secretary of General Services, about this bill. Now, we have been working with their general counsel. A man by the name of Mike Daley I have also been in touch with—I am pretty sure that was his name—trying to work this thing out. It boiled down—and I was really thinking about you at the time, Mr. Piccola—it really boiled down to, how much are we willing to pay to expedite the erection, construction, of prisons in the Commonwealth of Pennsylvania?

The information I have and happen to believe is that this could expedite by 14 to 17 months the process, and these prisons would be on line, let us round it off at a year to a year and a half sooner than they would be under the usual method of construction.

One of the things that bothered me—and I pass this on—was that you could have a proprietary-type lease where you could get your brother-in-law to come in and build a prison without the safeguards that are usually found in our system. That is why the language that the gentleman, Mr. DeWeese, put into this bill, the language of 303, 304, and 305, I believe it is—let me doublecheck that; yes, 303 on page 9, that section and the next sections—calls for them, even though it is a lease agreement, it calls for the public advertisement for proposals. So it is somewhat of a hybrid, if you will. There is public bidding, in a sense, yet there is also the selection of a contractor, lessor, whatever you want to call it, based on all considerations.

It was my feeling, it was the feeling of Secretary Jannetta, and the gentleman, Mr. DeWeese, that with public proposals coming in, there was less chance of, frankly, corruption of any sort, which we would naturally want to guard against. Here there is public involvement; there is public bidding, public proposals, so there is the watchdog of the defeated bidder watching the successful bidder.

Under the circumstances of the present prison situation in this State, and honestly knowing of your interest and thinking of it—I should have called you—it seemed like the way to go. And this was just concluded about an hour, hour and a half ago. About 11 o'clock it was done, so it was several hours ago.

Mr. PICCOLA. Continuing under interrogation, I think—Mr. Speaker, may I direct my question to the gentleman, Mr. DeWeese—

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

Mr. PICCOLA. —and ask if he concurs with the response to my question that was answered by the minority leader?

Mr. DEWEESE. Yes.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would like to make a very brief statement on the amendment.

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

Mr. PICCOLA. I share the thinking of Mr. DeWeese and the minority leader on this particular issue. I firmly believe that this privately owned and developed prison with the safe-

guards alluded to by the minority leader will in fact expedite the construction of these facilities, and I would urge that the House adopt the amendment.

I wanted to be certain on the record, however, that we were in fact expediting the process and not doing something else. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—193

Acosta	Dombrowski	Langtry	Robinson
Adolph	Donatucci	Laughlin	Roebuck
Allen	Dorr	Lee	Rudy
Angstadt	Durham	Leh	Ryan
Argall	Evans	Lescovitz	Rybak
Barley	Fargo	Levdansky	Saloom
Battisto	Farmer	Linton	Saurman
Belardi	Feagle	Lloyd	Scheetz
Belfanti	Flick	Lucyk	Schuler
Billow	Foster	McCall	Scrimenti
Birmelin	Fox	McHale	Semmel
Bishop	Freeman	McNally	Serafini
Black	Freind	McVerry	Smith, B.
Blaum	Gallen	Maine	Smith, S. H.
Bortner	Gamble	Markosek	Snyder, D. W.
Bowley	Gannon	Marsico	Snyder, G.
Boyes	Geist	Mayernik	Staback
Brandt	George	Melio	Stairs
Broujos	Gigliotti	Merry	Steighner
Bunt	Gladeck	Michlovic	Stish
Burd	Godshall	Micozzie	Strittmatter
Burns	Gruitza	Miller	Stuban
Bush	Gruppo	Moehlmann	Tangretti
Caltagirone	Hagarty	Morris	Taylor, E. Z.
Cappabianca	Haluska	Mowery	Taylor, F.
Carlson	Harper	Mrkonic	Taylor, J.
Carn	Hasay	Murphy	Telek
Cawley	Hayden	Nahill	Thomas
Cessar	Hayes	Nailor	Tigue
Chadwick	Heckler	Noye	Trello
Civera	Herman	O'Brien	Trich
Clark, B. D.	Hershey	Olasz	Van Horne
Clark, D. F.	Hess	Oliver	Veon
Clark, J. H.	Howlett	Perzel	Vroon
Clymer	Hughes	Petrarca	Wambach
Cohen	Itkin	Petrone	Wass
Colafella	Jackson	Phillips	Weston
Cole	Jadlowiec	Piccola	Williams
Cornell	James	Pistella	Wilson
Corrigan	Jarolin	Pitts	Wogan
Cowell	Johnson	Pressmann	Wozniak
Coy	Josephs	Preston	Wright, D. R.
DeLuca	Kaiser	Raymond	Wright, J. L.
DeWeese	Kasunic	Reber	Wright, R. C.
Daley	Kenney	Reinard	Yandrisevits
Davies	Kondrich	Richardson	
Dempsey	Kosinski	Rieger	O'Donnell,
Dieterick	Kukovich	Ritter	Speaker
Distler	LaGrotta	Robbins	

NAYS—0

NOT VOTING—0

EXCUSED—8

Colaizzo	Fairchild	Lashinger	Pesci
Dininni	Fee	Maiale	Pievsky

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

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

Mr. WASS offered the following amendments No. A0785:

- Amend Title, page 1, line 11, by striking out "AND"
- Amend Title, page 1, line 14, by removing the period after "INMATES" and inserting  
; providing capital budget projects for the State System of Higher Education; providing for the issuance of bonds; and making appropriations.
- Amend Table of Contents, page 2, by inserting after line 30  
Chapter 9. State System of Higher Education  
Section 901. Total authorization.  
Section 902. Itemization of public improvement project.  
Section 903. Debt authorization.  
Section 904. Issue of bonds.  
Section 905. Estimated useful life and term of debt.  
Section 906. Appropriation.  
Section 907. Federal funds.
- Amend Table of Contents, page 3, line 1, by striking out "9" and inserting

- 11
- Amend Table of Contents, page 3, line 2, by striking out "901" and inserting
- 1101
- Amend Table of Contents, page 3, line 3, by striking out "902" and inserting
- 1102
- Amend Table of Contents, page 3, line 4, by striking out "903" and inserting
- 1103
- Amend Bill, page 19, by inserting after line 30

CHAPTER 9

STATE SYSTEM OF HIGHER EDUCATION

- Section 901. Total authorization.  
The total authorization for the additional capital projects in the category of public improvement projects itemized in section 902 and to be acquired or constructed by the Department of General Services, its successors or assigns, and to be financed by the incurring of debt, shall be \$202,000,000.
- Section 902. Itemization of public improvement projects.  
Additional capital projects in the category of public improvement projects to be acquired or constructed by the Department of General Services, its successors or assigns, and to be financed by the incurring of debt, are hereby itemized, together with their respective estimated financial costs, as follows:

	Project	Total Project Allocation
(1) State System of Higher Education		\$202,000,000
(i) State System of Higher Education		
(A) Complete building renovations throughout the State System of Higher Education to be allocated by the Board of Governors		157,000,000
(B) Deferred maintenance on numerous buildings to be allocated by the Board of Governors		45,000,000

- Section 903. Debt authorization.  
The Governor, Auditor General and State Treasurer are hereby authorized and directed to borrow, from time to time, in addition to any authorization heretofore or hereafter enacted, on the credit of the Commonwealth, subject to the limitations provided in the current capital budget, money not exceeding in the aggregate the sum of \$202,000,000 as may be necessary to carry out the acquisitions and construction of the public improvement projects specifically itemized in a capital budget.
- Section 904. Issue of bonds.

The indebtedness authorized in this chapter shall be incurred, from time to time, and shall be evidenced by one or more series of general obligation bonds of the Commonwealth in such aggregate principal amount for each series as the Governor, Auditor General and State Treasurer shall determine, but the latest stated maturity date shall not exceed the estimated useful life of the projects being financed as stated in section 905.

Section 905. Estimated useful life and term of debt.

(a) Estimated useful life.—The General Assembly states that the estimated useful life of the public improvement projects itemized in this chapter is 30 years.

(b) Term of debt.—The maximum term of debt authorized to be incurred under this act is 30 years.

Section 906. Appropriation.

The net proceeds of the sale of the obligations authorized in this chapter are hereby appropriated from the Capital Facilities Fund to the Department of General Services in the maximum amount of \$202,000,000, to be used by it exclusively to defray the financial cost of the public improvement projects specifically itemized in a capital budget. After reserving or paying the expenses of the sale of the obligation, the State Treasurer shall pay to the Department of General Services the moneys as required and certified by it to be legally due and payable.

Section 907. Federal funds.

In addition to those funds appropriated in section 906, all moneys received from the Federal Government for the projects specifically itemized in this chapter are also hereby appropriated for those projects.

Amend Chapter Heading, page 20, line 1, by striking out "9" and inserting

11

Amend Sec. 901, page 2, line 3, by striking out "901" and inserting

1101

Amend Sec. 902, page 20, line 8, by striking out "902" and inserting

1102

Amend Sec. 903, page 20, line 11, by striking out "903" and inserting

1103

On the question,

Will the House agree to the amendments?

The SPEAKER. On that question, the Chair recognizes Mr. Wass.

Mr. WASS. Thank you, Mr. Speaker.

Mr. Speaker, as we consider the legislation that is before us and we listened to the debate just a little earlier about the DeWeese amendment, we certainly realize that we have a crisis on our hands as far as providing cells for our prisoners - additional jails. And, Mr. Speaker, my amendment speaks to another crisis that we have in Pennsylvania, and that is the crisis that we have on our State-owned campuses, the SSHE (State System of Higher Education) system-owned buildings.

Mr. Speaker, my amendment will provide for a bond issue of \$202 million for the funding of the backlog of deferred maintenance and renovation of our buildings in the SSHE system. In my opinion, Mr. Speaker, this is in the best interests of the taxpayers.

HR 159, Mr. Speaker, dictated that we visit our campuses, and the Education Committee did visit our campuses. We found a very, very bad situation on our campuses - leaking roofs, Mr. Speaker; we have crowded classrooms - and as we

find out, Mr. Speaker, we locked out 15,000 young people from our university system last year.

Again, Mr. Speaker, we want to remind you that we are talking about a SSHE system that entails 96,000 graduate and undergraduate students per year. We want to talk to you about the fact that it entails 686 buildings on our campuses; 22 million square feet of space on 4,000 acres. So, Mr. Speaker, we also have a crisis in the area of education on our own campuses, and that is why I am proposing this amendment.

HB 2116 calls for a bond issue. Mr. Speaker, I read a little clip the other day where we are also going to use a bond issue or bond money to provide dollars for SEPTA (Southeastern Pennsylvania Transportation Authority), so I am asking that we consider the fact that we do need this type of money to upgrade our own buildings on our SSHE campuses, and I would ask you for an affirmative vote.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, I oppose the Wass amendment. The prison bill before us is not designed to be a capital budget bill, and that is exactly what the Wass amendment would like it to be.

We are facing a crisis in this Commonwealth concerning State prisons and county prisons, and this issue needs to be dealt with expeditiously, and it needs to be done in a manner in which it is affordable to the caretakers of the Commonwealth's coffers.

In addition to my opposition to Christmas-treeing the legislation with the State System of Higher Education or any other political entity, I would like to also point out that there was no fiscal note requested on this amendment and that there was no project itemization. The project itemization in a capital bill is a constitutional requirement, and the Wass amendment fails to accomplish that goal.

So I respectfully request anyone in the chamber who is interested in getting the prison issue underway to vote "no" on the Wass amendment.

## GERMANENESS QUESTIONED

The SPEAKER. The Chair recognizes Mr. DeWeese.

Mr. DeWEESE. Mr. Speaker, I am going to ask that the question of germaneness be addressed.

The SPEAKER. The gentleman, Mr. DeWeese, puts the issue of germaneness, under rule 27, before the House.

(Conference held at Speaker's podium.)

## QUESTION OF GERMANENESS WITHDRAWN

The SPEAKER. The Chair recognizes the gentleman, Mr. DeWeese, who withdraws his request to put the question of germaneness before the House.

## CONSTITUTIONAL POINT OF ORDER

The SPEAKER. The Chair recognizes Mr. DeWeese, who now raises the issue of constitutionality under rule 4. This is a

debatable issue but can be debated by each member only once.

On the question,  
Will the House sustain the constitutionality of the amendments?

**FILMING PERMISSION**

The SPEAKER. The Chair grants permission to WPVI, channel 6, for filming this afternoon.

**CONSIDERATION OF HB 2116 CONTINUED**

The SPEAKER. On the question of constitutionality, the Chair recognizes Representative Cowell.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, the majority leader has raised the question of constitutionality because there is a requirement that bond issues of this sort, the sort that would be authorized by this legislation and specifically by this amendment, must be project specific. The amendment that is offered by Representative Wass fails to meet that test because it is not project specific but instead would simply provide two significant lump sums - \$157 million in one case and \$45 million in the second case - for projects that would be allocated by the Board of Governors of the State System, so in effect, we would abdicate our constitutional responsibility to speak specifically to the projects that we want to have funded with these bond issues and would assign that responsibility to the Board of Governors of the State System. We cannot do that under the provisions of the Constitution, and for that reason this amendment fails the constitutionality test, and the House should rule that the amendment is unconstitutional.

The SPEAKER. The Chair recognizes Mr. Wass.

Mr. WASS. Thank you, Mr. Speaker.

Mr. Speaker, if I may. If we are going to debate the constitutionality of this based on the premise that has been issued here presented by Representative Cowell, then all I want is a delay in this amendment, in this process, because I have a copy of specific projects that the SSHE system has requested, the "State System of Higher Education Special Purpose Appropriation Requests," and it goes on, and it says "Over \$45 million in immediate component repair/replacement deferred maintenance needs have been documented by the fourteen universities," and it goes on. So I can present that to the committee and to the floor if I am given the time to produce another amendment.

The SPEAKER. The Speaker, under rule 4, is required to submit questions affecting the constitutionality of an amendment to the House for a decision.

Those voting "aye" will vote to declare the amendment constitutional; those voting "no" will vote to declare the amendment unconstitutional.

On the question recurring,

Will the House sustain the constitutionality of the amendments?

The following roll call was recorded:

**YEAS—92**

Adolph	Distler	Johnson	Robbins
Allen	Dorr	Kenney	Ryan
Angstadt	Durham	Kondrich	Saurman
Argall	Fargo	Langtry	Scheetz
Birmelin	Farmer	Leh	Schuler
Black	Fleagle	McVerry	Semmel
Boyes	Flick	Marsico	Serafini
Bunt	Foster	Merry	Smith, B.
Burd	Fox	Micozzie	Smith, S. H.
Bush	Freind	Miller	Snyder, D. W.
Carlson	Gallen	Moehlmann	Snyder, G.
Cessar	Gannon	Morris	Stairs
Chadwick	Geist	Mowery	Stuban
Civera	Gladeck	Nahill	Taylor, E. Z.
Clark, B. D.	Godshall	Noye	Taylor, J.
Clark, D. F.	Gruppo	O'Brien	Telek
Clark, J. H.	Hasay	Perzel	Vroon
Clymer	Hayes	Phillips	Wass
Cornell	Heckler	Piccola	Weston
Daley	Herman	Pitts	Wilson
Davies	Hershey	Raymond	Wogan
Dempsey	Hess	Reber	Wright, J. L.
Dietterick	Jadlowiec	Reinard	Wright, R. C.

**NAYS—101**

Acosta	Donatucci	Levdansky	Roebuck
Barley	Evans	Linton	Rudy
Battisto	Freeman	Lloyd	Rybak
Belardi	Gamble	Lucyk	Saloom
Belfanti	George	McCall	Scrimonti
Billow	Gigliotti	McHale	Staback
Bishop	Gruitza	McNally	Steighner
Blaum	Hagarty	Maine	Stish
Bortner	Haluska	Markosek	Strittmatter
Bowley	Harper	Mayernik	Tangretti
Brandt	Hayden	Melio	Taylor, F.
Broujos	Howlett	Michlovic	Thomas
Burns	Hughes	Mrkonic	Tigue
Caltagirone	Itkin	Murphy	Trello
Cappabianca	Jackson	Nailor	Trich
Carn	James	Olasz	Van Horne
Cawley	Jarolin	Oliver	Veon
Cohen	Josephs	Petrarca	Wambach
Colafella	Kaiser	Petrone	Williams
Cole	Kasunic	Pistella	Wozniak
Corrigan	Kosinski	Pressmann	Wright, D. R.
Cowell	Kukovich	Preston	Yandrisevits
Coy	LaGrotta	Richardson	
DeLuca	Laughlin	Rieger	O'Donnell,
DeWeese	Lee	Ritter	Speaker
Dombrowski	Lescovitz	Robinson	

**NOT VOTING—0**

**EXCUSED—8**

Colaizzo	Fairchild	Lashingar	Pesci
Dininni	Fee	Maiale	Pievsky

Less than the majority having voted in the affirmative, the question was determined in the negative and the constitutionality of the amendments was not sustained.

On the question recurring,

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

Mr. PICCOLA offered the following amendments No. A0950:

Amend Title, page 1, line 4, by striking out all of said line and inserting  
 Regulating private prisons; providing for contracts with, licensing of and employee status for private prisons; imposing powers and duties on the Department of Corrections; authorizing the Department of General Services to enter into lease/purchase agreements for prison space; authorizing capital budget projects; providing for the issuance of bonds; providing for a capital project for the construction of a new  
 Amend Title, page 1, line 11, by striking out "AND"  
 Amend Title, page 1, line 14, by removing the period after "INMATES" and inserting  
 ; and making appropriations.  
 Amend Table of Contents, page 1, lines 16 through 21; page 2, lines 1 through 30; page 3, lines 1 through 4, by striking out all of said lines on said pages and inserting

TABLE OF CONTENTS

PART I. PRIVATE PRISONS

- Chapter 1. Preliminary Provisions
- Section 101. Short title of part.
- Section 102. Declaration of policy.
- Section 103. Definitions.
- Chapter 3. Private Correctional Facilities and Security Services
- Section 301. Facilities and services.
- Section 302. Contracts.
- Section 303. License.
- Section 304. Police power.
- Section 305. Labor disputes.
- Section 306. Emergencies.
- Section 307. Inspections.
- Section 308. Regulations.
- Section 309. Violations of contract.
- Chapter 5. Enforcement
- Section 501. License revocation.
- Section 502. Criminal penalty.
- Chapter 7. Miscellaneous Provisions
- Section 701. Annual reports.
- Section 702. Other statutes.
- Section 703. Construction of part.

PART II. CAPITOL PROJECTS

- Chapter 21. Construction of New Prison
- Section 2101. Total authorization.
- Section 2102. Itemization of public improvement project.
- Section 2103. Special provisions for construction of Greene County State Correctional Institution.
- Section 2104. Debt authorization.
- Section 2105. Issue of bonds.
- Section 2106. Estimated useful life and term of debt.
- Section 2107. Appropriation.
- Section 2108. Federal funds.
- Chapter 23. Lease Purchase Agreements
- Section 2301. Authorization.
- Section 2302. Terms of lease agreements.
- Section 2303. Selection of contractor.
- Section 2304. Award of contract.
- Section 2305. Construction oversight and inspection.
- Section 2306. Exemption and nonapplicable acts.
- Section 2307. Capital projects.
- Chapter 25. Modular Prison Units
- Section 2501. Total authorization.
- Section 2502. Itemization of public improvement projects.
- Section 2503. Special provisions.
- Section 2504. Debt authorization.
- Section 2505. Issue of bonds.
- Section 2506. Estimated useful life and term of debt.
- Section 2507. Appropriation.
- Section 2508. Federal funds.
- Section 2509. Insurance proceeds.
- Section 2510. Current revenues.

- Chapter 27. Referendum on County Prisons
- Section 2701. Incurring indebtedness.
- Section 2702. Certification of question.
- Section 2703. Question to electorate.
- Section 2704. Conduct of election.
- Section 2705. Use of proceeds.
- Section 2706. Multicounty jail facilities.

PART III. MISCELLANEOUS PROVISIONS.

- Chapter 31. Miscellaneous
- Section 3101. Repeals.
- Section 3102. Retroactivity.
- Section 3103. Effective date.

Amend Bill, page 3, by inserting between lines 6 and 7

PART I. PRIVATE PRISONS

CHAPTER 1

PRELIMINARY PROVISIONS

- Section 101. Short title of part.  
 This part shall be known and may be cited as the Private Prison Act.
- Section 102. Declaration of policy.  
 The General Assembly finds and declares as follows:
  - (1) The incarceration of prisoners is primarily a government function.
  - (2) The private sector, which has demonstrated an ability to provide government services in an efficient and innovative manner, may serve a valuable role in helping the government operate its corrections system.
- Section 103. Definitions.

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

"Department." The Department of Corrections of the Commonwealth.

"Private contractor." A person who owns or operates a private correctional facility.

"Private contractor for security services." A private contractor who provides security services to a correctional facility owned by the Commonwealth.

"Private correctional facility." An adult correctional facility owned or operated by a private contractor contracting with the Commonwealth.

CHAPTER 3

PRIVATE CORRECTIONAL FACILITIES AND SECURITY SERVICES

- Section 301. Facilities and services.
  - (a) Contracts by the Commonwealth and counties.—The Commonwealth may enter into contracts with private contractors in accordance with this act.
  - (b) Out-of-State contracts.—No inmate from a state other than Pennsylvania may be received by a private correctional facility in this Commonwealth.
- Section 302. Contracts.
  - (a) Provisions enumerated.—Contracts executed under this act must include the following terms:
    - (1) The posting of an adequate performance bond by the private contractor.
    - (2) Proof of adequate insurance.
    - (3) A requirement that the private contractor comply with regulations of the department and with this act.
    - (4) A requirement of contract approval by the Attorney General.
    - (5) A plan developed by the private contractor detailing all aspects of operations in the private correctional facility or in the provision of security services.
    - (6) A requirement of annual contract review by the Attorney General.
  - (b) Approval by Attorney General.—Contracts must be approved by the Attorney General. Contract approval shall be conditioned upon all of the following:



(1) The private contractor's assumption of liability caused by or arising out of all aspects of the ownership or operation of the private correctional facility or the provision of security services, including, but not limited to, escape or other emergency situations, legal fees and damage awards, involving the private contractor and the contracting government body.

(2) Liability insurance covering the private contractor and its officers, employees and agents in an amount sufficient to cover liability arising out of the ownership or operation of a private correctional facility or the provision of security services. A copy of the proposed insurance policy for the first year shall be submitted for approval with the contract.

(c) Disapproval by Attorney General.—Disapproval of a contract may be based on any reasonable grounds, including, but not limited to, the following:

(1) Inadequacy or inappropriateness of the proposed plan of operation.

(2) Failure to meet department regulations.

(3) Unsuitability of the proposed private contractor or its employees.

(4) Absence of required or desirable contract provisions.

(5) Unavailability of adequate funds.

(6) Lack of proof of appropriate insurance.

(d) Termination.—Contracts executed under this act must provide for termination for cause by the Commonwealth or a county upon 90 days' notice to the private contractor. Termination shall be allowed for reasons which include, but are not limited to, the following:

(1) Failure to be licensed or to comply with regulations of the department.

(2) Failure to meet other contract provisions.

(3) Failure to meet the provisions of this act.

#### Section 303. License.

(a) Requirement.—Private contractors operating within this Commonwealth must hold a valid license issued by the department.

(b) Issuance.—The department shall issue a license to the private contractor if it determines that the applicant has a contract, approved by the Attorney General, with the Commonwealth.

(c) Term and content.—Licenses issued by the department shall be on a form prescribed by the department, shall not be transferable, shall be issued only for the private correctional facilities or contracted-for private security services named in the application and shall specify the maximum number of individuals who may be housed in the facility at one time. The license shall be posted in a conspicuous place on the licensee's premises.

(d) Fees.—Licenses and inspection fees shall be established by the department and shall reflect the actual cost to the department of licensing and inspection.

(e) Training.—The department shall, by regulation, establish a program of training for corrections officers employed by private contractors. No individual may be employed as a corrections officer at a private correctional facility unless the department certifies that the individual has successfully completed the training program. Cost of training shall be paid by the private contractor.

#### Section 304. Police power.

Security personnel employed by private contractors shall be deemed peace officers under section 2.1 of the act of May 16, 1921 (P.L.579, No.262), entitled "An act providing for the better management of the jails or county prisons in the several counties of this Commonwealth of the third, fourth, fifth classes and in certain counties of the sixth, seventh and eighth classes by creating, in such counties, a board to be known by the name and style of inspectors of the jail or county prison, with authority to

appoint a warden of such prison, and by vesting in said board, and the officers appointed by it, the safe-keeping, discipline, and employment of prisoners and the government and management of said jails or county prisons."

#### Section 305. Labor disputes.

(a) Notice.—

(1) A private contractor shall notify the department 60 days prior to the termination of a labor contract.

(2) A private contractor shall notify the department immediately upon learning of a potential or impending strike.

(b) Assistance.—In the event of a strike, the department shall assist a county to assume operation of the private correctional facility and shall use Commonwealth emergency resources necessary to operate the facility until the strike has ended. Costs incurred by the department, the Commonwealth or a county shall be reimbursed by the private contractor.

#### Section 306. Emergencies.

(a) Notification of police.—Upon the occurrence of an escape of an inmate or upon a violent disturbance within a private correctional facility or a facility using private security services, the facility shall immediately notify the local police within the county and the Pennsylvania State Police.

(b) Authority of department.—Upon the occurrence of an emergency in a private correctional facility or a facility using private security services, the department shall have the authority to enter and control the facility until the emergency ends.

(c) Costs.—Costs incurred by the department, the Commonwealth or a county shall be reimbursed by the private contractor.

#### Section 307. Inspections.

(a) Duty to inspect.—The department shall annually inspect private correctional facilities and facilities using private security services to insure compliance with its regulations. The department shall submit a written report on the findings of its inspection to the private contractor within 60 days of the inspection. The private contractor shall be given a reasonable period of time within which to correct deficiencies or to come into compliance with the applicable regulations. If the private contractor does not come into compliance with the applicable regulations, the department may revoke its license after a hearing under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(b) Inspections.—Personnel of the department or other administrative agencies authorized by the Commissioner of Corrections to inspect correctional facilities may enter a private correctional facility unannounced at any time to investigate any facet of the operation of a private correctional facility.

#### Section 308. Regulations.

The department shall promulgate regulations for the provision and operation of private correctional facilities and for the provision of private security services. The regulations shall include, but not be limited to:

(1) Procedures for declaration of emergencies within private correctional facilities and assumption of control by the department.

(2) Minimum standards for the care of inmates, the protection of inmates' rights, the staff, the availability of mental health services and the physical structure and operation of private correctional facilities within this Commonwealth.

#### Section 309. Violations of contract.

(a) Notice.—If the department learns of a violation of a contract by a private contractor, it shall immediately give written notice to the Commonwealth, the private contractor and the Attorney General. Violation of the contract shall be grounds for termination of the contract under section 4(d)(2).

(b) Compliance.—Notice to the private contractor shall require action to bring the facility into compliance with the relevant contractual provision in the time period determined by the department.

#### CHAPTER 5 ENFORCEMENT

Section 501. License revocation.

(a) Practice and procedure.—The department shall, by regulation, establish procedures for revocation of a license under this act, to include provisions for notice and hearing under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(b) Grounds.—Grounds for revocation include, but are not limited to:

- (1) Violation of this act or regulations of the department.
- (2) Fraud or misrepresentation.
- (3) Failure to maintain adequate insurance.
- (4) Gross incompetence or negligence.
- (5) Moral turpitude.
- (6) Violation of other laws of this Commonwealth.
- (7) Violation of the civil rights of an individual inmate.
- (8) Failure to comply with official inspection reports of the department under section 10(a).

Section 502. Criminal penalty.

A private contractor who operates a private correctional facility or provides private security services in this Commonwealth without a license under section 5 commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of \$10,000 and costs of prosecution or, if the private contractor fails to pay the fine, to imprisonment for not more than one year. Each day of operation of a private correctional facility or of provision of private security services without a license shall constitute a separate offense. If the private contractor is a partnership, the partners are liable under this section. If the private contractor is a corporation or unincorporated association, the chief executive officer is liable under this section.

#### CHAPTER 7 MISCELLANEOUS PROVISIONS

Section 701. Annual reports.

(a) Facilities and contractors.—A private contractor shall submit an annual report to the Commonwealth.

(b) Department.—The department shall submit to the General Assembly an annual report on the status of private contractors in this Commonwealth, including problems related to private contractors.

Section 702. Other statutes.

Private correctional facilities are deemed to be correctional institutions for purposes of 18 Pa.C.S. (relating to crimes and offenses) and 42 Pa.C.S. (relating to judiciary and judicial procedure) and are deemed to be prisons for purposes of the act of July 11, 1923 (P.L.1044, No.425), referred to as the Prisoner Transfer Law. Other statutes relating to penitentiaries, prisons, workhouses, houses of corrections and institutions for prisoners apply to private correctional facilities to the extent necessary to carry out the intent and provisions of this part.

Section 703. Construction of part.

Upon the exercise of its option not to purchase either one or both of the prisons authorized in Chapter 3, the Commonwealth may enter into contracts with private contractors for the operation of one or both of the prisons. This part shall not be construed to prohibit a county from utilizing the services of a private contractor for security services as long as the services will be directly supervised by employees of the county and the facility remains under the management of employees of the county.

Amend Chapter Heading, page 3, line 7, by striking out all of said line and inserting

#### PART II. CAPITOL PROJECTS CHAPTER 21

Amend Sec. 101, page 3, line 9, by striking out "101" and inserting

2101

Amend Sec. 102, page 3, line 15, by striking out "102" and inserting

2102

Amend Sec. 103, page 4, line 16, by striking out "103" and inserting

2103

Amend Sec. 103, page 6, line 6, by striking out "Sections 508 and" and inserting

Section

Amend Sec. 104, page 6, line 29, by striking out "104" and inserting

2104

Amend Sec. 105, page 7, line 9, by striking out "105" and inserting

2105

Amend Sec. 105, page 7, line 17, by striking out "106" and inserting

2106

Amend Sec. 106, page 7, line 18, by striking out "106" and inserting

2106

Amend Sec. 107, page 7, line 24, by striking out "107" and inserting

2107

Amend Sec. 108, page 8, line 5, by striking out "108" and inserting

2108

Amend Sec. 108, page 8, line 6, by striking out "107" and inserting

2107

Amend Chapter Heading, page 8, line 12, by striking out "3" and inserting

23

Amend Sec. 301, page 8, line 14, by striking out "301" and inserting

2301

Amend Sec. 302, page 8, line 20, by striking out "302" and inserting

2302

Amend Sec. 303, page 9, line 12, by striking out "303" and inserting

2303

Amend Sec. 304, page 10, line 1, by striking out "304" and inserting

2304

Amend Sec. 305, page 10, line 8, by striking out "305" and inserting

2305

Amend Sec. 306, page 10, line 22, by striking out "306" and inserting

2306

Amend Sec. 307, page 10, line 26, by striking out "307" and inserting

2307

Amend Chapter Heading, page 12, line 26, by striking out "5" and inserting

25

Amend Sec. 501, page 12, line 28, by striking out "501" and inserting

2501

Amend Sec. 502, page 13, line 15, by striking out "502" and inserting

2502

Amend Sec. 503, page 16, line 3, by striking out "503" and inserting

2503

Amend Sec. 504, page 16, line 22, by striking out "504" and inserting

2504

Amend Sec. 505, page 17, line 1, by striking out "505" and inserting

2505

Amend Sec. 505, page 17, line 9, by striking out "506" and inserting

2506

Amend Sec. 506, page 17, line 10, by striking out "506" and inserting

2506

Amend Sec. 506, page 17, line 14, by striking out "502(1)(I)(B)," and inserting

2502(1)(i)(b),

Amend Sec. 507, page 17, line 19, by striking out "507" and inserting

2507

Amend Sec. 508, page 17, line 29, by striking out "508" and inserting

2508

Amend Sec. 508, page 17, line 30, by striking out "507" and inserting

2507

Amend Sec. 509, page 18, line 4, by striking out "509" and inserting

2509

Amend Sec. 510, page 18, line 10, by striking out "510" and inserting

2510

Amend Sec. 510, page 18, line 12, by striking out "502(1)(I)(C)," and inserting

2502(1)(i)(c),

Amend Chapter Heading, page 18, line 16, by striking out "7" and inserting

27

Amend Sec. 701, page 18, line 18, by striking out "701" and inserting

2701

Amend Sec. 702, page 18, line 25, by striking out "702" and inserting

2702

Amend Sec. 703, page 18, line 28, by striking out "703" and inserting

2703

Amend Sec. 704, page 19, line 5, by striking out "704" and inserting

2704

Amend Sec. 705, page 19, line 10, by striking out "705" and inserting

2705

Amend Sec. 706, page 19, line 15, by striking out "706" and inserting

2706

Amend Chapter Heading, page 20, line 1, by striking out all of said line and inserting

PART III. MISCELLANEOUS PROVISIONS  
CHAPTER 31

Amend Sec. 901, page 20, line 3, by striking out "901" and inserting

3101

Amend Sec. 902, page 20, line 8, by striking out "902" and inserting

3102

Amend Sec. 902, page 20, line 9, by striking out "5" and inserting

25

Amend Sec. 903, page 20, line 11, by striking out "903" and inserting

3103

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

As the members of the House have learned from the debate on the previous amendment of Mr. DeWeese, we have turned this bill into a privately constructed prison bill. All three of the facilities contained in this bill will be developed and built and owned by private contractors or private developers, and they will be leased back to the Commonwealth for a period of time, and at the term of that lease, there will be an option in those lease agreements that the Commonwealth may or may not exercise the option to purchase outright any one or all of those facilities, being three in number. It seems to me that to provide further incentive to a private owner-developer of a tract of land who is going to build a prison facility on it, we ought to give him the prospect of being able to use that facility if, and only if, the Commonwealth chooses not to exercise that option to purchase outright; that is, say 20 years down the road, if the Commonwealth says, no, we do not want to buy that facility from you, it seems to me that that owner ought to have the opportunity to at least operate that facility as a private correctional institution.

What this amendment does is provide a scheme of regulation under which those three facilities that are contained in this bill, and only those three facilities, could be operated under very strict—and you can read all the regulations and rules that would be required of this private owner—that those three facilities only could be operated as private correctional facilities. We would have it totally within our control—"we" being the Commonwealth of Pennsylvania—whether the provisions of this amendment would ever go into effect, because if the Commonwealth chose to exercise its option and purchase those three facilities, this amendment would not be of any value because it would not apply. We would own the facilities outright.

Some people, Mr. Speaker, are nervous and afraid of private prisons. They hear that word and they get scared for a variety of reasons. I have not encountered one reason why we should be nervous or scared about private facilities. Other States are doing it for special-needs kinds of inmates. Believe it or not, we have two operating right here in Pennsylvania for female offenders - one in Allegheny County and one in York County - and virtually all of our juvenile facilities are operated by private profit or nonprofit organizations.

Private prisons are going to be here sooner or later, and it seems to me that if the Commonwealth is going to get the best deal possible under this lease/purchase arrangement, we ought to give that private developer at least the prospect that 20 years down the road or whatever the term of the lease is, he

is not going to be stuck owning a prison that he cannot do anything with.

I therefore, Mr. Speaker, would urge that we adopt this amendment for the very limited purposes for which it was intended, and that is as a possible regulatory scheme for the three privately built facilities that are contained in HB 2116. I urge the adoption of the amendment.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, I vigorously oppose this amendment.

The entire issue of lease/purchase prisons is to get three State prisons and a number of county or county-cooperative prisons on the fast track. The issue of private operation is one that has been dealt with previously by this House and the Senate when a moratorium was imposed by both chambers on the private operation of any prison in the Commonwealth, but even if there was some merit to the arguments by Mr. Piccola, we have 20 years to deal with the merit of his proposal. If in fact 20 years from now the Commonwealth exercises its option to not re-lease the prison for an additional 10 or 20 years or to purchase it, we then have ample time—those of us who are still in the General Assembly—to deal with the facilities themselves as to whether or not they should be given back to the contractor, free of any red tape, and allow that design-build contractor to operate them as juvenile facilities or in some other manner.

Please bear in mind that the three State prisons that we are talking about in HB 2116 are designed to house maximum security prisoners or medium security prisoners, and I do not believe that many of us in this chamber would like to see hard-core prisoners incarcerated in privately operated prisons. The entire concept of HB 2116 is to get an influx of private money rather than public money, tax money, so that these prisons can be built and leased to the State and amortized over a 20-year period as opposed to spending \$90 or \$100 or \$110 million of taxpayers' money up front, which is inaffordable to the taxpayers and is inaffordable to the budget.

I think that the entire issue of privately operated prisons can wait for a later day, preferably 20 years from now when the issue is an issue. It is not an issue today, and I would respectfully ask my colleagues to vote against this amendment.

#### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair notes the presence of Representative Fairchild in the hall of the House. His name will be added to the master roll.

#### CONSIDERATION OF HB 2116 CONTINUED

The SPEAKER. The Chair recognizes Mr. Wright.

Mr. D. R. WRIGHT. Thank you, Mr. Speaker.

I oppose the Piccola amendment, and I do so for a variety of reasons.

In the first instance, the Piccola amendment would allow the Commonwealth to enter into contracts with private con-

tractors to operate adult correctional facilities. There is no distinction, as I understand it, between maximum facilities and minimum facilities, as the gentleman, Mr. Belfanti, pointed out just a minute ago, and the interesting thing about that is that that is contrary to the position that Mr. Piccola has previously taken when he encouraged us to adopt private prisons. In that instance he made the case that his private prison legislation, which he emphasized would only permit the housing of nonviolent inmates in need of special treatment such as persons convicted of drunken driving, was eminently reasonable. He took the position at that time that private prisons were appropriate for nonviolent offenders. There is no distinction in this amendment that I can see that makes a distinction between nonviolent and violent offenders.

Secondly, I would indicate that the Piccola amendment recognizes that private prison employees have the right to strike. Under the National Labor Relations Board, in fact, they do have the right to strike, and he acknowledges that. What he says, however, in those circumstances, is that the county and the Commonwealth would have the responsibility for operating the facility if that event should occur. Actually, the amendment does not set forth any standard governing who should be permitted to operate the adult correctional facility.

Moreover, the performance bond and insurance will not guarantee that the government will be relieved of any liability. He does require liability insurance, but the government cannot relinquish its responsibility, its liability, and this amendment will not permit that. Furthermore, there is no assurance of any cost savings if the prison is to be operated by a private business.

Let me indicate a larger principle here, and that is that a prison exists for the purpose of depriving persons of their liberty, and the deprivation of liberty is not a free enterprise function. When a person stands before a judge and is sentenced, the government assumes responsibility for sentencing and for the correction, for the imprisonment, of that person.

Let me just indicate finally that there is a potential for a conflict of interest with the private provider, the private prison operator, who gets his revenues from per diem fees for each inmate. If that is the way you are funded, then is there any incentive to release those prisoners back into society? I should think the answer to that would be no.

Now, I recognize that there is a problem of overcrowding of prisons, but I think that there are alternatives to incarceration that this General Assembly should pursue with diligence, but in the meantime I think it is not in the interest of this Commonwealth for us to engage in private prisons. Therefore, I ask that we reject the Piccola amendment.

The SPEAKER. The Chair recognizes Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment, and I do that as one who may have constituents who will be very much affected by what the General Assembly does with this piece of legislation, because there is in fact a private developer who has suggested that one of these lease/purchase facilities should be located in Somerset County. The pros and cons of

that are currently the subject of much discussion in the community. Once the legislation becomes law, the developer will have an opportunity to present his case and the decision will be made. One thing I can guarantee will happen in Somerset County and will happen in any other county where these prisons are proposed to be sited is, if the prospect is there that they are going to be run at some point in time by private contractors, public opposition will be much stronger than it otherwise would be.

So I applaud the gentleman for his concern that we should try to get with building prisons as quickly as possible, but I believe, based on my personal experience, that the effect of his amendment would be exactly the opposite.

For that reason, Mr. Speaker, I ask for a "no" vote.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

First of all, let me respond to the gentleman, Mr. Belfanti. I do recognize that the purpose for this bill, as it is presently written, is to get the Commonwealth onto the fast track in terms of the construction of our prisons, and I am glad that the majority leader and the members of his caucus and Mr. Belfanti and everyone else in this House, apparently, have finally recognized that getting it into the private sector for construction purposes does get it into the fast track, and I think we are going to find that it gets it into the quality track as well. But in addition to getting it into the fast track, I think we can get it into the lower cost track as well, and this is one way of doing it, because if a developer knows that at the end of 20 years he is going to perhaps have a white elephant that he cannot unload, he is going to build that cost into his lease/purchase arrangement, and the Commonwealth is going to be in a situation where we are going to pay more than we ordinarily would have.

Secondly, with respect to his questions about the moratorium, there are open questions as to what the effect legally of our moratorium is at the present time, but whatever it is, this amendment does not affect it one bit. In fact, this amendment would not even go into play for another 20 years and only if the Commonwealth failed to exercise or refused to exercise its option to purchase under these leases.

That brings me to the other point that Mr. Belfanti made, and that was, we have 20 years to sit around and figure this one out. Well, the fact of the matter is, we do not have 20 years, because these leases are going to be drawn up, invited for bid and so forth in the next few months, I would assume, or at least within the next year or so, and so the developer is going to have to take into account the law and the existence of various statutes as he finds them when he puts his bid in, not 20 years down the road. So we cannot wait around for 20 years.

Mr. Wright raises questions of conflict of interest. I do not think there is any conflict of interest. I do not think there is a conflict of interest with the two female offender programs that are now running and operating in the Commonwealth. I do not think there is a conflict of interest with all the juvenile facilities that are operating in the Commonwealth at the present time. In fact, they are giving us very good service.

Mr. Speaker, the fact of the matter is that we are into private prisons now with the adoption of this bill, like it or not, because a private contractor is going to build the facility and is going to own it for an extended period of time. That, by any other name, is a private prison, and sooner or later it is going to come, because we simply cannot afford or build fast enough publicly the kinds of facilities that we are going to have to build to house the inmate population in this Commonwealth.

This is a very, very small and relatively innocuous step that we can take, but I think we should take it and adopt the amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

The points raised by the gentleman, Mr. Lloyd, and the gentleman, Mr. Wright, were very well taken and were not inaccurate in any way.

However, Mr. Piccola makes the point, or attempts to, that the cost of the lease will be determined upon the statute that we act upon today. I believe the gentleman knows that that is not the case, that these prisons will be amortized over a 20-year period. No design-build private contractor is going to risk that this legislature will do something differently in the next 20 years, so they are going to build their costs of these prisons into that 20-year cycle, not into a 30- or a 40-year cycle based on anything that we vote on today.

I still believe that Mr. Piccola's amendment can be dealt with 19 1/2 years from now and that the effect on this legislation would be extremely damaging. I ask my colleagues to vote "no."

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

The following roll call was recorded:

YEAS—60

Barley	Fargo	Johnson	Pitts
Birmelin	Farmer	Kondrich	Reinard
Brandt	Fleagle	Langtry	Saurman
Bunt	Flick	Lee	Scheetz
Burd	Foster	Leh	Schuler
Cessar	Fox	McVerry	Smith, B.
Chadwick	Gallen	Marsico	Snyder, G.
Clark, D. F.	Geist	Merry	Stairs
Clark, J. H.	Gladeck	Miller	Strittmatter
Cornell	Godshall	Moehlmann	Taylor, E. Z.
Dempsey	Gruppo	Mowery	Vroon
Dietterick	Hagarty	Nahill	Wass
Distler	Heckler	Nailor	Wilson
Dorr	Hershey	Noye	Wogan
Fairchild	Jackson	Piccola	Wright, J. L.

NAYS—131

Acosta	Daley	Laughlin	Robinson
Adolph	Davies	Lescovitz	Roebuck
Allen	Dombrowski	Linton	Rudy
Angstadt	Donatucci	Lloyd	Ryan
Argall	Durham	Lucyk	Rybak
Battisto	Evans	McCall	Saloom
Belardi	Freeman	McHale	Scrimenti
Belfanti	Freind	McNally	Semmel
Billow	Gamble	Maine	Serafini
Bishop	Gannon	Markosek	Smith, S. H.
Black	George	Mayernik	Snyder, D. W.
Blaum	Gigliotti	Melio	Staback

Bortner	Gruitza	Michlovic	Steighner
Bowley	Haluska	Micozzie	Stish
Boyes	Harper	Morris	Stuban
Broujos	Hasay	Mrkonic	Tangretti
Burns	Hayden	Murphy	Taylor, F.
Bush	Hayes	O'Brien	Taylor, J.
Caltagirone	Herman	Olasz	Telek
Cappabianca	Hess	Oliver	Thomas
Carlson	Howlett	Perzel	Tigue
Carn	Hughes	Petrarca	Trello
Cawley	Itkin	Petrone	Van Horne
Civera	Jadlowiec	Phillips	Veon
Clark, B. D.	James	Pistella	Wambach
Clymer	Jarolin	Pressmann	Williams
Cohen	Josephs	Preston	Wozniak
Colafella	Kaiser	Raymond	Wright, D. R.
Cole	Kasunic	Reber	Wright, R. C.
Corrigan	Kenney	Richardson	Yandrisevits
Cowell	Kosinski	Rieger	
Coy	Kukovich	Ritter	O'Donnell,
DeLuca	LaGrotta	Robbins	Speaker
DeWeese			

NOT VOTING—3

Levdansky	Trich	Weston
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EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashingner	Pesci	

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 on third consideration as amended?

Mr. PICCOLA offered the following amendment No. A0927:

Amend Sec. 301, page 9, lines 8 through 11, by striking out all of said lines

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

This amendment strikes out on page 9 of the bill under those provisions where these lease/purchase construction contracts are going to be developed the requirement that the Prevailing Wage Act be used to determine the wage scale for the private developer. These are privately constructed facilities, Mr. Speaker. They are not going to be publicly constructed, and there is no reason, in my mind, why the prevailing wage requirement should apply to something being built in the private sector.

I would urge that we strike this section from the bill, and by doing that, we should adopt this amendment.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

As this House has demonstrated many, many times in the past, this type of amendment is not good for the Commonwealth or its taxpayers when we are talking about quality in the product. If we desire quality prisons built under State specifications, even though private sector moneys will be

used, this amendment would destroy the Commonwealth's ability to guarantee a good construction project at a reasonable and fair price.

The executive branch of government is in favor of the prevailing rate system. The contractors who have been involved in discussion with the legislation also are in favor of the Prevailing Wage Act applying and every other entity that we have dealt with.

I did not know that this was going to be an issue today or that this attempt would be made on the bill, but I am certainly not surprised, and I would ask that the members of this House reject this amendment as it has done so many times in the past when similar amendments have been offered.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

We are not here today to propose that we strike the prevailing wage for publicly owned facilities. We are talking about privately constructed, privately owned facilities that the Commonwealth is going to lease. If someone builds an office building and leases it to the Commonwealth, they are not bound by the prevailing wage, and I presume we are getting good quality because the Commonwealth leases many privately owned offices, State Police barracks and what have you. I do not see why we should be setting this precedent and applying, for the first time that I am aware of at any rate, the prevailing wage to a privately owned and constructed facility, even though it is designated to be leased by the Commonwealth. I would think we should strike this provision from the bill.

In addition, Mr. Speaker, I would also say that we are after lowest possible cost. Now, I would imagine that most contractors that are in the construction-of-prisons business are probably union scale contractors, but in some parts of the Commonwealth, that may not be the case, and I think we should allow the flexibility for those contractors in different parts of the Commonwealth to pay the appropriate wage scale.

I urge that we adopt the amendment.

The SPEAKER. Will the House agree to the amendment?

The Chair recognizes Mr. DeWeese.

Mr. DeWEESE. I think one thing needs to be made more clear, and that is that these are State facilities, and although we are attempting to bring the private sector in during the construction phase for the purpose of expediting, we are probably, according to our General Services contacts, going to be buying these facilities within a few years of their opening. It should be remembered that these are going to be State prisons; they are going to be owned by the Commonwealth, and therefore, I think that this amendment is not necessary.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. A final point, Mr. Speaker.

We in the General Assembly have seen very often, when large facilities are constructed without utilizing the prevailing rate, that local contractors and local employees, local building tradesmen, whether they be union or not, are not normally utilized. We see facilities that are built - whether they be pow-

erplants, cogeneration plants, any large facility - and when the Prevailing Wage Act does not apply, quite often when we see the automobiles in the parking lot of the tradesmen who are building the facility, the automobile license plates read Alabama, Mississippi, Louisiana. I would like to think that if a prison were going to be built in my neck of the woods, in my county or in an adjacent county, they would be utilizing labor from the immediate area, and that is one other reason to vote against the Piccola amendment. Thank you.

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

The following roll call was recorded:

YEAS—72

Barley	Dorr	Jackson	Reinard
Birmelin	Fairchild	Jadlowiec	Robbins
Black	Fargo	Johnson	Ryan
Brandt	Farmer	Kondrich	Saurman
Bunt	Fleagle	Langtry	Scheetz
Burd	Flick	Lee	Schuler
Bush	Foster	Leh	Semmel
Carlson	Fox	Marsico	Smith, B.
Cessar	Gallen	Merry	Smith, S. H.
Chadwick	Geist	Miller	Snyder, D. W.
Clark, D. F.	Gladeck	Moehlmann	Snyder, G.
Clark, J. H.	Godshall	Mowery	Stairs
Clymer	Hagarty	Nahill	Strittmatter
Cornell	Hayes	Nailor	Taylor, E. Z.
Davies	Heckler	Noye	Vroon
Dempsey	Herman	Phillips	Wass
Dietterick	Hershey	Piccola	Wilson
Distler	Hess	Pitts	Wright, J. L.

NAYS—122

Acosta	Dombrowski	Linton	Roebuck
Adolph	Donatucci	Lloyd	Rudy
Allen	Durham	Lucyk	Rybak
Angstadt	Evans	McCall	Saloom
Argall	Freeman	McHale	Scrimenti
Battisto	Freind	McNally	Serafini
Belardi	Gamble	McVerry	Staback
Belfanti	Gannon	Maine	Steighner
Billow	George	Markosek	Stish
Bishop	Gigliotti	Mayernik	Stuban
Blaum	Gruitza	Melio	Tangretti
Bortner	Gruppo	Michlovic	Taylor, F.
Bowley	Haluska	Micozzie	Taylor, J.
Boyes	Harper	Morris	Telek
Broujos	Hasay	Mrkonic	Thomas
Burns	Hayden	Murphy	Tigue
Caltagirone	Howlett	O'Brien	Trello
Cappabianca	Hughes	Olasz	Trich
Carn	Itkin	Oliver	Van Horne
Cawley	James	Perzel	Veon
Civera	Jarolin	Petrarca	Wambach
Clark, B. D.	Josephs	Petrone	Weston
Cohen	Kaiser	Pistella	Williams
Colafrilla	Kasunic	Pressmann	Wogan
Cole	Kenney	Preston	Wozniak
Corrigan	Kosinski	Raymond	Wright, D. R.
Cowell	Kukovich	Reber	Wright, R. C.
Coy	LaGrotta	Richardson	Yandrisevits
DeLuca	Laughlin	Rieger	
DeWeese	Lescovitz	Ritter	O'Donnell,
Daley	Levdansky	Robinson	Speaker

NOT VOTING—0

EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashinger	Pesci	

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

On the question recurring,

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

Mr. PICCOLA offered the following amendments No. A0976:

Amend Title, page 1, line 4, by striking out "A CAPITAL PROJECT" and inserting capital projects

Amend Title, page 1, lines 4 and 5, by striking out "A NEW PRISON" and inserting new prisons

Amend Sec. 101, page 3, line 10, by striking out "project" and inserting projects

Amend Sec. 101, page 3, line 14, by striking out "\$105,000,000" and inserting \$140,200,000

Amend Sec. 102, page 3, line 15, by striking out "project" and inserting projects

Amend Sec. 102, page 3, line 16, by striking out "project" and inserting projects

Amend Sec. 102, page 3, line 19, by striking out "is" and inserting are

Amend Sec. 102, page 3, line 20, by striking out "its" and inserting their

Amend Sec. 102, page 4, by inserting between lines 6 and 7

(i) State Correctional Institution - Wernersville, Berks County

(A) Design and Construction of a 500-Bed Medium Security Prison for Drug and Alcohol Treatment 35,200,000  
(Base Project Allocation - \$28,000,000)  
(Design and Contingencies - \$7,200,000)

Amend Sec. 102, page 4, line 7, by striking out "(I)" and inserting

(ii)

Amend Sec. 103, page 4, lines 16 and 17, by striking out "GREENE" in line 16, all of line 17, and inserting the new correctional institutions.

Amend Sec. 103, page 4, line 22, by striking out "project" and inserting projects

Amend Sec. 103, page 4, line 27, by striking out "one" and inserting

a single

Amend Sec. 103, page 4, lines 28 and 29, by striking out "the maximum security institution IN GREENE COUNTY" and inserting

each of the correctional institutions itemized in section 102

Amend Sec. 103, page 5, line 2, by striking out "contractor" and inserting contractors

Amend Sec. 103, page 5, line 6, by striking out "institution" and inserting

institutions

Amend Sec. 103, page 5, line 7, by striking out "contractor" and inserting

contractors

Amend Sec. 103, page 5, line 10, by striking out "contract" and inserting

contracts

Amend Sec. 103, page 5, line 12, by striking out "institution" and inserting

institutions

Amend Sec. 103, page 5, line 17, by striking out "The" and inserting

Each

Amend Sec. 103, page 5, line 21, by striking out "project"

Amend Sec. 103, page 5, line 22, by inserting after "construction"

of the various projects

Amend Sec. 103, page 5, line 25, by striking out "project" and inserting

projects

Amend Sec. 103, page 5, line 28, by striking out "project" and inserting

projects

Amend Sec. 103, page 5, line 29, by striking out "This project is" and inserting

These projects are

Amend Sec. 103, page 6, line 21, by striking out "project" and inserting

projects

Amend Sec. 103, page 6, line 24, by striking out "contractor" and inserting

contractors

Amend Sec. 103, page 6, line 25, by striking out "institution" and inserting

institutions

Amend Sec. 104, page 7, line 5, by striking out "\$105,000,000" and inserting

\$140,200,000

Amend Sec. 107, page 7, line 28, by striking out "\$105,000,000" and inserting

\$140,200,000

Amend Sec. 108, page 8, line 7, by striking out "project" and inserting

projects

On the question,

Will the House agree to the amendments?

The SPEAKER. On that question, the Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

Since it is clear the House does not want to go private anymore, I think we will go public. This amendment will authorize a 500-bed medium security drug and alcohol treatment facility on the grounds of the Wernersville State Hospital.

No one has to debate the issue of overcrowding in this Commonwealth. The provisions of this bill, in my view and I think in the view of most of the experts dealing with prison overcrowding, simply do not take us very far in terms of planning for the next decade. I think we are going to have to look at additional facilities in this State. This amendment simply authorizes a 500-bed facility designed for drug and alcohol

treatment to be constructed in Wernersville - a Commonwealth owned and constructed facility - and of course, it cannot be constructed unless the executive branch decides to move forward with it.

I urge that we give the executive branch at least the opportunity to engage in the necessary planning to deal with overcrowding in the Commonwealth and that we adopt the amendment.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, I oppose this amendment as I will oppose the other capital project amendments offered by the gentleman, Mr. Piccola.

The total of capital projects, including this facility and some additional amendments that he intends to offer, gives us a price tag of \$1.1 billion - \$1.1 billion of public money, not private money, public money. The entire reason we are attempting to go with a lease/purchase to build three State facilities is because we in the Commonwealth and our taxpayers do not have the moneys to build these prisons the old-fashioned way, the old long way and the expensive way, and I doubt if many of us in this chamber are willing at some date to vote to raise the personal income tax to 3 percent to help pay the \$1.1-billion price tag Mr. Piccola would like to add to this legislation.

I ask that this amendment, A976, be defeated as I will ask that the other amendments that deal with specific county correctional facilities or security prisons be defeated also. Thank you.

The SPEAKER. Will the House agree to the amendment?

The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I do not deny that this is an expensive proposition, but it is not something that we are going to be doing in the next 2 or 3 years; it is something that we have to be planning for for the next decade.

I have tried to indicate to the administration that I think we should be planning prison expansion not just for 1991, not just for 1992, but to the year 2000. All this amendment does is suggest to the administration and to authorize the administration, if they see fit, to engage in a relatively minor expansion project, keeping in mind that most of our prison population today have drug and alcohol problems and we are not meeting those problems. This is a very responsible approach to that.

I would suggest to the gentleman, Mr. Belfanti, that he need not fear that—I forget the number he used, over a billion dollars—I do not intend to offer all of those, so you can reduce the numbers, but I would indicate to the gentleman that the bill already, already, with just the three private facilities—which I do not know if they are private or public now, the way the gentleman is talking over there—but the three private facilities authorize the expenditure of a quarter of a billion dollars for private facilities.

So I do not deny that this is going to be an expensive proposition. The cost of the Wernersville facility is authorized at \$35.2 million, and I do not think that is a whole lot of money



in the long term to spend to meet the needs of the Pennsylvania correction system.

I urge that we adopt the amendment, to give the administration the flexibility to deal with this problem into the 1990's.

The SPEAKER. The Chair recognizes Mr. Murphy.

Mr. MURPHY. Mr. Speaker, I rise to support this amendment. I think it makes sense to suggest to the Governor that we begin to shape a drug and alcohol policy within our Commonwealth, that we treat inmates who have drug and alcohol problems in a special kind of way.

Right now many of the inmates who have serious drug and alcohol problems are generally dumped in with the general prison population. That does not offer any serious rehabilitation. To suggest that we could create a drug and alcohol facility that would provide adequate rehabilitation suggests that we could reduce the recidivism rate of inmates, because so much of the crime today in society is tied to drugs and alcoholism.

I do not think we should reject Mr. Piccola's amendment as something that is necessarily costly. I think in the long run that this particular amendment could be a cost-effective measure. So I would ask that you look at this amendment not in a partisan way but in a nonpartisan way, and I would suggest that it offers a good approach to the prison system by suggesting one facility that would have the expertise to deal with drug and alcohol rehabilitation. Thank you.

The SPEAKER. The Chair recognizes Mr. Davies.

Mr. DAVIES. Thank you, Mr. Speaker.

I rise to support the amendment, simply by the fact that not only is a facility to be built at that particular institution but there are surplus buildings at that institution now that could be well put into play with this plan that could well serve that particular segment that is now going untouched in our criminal system. Thank you.

The SPEAKER. The Chair recognizes Mr. Pistella.

Mr. PISTELLA. Thank you, Mr. Speaker.

I have listened to the debate this afternoon, Mr. Speaker, on the Piccola amendment in which speakers have suggested that it is in fact appropriate and noble that we as a Commonwealth undertake the position of offering more in the form of rehabilitation for those men and women who are incarcerated in our prison system, and I think in fact that is a noble gesture. I would, however, like to draw the attention of the members to the fiscal note that has been attached, dated April 2, from Representative Pievsky, the chairman of the House Appropriations Committee, in which he cites the fact that the amendment offered by the gentleman, Mr. Piccola, will raise the capital cost from \$105 million to \$140 million and that the 30-year payback schedule for this amendment would raise the total cost from \$227 million to \$292 million.

I in fact agree that we should do something in the form of rehabilitation for those men and women who suffer from drug and alcohol problems in our prison system, but I have my doubts as to whether or not \$52 million would in fact solve the problem, especially if we are talking about a facility that is only going to be capable of housing a small number of the

prisoners that are in fact affected. I think a more appropriate way of dealing with this problem would be to review the procedures of the budget process in an attempt to expand or institute programs available through the General Fund as opposed to burdening the Commonwealth with an exorbitant cost of money with trying to cure a very small problem with the effort undertaken by Mr. Piccola.

Therefore, I would encourage the members to vote against the Piccola amendment and try to find a more rational way of dealing with this problem. Thank you.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, HB 2116, together with the DeWeese-Ryan amendment, already goes a very long way in addressing the needs of the counties, whether it be the drug and alcohol facility or county prisons. We are giving the same latitude to county commissioners and county joint prison authorities, operated by county commissioners, to either construct prisons under the current process with the 50-50 matching grants proposition or to engage private entrepreneurs to enter into lease/purchase long-term arrangements for county sites.

County commissioners are saddled with the same fiscal problems as we are here in the capital. They do not have the funds, and many of them are under mandate by Federal court to either rehabilitate or reconstruct facilities. The legislation already addresses that. At a later date Mr. Michlovic will be offering an amendment which will even go further in addressing that, if it in fact is passed, but the Piccola amendments, again, whether they hit \$1.1 billion or \$656 million, whatever the cost, it is too high. If we had this kind of money, we would not have even introduced HB 2116 with a lease/purchase arrangement. If we had the kind of money that Mr. Piccola would like us to spend in this bill, we would be building prisons the old-fashioned way and not even involving ourselves in this debate today.

So I respectfully urge my colleagues to vote against this and the other Piccola amendments dealing with specific sites. Thank you.

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. We are involved, Mr. Speaker, in a comparatively delicate process. We are trying to find enough jail cells for our incarcerated, and it is a Herculean chore. The executive branch of government has the responsibility, and they have, with our collective endeavors, brought forward a piece of legislation to attack the problem. Will it solve the entire problem? Of course not, but the unilateral efforts of the gentleman from Dauphin County will not solve the problem either.

We are making a significant stride in the direction of building more cells, cells that will be a State penitentiary. In spite of the gentleman's protestations to the contrary, this will not be a private facility. We are using comparatively ingenious methods to fast-track the process, and I am convinced that to adopt this amendment will cause fiscal chaos and further delay the building of penitentiaries and the solving of our exceptional corrections problem.

I would respectfully request that we defeat this amendment.

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

The following roll call was recorded:

YEAS—102

Adolph	Distler	Jackson	Reber
Allen	Dorr	Jadlowiec	Reinard
Angstadt	Durham	Johnson	Robbins
Argall	Fairchild	Kenney	Ryan
Barley	Fargo	Kondrich	Saurman
Birmelin	Farmer	Langtry	Scheetz
Black	Fleagle	Lee	Schuler
Blaum	Flick	Leh	Semmel
Boyes	Foster	McVerry	Serafini
Brandt	Fox	Marsico	Smith, B.
Bunt	Freeman	Merry	Smith, S. H.
Burd	Freind	Micozzie	Snyder, D. W.
Burns	Gallen	Miller	Snyder, G.
Bush	Gamble	Moehlmann	Stairs
Caltagirone	Gannon	Mowery	Strittmatter
Carlson	Geist	Murphy	Taylor, E. Z.
Cessar	Gladeck	Nahill	Taylor, J.
Chadwick	Godshall	Nailor	Telek
Civera	Gruppo	Noye	Vroon
Clark, D. F.	Hagarty	O'Brien	Wass
Clark, J. H.	Hasay	Perzel	Weston
Clymer	Hayes	Phillips	Wilson
Cornell	Heckler	Piccola	Wogan
Davies	Herman	Pitts	Wright, J. L.
Dempsey	Hershey	Raymond	Wright, R. C.
Dietterick	Hess		

NAYS—92

Acosta	Evans	McCall	Rybak
Battisto	George	McHale	Saloom
Belardi	Gigliotti	McNally	Scrimenti
Belfanti	Gruitza	Maine	Staback
Billow	Haluska	Markosek	Steighner
Bishop	Harper	Mayernik	Stish
Bortner	Hayden	Melio	Stuban
Bowley	Howlett	Michlovic	Tangretti
Broujos	Hughes	Morris	Taylor, F.
Cappabianca	Itkin	Mrkonic	Thomas
Carn	James	Olasz	Tigue
Cawley	Jarolin	Oliver	Trello
Clark, B. D.	Josephs	Petrarca	Trich
Cohen	Kaiser	Petrone	Van Horne
Colafrella	Kasunic	Pistella	Veon
Cole	Kosinski	Pressmann	Wambach
Corrigan	Kukovich	Preston	Williams
Cowell	LaGrotta	Richardson	Wozniak
Coy	Laughlin	Rieger	Wright, D. R.
DeLuca	Lescovitz	Ritter	Yandrisevits
DeWeese	Levdanskyy	Robinson	
Daley	Linton	Roebuck	O'Donnell,
Dombrowski	Lloyd	Rudy	Speaker
Donatucci	Lucyk		

NOT VOTING—0

EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashinger	Pesci	

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

On the question recurring,

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

The SPEAKER. Is the gentleman, Mr. Piccola, seeking recognition?

Mr. PICCOLA. Mr. Speaker, I will withdraw the amendments that I have circulated up till now, reserving the right to perhaps offer an amendment to an amendment that Mr. Michlovic, I believe, is going to offer. If he is successful, I may have a further amendment to the bill.

But at this time I would withdraw those amendments that I had previously circulated.

The SPEAKER. The Chair does not understand the gentleman to be able to reserve rights; however, as long as the bill is on the floor, it is amenable to the gentleman's amendments, and I understand the amendments to be withdrawn at this time.

On the question recurring,

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

Mr. FARGO offered the following amendment No. A1026:

Amend Sec. 902, page 20, line 9, by striking out "CHAPTER 5" and inserting

Chapters 5 and 7

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes Mr. Fargo.

Mr. FARGO. Thank you, Mr. Speaker.

Chapter No. 7 of this bill deals with a referendum for a \$100-million bond issue that will provide low-interest loans to our counties so that our counties can improve their own county jails. This particular amendment will set an effective date for chapter 7, which is the same date that is set for chapter 5 of the bill, and that date is December 21 of 1989.

The purpose in setting an effective date for chapter 7 of this bill is to include the possibility of my county, which has already started some additional cells in a much-needed improvement to their jail. That work was started this month. The provisions for financing were settled in January of 1990. Under the provisions of this bill, I am not certain as to whether the county would have the right to participate in the bond issue that is being considered in this legislation. By making an effective date of December 21, I know that they would have that opportunity.

My county happens to be the only county over the last 2 years, to my knowledge, that has increased or had a major improvement in their county jails. However, it should be noted that prior to the referendum and prior to the actual implementation of this bond issue, it is possible that there will be some other counties out there that have additions to their county jails on the drawing boards. If they do, I am sure that their consideration would be to hold up any further action on it until they were certain that they could come under the provisions of this bill. By moving the date back to an effective date of December 21 of 1989, those particular counties will not have to have that concern, and they can go ahead with their plans in improving their county jails.

I believe that this will be a help to not only our county but to other counties in this State. There is a possibility that Mercer County will not use this provision because they have already realized some financing, but I would like to make it possible for them to do so if those low-interest loans are available.

I would appreciate your support of this amendment.

The SPEAKER. The Chair recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

While I am not going to object to the amendment, I do have some concerns that by setting or establishing a date, we may have the opposite effect of what Mr. Fargo is intending in that we may cut off some counties that have spent moneys prior to December of 1989, that have spent moneys 4 or 5 years ago, from being able to take advantage of the bond pool that will be created under the provisions of this act.

So I have some concerns along that line, and I would just ask that the members vote cautiously on this, because I am not quite sure what the net impact is or how many counties may be affected retroactively by this amendment. I am not opposing the amendment, but I am not quite sure what the impact is going to be on the other 66 counties that Mr. Fargo has not talked about.

The SPEAKER. Will the House agree to the amendment?

The Chair recognizes Mr. Fairchild.

Mr. FAIRCHILD. Mr. Speaker, I rise to support the Fargo amendment. I think it is a good idea. It does not open it up to go way back. It sets a concrete date, and I think what it does is it helps out those that have had the initiative to address the problem that maybe we have not addressed in the past.

I urge the members to support the amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—173

Acosta	Fairchild	Kukovich	Richardson
Adolph	Fargo	LaGrotta	Rieger
Allen	Farmer	Langtry	Ritter
Angstadt	Fleagle	Laughlin	Robbins
Argall	Flick	Lee	Robinson
Barley	Foster	Leh	Roebuck
Battisto	Fox	Lescovitz	Rudy
Birmelin	Freeman	Levdansky	Ryan
Black	Freind	Linton	Rybak
Blaum	Gallen	Lloyd	Saloom
Bortner	Gamble	Lucy	Saurman
Bowley	Gannon	McCall	Scheetz
Boyes	Geist	McHale	Schuler
Brandt	George	McVerry	Semmel
Broujos	Gigliotti	Maine	Serafini
Bunt	Gladeck	Markosek	Smith, B.
Burd	Godshall	Marsico	Smith, S. H.
Burns	Gruitza	Mayernik	Snyder, D. W.
Bush	Gruppo	Merry	Snyder, G.
Cappabianca	Hagarty	Michlovic	Stairs
Carlson	Haluska	Micozzie	Steighner
Carn	Harper	Miller	Strittmatter
Cessar	Hasay	Moehlmann	Tangretti
Chadwick	Hayden	Morris	Taylor, E. Z.
Civera	Hayes	Mowery	Taylor, F.
Clark, B. D.	Heckler	Murphy	Taylor, J.
Clark, D. F.	Herman	Nahill	Telek

Clark, J. H.	Hershey	Nailor	Thomas
Clymer	Hess	Noye	Trello
Colafella	Howlett	O'Brien	Trich
Cornell	Hughes	Olasz	Van Horne
Cowell	Itkin	Oliver	Vroon
Coy	Jackson	Perzel	Wambach
DeLuca	Jadlowiec	Petrarca	Wass
DeWeese	James	Petrone	Weston
Davies	Jarolin	Phillips	Williams
Dempsey	Johnson	Piccola	Wilson
Dietterick	Josephs	Pitts	Wogan
Distler	Kaiser	Pressmann	Wozniak
Dombrowski	Kasunic	Preston	Wright, D. R.
Donatucci	Kenney	Raymond	Wright, J. L.
Dorr	Kondrich	Reber	Wright, R. C.
Durham	Kosinski	Reinard	Yandrisevits
Evans			

NAYS—19

Belardi	Cole	Mrkonic	Stuban
Belfanti	Corrigan	Pistella	Tigue
Billow	Daley	Scrimenti	
Caltagirone	McNally	Staback	O'Donnell,
Cawley	Melio	Stish	Speaker
Cohen			

NOT VOTING—2

Bishop	Veon
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EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashingier	Pesci	

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

VOTE CORRECTION

The SPEAKER. The Chair was voted in error on A1026 to HB 2116 and should have been recorded in the affirmative.

CONSIDERATION OF HB 2116 CONTINUED

AMENDMENT A0976 RECONSIDERED

The SPEAKER. The Chair is in possession of a motion to reconsider the vote by which amendment A976 by Representative Piccola to HB 2116, PN 3210, passed on the 3d day of April.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—186

Acosta	Dietterick	Langtry	Robinson
Adolph	Distler	Laughlin	Roebuck
Allen	Dombrowski	Lee	Rudy
Angstadt	Donatucci	Leh	Ryan
Argall	Dorr	Lescovitz	Rybak
Barley	Durham	Levdansky	Saloom
Battisto	Evans	Linton	Saurman
Belardi	Fairchild	Lloyd	Scheetz
Belfanti	Fargo	Lucy	Schuler
Billow	Farmer	McCall	Scrimenti
Birmelin	Flick	McHale	Semmel
Bishop	Foster	McNally	Serafini
Black	Freeman	McVerry	Smith, B.
Blaum	Gallen	Maine	Smith, S. H.
Bortner	Gamble	Markosek	Snyder, D. W.
Bowley	Gannon	Marsico	Snyder, G.

Boyes	Geist	Mayernik	Staback
Brandt	George	Melio	Stairs
Broujos	Gigliotti	Merry	Steighner
Bunt	Gladeck	Michlovic	Stish
Burd	Godshall	Micozzie	Strittmatter
Burns	Gruitza	Miller	Stuban
Bush	Gruppo	Moehlmann	Tangretti
Caltagirone	Hagarty	Morris	Taylor, E. Z.
Cappabianca	Haluska	Mowery	Taylor, F.
Carlson	Harper	Mrkonic	Taylor, J.
Carn	Hasay	Murphy	Telek
Cawley	Hayden	Nahill	Thomas
Cessar	Hayes	Nailor	Tigue
Chadwick	Heckler	O'Brien	Trello
Civera	Herman	Olasz	Trich
Clark, B. D.	Hershey	Oliver	Van Horne
Clark, D. F.	Hess	Petrarca	Veon
Clark, J. H.	Howlett	Petrone	Wambach
Clymer	Hughes	Phillips	Wass
Cohen	Itkin	Piccola	Weston
Colafella	Jackson	Pistella	Williams
Cole	Jadlowiec	Pitts	Wilson
Cornell	James	Pressmann	Wogan
Corrigan	Jarolin	Preston	Wozniak
Cowell	Josephs	Raymond	Wright, D. R.
Coy	Kaiser	Reber	Wright, J. L.
DeLuca	Kasunic	Reinard	Wright, R. C.
DeWeese	Kondrich	Richardson	Yandrisevits
Daley	Kosinski	Rieger	
Davies	Kukovich	Ritter	O'Donnell,
Dempsey	LaGrotta	Robbins	Speaker

## NAYS—6

Fleagle	Johnson	Perzel	Vroon
Fox	Noye		

## NOT VOTING—2

Freind	Kenney
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## EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashingier	Pesci	

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

On the question recurring,

Will the House agree to the amendments?

The clerk read the following amendments No. A0976:

Amend Title, page 1, line 4, by striking out "A CAPITAL PROJECT" and inserting capital projects

Amend Title, page 1, lines 4 and 5, by striking out "A NEW PRISON" and inserting new prisons

Amend Sec. 101, page 3, line 10, by striking out "project" and inserting projects

Amend Sec. 101, page 3, line 14, by striking out "\$105,000,000" and inserting \$140,200,000

Amend Sec. 102, page 3, line 15, by striking out "project" and inserting projects

Amend Sec. 102, page 3, line 16, by striking out "project" and inserting projects

Amend Sec. 102, page 3, line 19, by striking out "is" and inserting

are

Amend Sec. 102, page 3, line 20, by striking out "its" and inserting

their

Amend Sec. 102, page 4, by inserting between lines 6 and 7

(i) State Correctional Institution -  
Wernersville, Berks County

(A) Design and Construction of a 500-Bed Medium Security Prison for Drug and Alcohol Treatment 35,200,000  
(Base Project Allocation - \$28,000,000)  
(Design and Contingencies - \$7,200,000)

Amend Sec. 102, page 4, line 7, by striking out "(I)" and inserting

(ii)

Amend Sec. 103, page 4, lines 16 and 17, by striking out "GREENE" in line 16, all of line 17, and inserting the new correctional institutions.

Amend Sec. 103, page 4, line 22, by striking out "project" and inserting

projects

Amend Sec. 103, page 4, line 27, by striking out "one" and inserting

a single

Amend Sec. 103, page 4, lines 28 and 29, by striking out "the maximum security institution IN GREENE COUNTY" and inserting

each of the correctional institutions itemized in section 102

Amend Sec. 103, page 5, line 2, by striking out "contractor" and inserting

contractors

Amend Sec. 103, page 5, line 6, by striking out "institution" and inserting

institutions

Amend Sec. 103, page 5, line 7, by striking out "contractor" and inserting

contractors

Amend Sec. 103, page 5, line 10, by striking out "contract" and inserting

contracts

Amend Sec. 103, page 5, line 12, by striking out "institution" and inserting

institutions

Amend Sec. 103, page 5, line 17, by striking out "The" and inserting

Each

Amend Sec. 103, page 5, line 21, by striking out "project"

Amend Sec. 103, page 5, line 22, by inserting after "construction"

of the various projects

Amend Sec. 103, page 5, line 25, by striking out "project" and inserting

projects

Amend Sec. 103, page 5, line 28, by striking out "project" and inserting

projects

Amend Sec. 103, page 5, line 29, by striking out "This project is" and inserting

These projects are

Amend Sec. 103, page 6, line 21, by striking out "project" and inserting

projects

Amend Sec. 103, page 6, line 24, by striking out "contractor" and inserting

contractors

Amend Sec. 103, page 6, line 25, by striking out "institution" and inserting

institutions

Amend Sec. 104, page 7, line 5, by striking out "\$105,000,000" and inserting \$140,200,000  
 Amend Sec. 107, page 7, line 28, by striking out "\$105,000,000" and inserting \$140,200,000  
 Amend Sec. 108, page 8, line 7, by striking out "project" and inserting projects

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

**AMENDMENTS WITHDRAWN**

The SPEAKER. The Chair recognizes Mr. Piccola, who withdraws amendment 976.

For the information of the members, the purpose of the withdrawal is for redrafting.

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

Mr. RYAN offered the following amendments No. A1160:

Amend Title, page 1, line 10, by striking out "LOW-INTEREST" and inserting interest free

Amend Sec. 701, page 18, line 20, by striking out "LOW-INTEREST" and inserting interest free

Amend Sec. 703, page 19, line 1, by striking out "LOW-INTEREST" and inserting interest free

Amend Sec. 705, page 19, line 12, by striking out "LOW-INTEREST" and inserting interest free

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

**AMENDMENTS WITHDRAWN**

The SPEAKER. The Chair recognizes Mr. Ryan, who withdraws amendment 1160.

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

Mr. RYAN offered the following amendments No. A1162:

Amend Table of Contents, page 1, lines 11 through 18 (A1135), by striking out all of said lines

Amend Sec. 304, page 3, line 5 (A1135), by striking out "7" and inserting 6

Amend Sec. 304, page 3, line 7 (A1135), by striking out all of said line and inserting and 6 and inserting Although cost shall be considered

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

The SPEAKER. The Chair recognizes the gentleman, Mr. Ryan, and asks the gentleman, Mr. Itkin, to preside.

Mr. RYAN. Mr. Speaker, this is the corrective amendment that I made reference to at the beginning of the debate on this bill. This puts back into the table of contents the fact that sec-

tions 303, 304, and 305 are back in the bill and also puts back in the language that cost shall be considered as a factor, although it need not be the determinative factor. These were technical oversights when the amendment was originally drawn.

**THE SPEAKER PRO TEMPORE  
 (IVAN ITKIN) PRESIDING**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.  
 This is an agreed-to amendment.

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

The following roll call was recorded:

**YEAS—194**

Acosta	Dombrowski	LaGrotta	Robbins
Adolph	Donatucci	Langtry	Robinson
Allen	Dorr	Laughlin	Roebuck
Angstadt	Durham	Lee	Rudy
Argall	Evans	Leh	Ryan
Barley	Fairchild	Lescovitz	Rybak
Battisto	Fargo	Levdansky	Saloom
Belardi	Farmer	Linton	Saurman
Belfanti	Fleagle	Lloyd	Scheetz
Billow	Flick	Lucyk	Schuler
Birmelin	Foster	McCall	Scrimenti
Bishop	Fox	McHale	Semmel
Black	Freeman	McNally	Serafini
Blaum	Freind	McVerry	Smith, B.
Bortner	Gallen	Maine	Smith, S. H.
Bowley	Gamble	Markosek	Snyder, D. W.
Boyes	Gannon	Marsico	Snyder, G.
Brandt	Geist	Mayernik	Staback
Broujos	George	Melio	Stairs
Bunt	Gigliotti	Merry	Steighner
Burd	Gladeck	Michlovic	Stish
Burns	Godshall	Micozzie	Strittmatter
Bush	Gruitza	Miller	Stuban
Caltagirone	Gruppo	Moehlmann	Tangretti
Cappabianca	Hagarty	Morris	Taylor, E. Z.
Carlson	Haluska	Mowery	Taylor, F.
Carn	Harper	Mrkonic	Taylor, J.
Cawley	Hasay	Murphy	Telek
Cessar	Hayden	Nahill	Thomas
Chadwick	Hayes	Nailor	Tigue
Civera	Heckler	Noye	Trello
Clark, B. D.	Herman	O'Brien	Trich
Clark, D. F.	Hershey	Olasz	Van Horne
Clark, J. H.	Hess	Oliver	Veon
Clymer	Howlett	Perzel	Vroon
Cohen	Hughes	Petrarca	Wambach
Colafrella	Itkin	Petrone	Wass
Cole	Jackson	Phillips	Weston
Cornell	Jadlowiec	Piccola	Williams
Corrigan	James	Pistella	Wilson
Cowell	Jarolin	Pitts	Wogan
Coy	Johnson	Pressmann	Wozniak
DeLuca	Josephs	Preston	Wright, D. R.
DeWeese	Kaiser	Raymond	Wright, J. L.
Daley	Kasunic	Reber	Wright, R. C.
Davies	Kenney	Reinard	Yandrisevits
Dempsey	Kondrich	Richardson	
Dietterick	Kosinski	Rieger	O'Donnell,
Distler	Kukovich	Ritter	Speaker

## NAYS—0

## NOT VOTING—0

## EXCUSED—7

Colaizzo                      Fee                      Maiale                      Pievsky  
Dininni                      Lashingier                      Pesci

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

On the question recurring,

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

Mr. RYAN reoffered the following amendments No. A1160:

Amend Title, page 1, line 10, by striking out "LOW-INTEREST" and inserting  
interest free

Amend Sec. 701, page 18, line 20, by striking out "LOW-INTEREST" and inserting  
interest free

Amend Sec. 703, page 19, line 1, by striking out "LOW-INTEREST" and inserting  
interest free

Amend Sec. 705, page 19, line 12, by striking out "LOW-INTEREST" and inserting  
interest free

On the question recurring,

Will the House agree to the amendments?

The SPEAKER pro tempore. The Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, a moment ago this amendment was up on the board and I had it mixed up with one of my other amendments, and that is when we last voted the technical amendment of 1162. Now we are revisiting 1160.

What this does, Mr. DeWeese and I, as I mentioned earlier, met a number of times in connection with these amendments and with this bill. There were at one point discussions of grant programs of money. Now, nothing would please me more politically than acting completely irresponsible and putting the Governor on the edge in an election year. Sometimes I get religion and just cannot do it.

This amendment, what it does, it provides \$100 million in interest-free loans - loans as opposed to grants - to counties for the purpose of erecting prison facilities, and the amendment is sponsored by both the gentleman, Mr. DeWeese, and myself.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

This amendment is also agreed to. I urge its passage.

The SPEAKER pro tempore. On the question, the Chair recognizes the majority leader, Mr. DeWeese.

Mr. DEWEESE. Very quickly, Mr. Speaker, if this proposal is adopted, and I certainly hope it will be, the counties will not be paying back a dime of interest, just the principal, and I think that is the initial and overwhelming impetus behind this measure: We will have to pay no interest.

So again, I would like to thank the minority leader for the cooperation that we have had on the preparation of this amendment and ask for its adoption.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

## YEAS—194

Acosta	Dombrowski	LaGrotta	Robbins
Adolph	Donatucci	Langtry	Robinson
Allen	Dorr	Laughlin	Roebuck
Angstadt	Durham	Lee	Rudy
Argall	Evans	Leh	Ryan
Barley	Fairchild	Lescovitz	Rybak
Battisto	Fargo	Levdansky	Saloom
Belardi	Farmer	Linton	Saurman
Belfanti	Fleagle	Lloyd	Scheetz
Billow	Flick	Lucyk	Schuler
Birmelin	Foster	McCall	Scrimenti
Bishop	Fox	McHale	Semmel
Black	Freeman	McNally	Serafini
Blaum	Freind	McVerry	Smith, B.
Bortner	Gallen	Maine	Smith, S. H.
Bowley	Gamble	Markosek	Snyder, D. W.
Boyes	Gannon	Marsico	Snyder, G.
Brandt	Geist	Mayernik	Staback
Broujos	George	Melio	Stairs
Bunt	Gigliotti	Merry	Steighner
Burd	Gladeck	Michlovic	Stish
Burns	Godshall	Micozzie	Strittmatter
Bush	Gruitza	Miller	Suban
Caltagirone	Gruppo	Moehlmann	Tangretti
Cappabianca	Hagarty	Morris	Taylor, E. Z.
Carlson	Haluska	Mowery	Taylor, F.
Carn	Harper	Mrkonic	Taylor, J.
Cawley	Hasay	Murphy	Telek
Cessar	Hayden	Nahill	Thomas
Chadwick	Hayes	Nailor	Tigue
Civera	Heckler	Noye	Trello
Clark, B. D.	Herman	O'Brien	Trich
Clark, D. F.	Hershey	Olasz	Van Horne
Clark, J. H.	Hess	Oliver	Veon
Clymer	Howlett	Perzel	Vroon
Cohen	Hughes	Petrarca	Wambach
Colafella	Itkin	Petrone	Wass
Cole	Jackson	Phillips	Weston
Cornell	Jadlowiec	Piccola	Williams
Corrigan	James	Pistella	Wilson
Cowell	Jarolin	Pitts	Wogan
Coy	Johnson	Pressmann	Wozniak
DeLuca	Josephs	Preston	Wright, D. R.
DeWeese	Kaiser	Raymond	Wright, J. L.
Daley	Kasunic	Reber	Wright, R. C.
Davies	Kenney	Reinard	Yandrisevits
Dempsey	Kondrich	Richardson	
Dietterick	Kosinski	Rieger	O'Donnell,
Distler	Kukovich	Ritter	Speaker

## NAYS—0

## NOT VOTING—0

## EXCUSED—7

Colaizzo                      Fee                      Maiale                      Pievsky  
Dininni                      Lashingier                      Pesci

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

On the question recurring,

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

Mr. MICHLOVIC offered the following amendments No. A0970:

Amend Title, page 1, line 10, by striking out "LOW INTEREST LOANS" and inserting grants

Amend Table of Contents, page 2, lines 24 through 30; by striking out all of said lines and inserting

Chapter 7. Incurring Indebtedness for County Prisons

Section 701. Definitions.

Section 702. Referendum to authorize incurring indebtedness.

Section 703. Authority to borrow.

Section 704. Bonds, issue, maturity, interest, etc.

Section 705. Sale of bonds.

Section 706. Refunding bonds.

Section 707. Registration of bonds.

Section 708. Disposition and use of proceeds.

Section 709. Local Criminal Justice Sinking Fund.

Section 710. Expenses of preparation, issue and sale of bonds.

Section 711. Temporary financing authorization.

Section 712. Quorum.

Section 713. Information to General Assembly.

Section 714. Grants to counties.

Section 715. Multicounty regional prison facilities.

Section 716. Appropriation.

Amend Bill, page 18, lines 17 through 30; page 19, lines 1 through 30, by striking out all of said lines on said pages and inserting

INCURRING INDEBTEDNESS FOR COUNTY PRISONS

Section 701. Definitions.

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

"Construction." The term includes the preparation of drawings and specifications for facilities; erecting, building, altering, remodeling, improving or extending such facilities; and the inspection and supervision of the construction of such facilities. The term does not include any interest in land.

"County." Any county of this Commonwealth.

"Department." The Department of Corrections of the Commonwealth.

"Facility." The term includes any building and related facility, initial equipment, machinery and utilities necessary or appropriate for the criminal justice purpose for which the particular facility was constructed.

"Local correctional facility." Any jail, prison or detention facility operated by a county or jointly by more than one county and used for the confinement of persons for safe custody. The term does not include any facility used for the detention or confinement of juveniles.

Section 702. Referendum to authorize incurring indebtedness.

(a) Submission of question to electors.—The question of incurring indebtedness of \$200,000,000 for the repair, expansion, construction, reconstruction or rehabilitation of county prisons or multicounty regional prison facilities shall be submitted to the electors at the next primary, municipal or general election following the effective date of this chapter.

(b) Certification to county boards of elections.—The Secretary of the Commonwealth shall immediately certify the question under subsection (a) to the county boards of elections.

(c) Form of question.—The question shall be in substantially the following form:

Do you favor the incurring of indebtedness by the Commonwealth of \$200,000,000 to repair, expand,

construct, reconstruct and rehabilitate county prisons or multicounty regional prison facilities?

(d) Conduct of election.—The election shall be conducted in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, except that the time limits for advertisement of notice of the election may be waived as to the question.

Section 703. Authority to borrow.

In the event that the question of incurring indebtedness, as described in section 702, is approved by a majority of those voting on the question in accordance with section 7(a)(3) of Article VIII of the Constitution of Pennsylvania, the Governor, Auditor General and State Treasurer are hereby authorized and directed to borrow, on the credit of the Commonwealth, such sum or sums of money not exceeding in the aggregate the sum of \$200,000,000, as may be necessary to carry out the purposes of this chapter.

Section 704. Bonds, issue, maturity, interest, etc.

(a) Issuance.—As evidence of the indebtedness herein authorized, general obligation bonds of the Commonwealth shall be issued, from time to time for such total amounts, in such forms, in such denominations and subject to such terms and conditions of issue, redemption and maturity, rate or rates of interest and time of payment of interest as the Governor, Auditor General and State Treasurer shall direct, except that the latest stated maturity date shall not exceed 30 years from the date of the bond first issued for each such series.

(b) Signatures and seal.—All bonds issued under the authority of this chapter shall bear facsimile signatures of the Governor, the Auditor General and the State Treasurer, and a facsimile of the Great Seal of the Commonwealth, and shall be countersigned by two duly authorized officers of the duly authorized loan and transfer agents of the Commonwealth.

(c) Full faith and credit.—All bonds issued in accordance with the provisions of this chapter shall be direct obligations of the Commonwealth and the full faith and credit of the Commonwealth are hereby pledged the payment of the interest thereon as the same shall become due and for the payment of the principal thereof at maturity. All bonds issued under the provisions of this chapter shall be exempt from taxation for State and local purposes. The principal of and interest on such bonds shall be payable in lawful money of the United States of America.

(d) Form.—Bonds issued under this chapter may be issued as coupon bonds or registered as to both principal and interest as the issuing officials may determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(e) Amount.—The issuing officials shall provide for the amortization of the bonds issued under this chapter in substantial and regular amounts over the term of the debt.

(f) Preparation.—The Governor, the Auditor General and the State Treasurer shall proceed to have the necessary bonds prepared and printed. The bonds, as soon as they are prepared and printed, shall be deposited with the duly authorized loan and transfer agent of the Commonwealth, there to remain until sold in accordance with the provisions of this chapter.

Section 705. Sale of bonds.

(a) Offering for sale.—When bonds are issued under this chapter, they shall be offered for sale and shall be sold by the Governor, the Auditor General and State Treasurer to the highest and best bidder or bidders after due public advertisement, on such terms and conditions and upon such open competitive bidding as the Governor, the Auditor General and the State Treasurer shall direct. The manner and character of advertisement and the times of advertising shall be prescribed by the Governor, the Auditor General and the State Treasurer.

(b) Private sale.—Any portion of any bond issue offered under subsection (a) and not sold or subscribed for may be dis-

posed of by private sale by the Governor, the Auditor General and the State Treasurer, in such manner and at such prices as the Governor shall direct.

(c) Series.—When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth. Section 706. Refunding bonds.

The Governor, the Auditor General and the State Treasurer are hereby authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any bonds issued under the provisions of this chapter and then outstanding, either by voluntary exchange with the holders of such outstanding bonds with accrued interest and any premium payable thereon, at maturity or at any call date. The issuance of refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the Governor, the Auditor General and the State Treasurer in respect to refunding bonds shall be governed by the foregoing provisions of this chapter, insofar as they may be applicable. Refunding bonds may be issued by the Governor, the Auditor General and the State Treasurer to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

Section 707. Registration of bonds.

The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the Governor, the Auditor General and the State Treasurer. All bonds which are issued under this chapter without interest coupons attached shall be registered in the registry books kept by the duly authorized loan and transfer agent of the Commonwealth.

Section 708. Disposition and use of proceeds.

(a) Creation of Local Criminal Justice Fund.—There is hereby created in the State Treasury a special fund to be known as the Local Criminal Justice Fund. The proceeds realized from the sale of bonds under the provisions of this chapter shall be paid into this special fund and are hereby specifically dedicated to the purpose of the referendum authorized by section 702. The moneys shall be paid periodically by the State Treasurer to the department at such times and in such amounts as may be necessary to satisfy the purpose of this chapter.

(b) Investment and earnings.—Pending their application to the purposes authorized, moneys held or deposited in the Local Criminal Justice Fund by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Local Criminal Justice Fund.

Section 709. Local Criminal Justice Sinking Fund.

All bonds issued under the authority of this chapter shall be redeemed at maturity, and all interest due, from time to time, on such bonds shall be paid from the Local Criminal Justice Sinking Fund, which is hereby created. For the specific purpose of redeeming these bonds at maturity and paying all interest thereon in accordance with the information received from the Governor, the General Assembly shall appropriate moneys for the payment of interest on these bonds and the principal thereof at maturity. All moneys paid into the Local Criminal Justice Sinking Fund, and all of such moneys not necessary to pay accruing interest, shall be invested by the Board of Finance and Revenue in such securities as are provided by law for the investment of the sinking funds of the Commonwealth.

Section 710. Expenses of preparation, issue and sale of bonds.

There is hereby appropriated to the State Treasurer, from the proceeds of the bonds issued, as much of the moneys as may be necessary for all costs and expenses in connection with the issue

of and sale and registration of bonds in connection with this chapter.

Section 711. Temporary financing authorization.

(a) Temporary borrowing.—Pending the issuance of bond of the Commonwealth, the Governor, the Auditor General and the State Treasurer are authorized, on the credit of the Commonwealth, to make temporary borrowings of such moneys as may from time to time be necessary to carry out the purposes of this chapter and are authorized in the name and on behalf of the Commonwealth to enter into loan or credit agreements with any banks or trust companies or other lending institutions or persons in the United States having power to enter into the same.

(b) Form.—All temporary borrowings made under the authority of this section shall be evidenced by notes of the Commonwealth, which shall be issued from time to time for such amounts, not exceeding in the aggregate the sum of \$200,000,000, in such form and in such denominations, and subject to such terms and conditions of issue, prepayment or redemption and maturity, rate of interest and time of payment of interest as the issuing officials shall direct. All notes issued under the authority of this section shall bear the facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth, and shall be countersigned by two duly authorized officers of a duly authorized loan and transfer agent of the Commonwealth.

(c) Funding and retirement.—All notes under this section shall be funded and retired by the issuance and sale of bonds of the Commonwealth to the extent that payment of these notes has not otherwise been made or provided for.

(d) Proceeds.—The proceeds of all temporary borrowings under this section shall be paid into the Local Criminal Justice Fund.

Section 712. Quorum.

Whenever in this chapter any action is to be taken or any decision is to be made by the Governor, the Auditor General and the State Treasurer, and the three officers are not able to agree unanimously, the action or decision of the Governor and either the Auditor General or the State Treasurer shall be binding and final.

Section 713. Information to General Assembly.

It shall be the duty of the Governor to include in every budget submitted to the General Assembly full information relating to the issuance of bonds under the provisions of this chapter, and the status of the sinking funds of the Commonwealth for the payment of the interest on those bonds and the principal thereof at maturity.

Section 714. Grants to counties.

The department shall, by regulation, establish procedures to implement the purposes of this chapter and to make grants to counties for the repair, expansion, construction, reconstruction, rehabilitation and improvement of local correctional facilities or multicounty regional prison facilities. These procedures shall include, at a minimum, the following:

(1) Applications shall be made to the department by the county or counties requesting the grant.

(2) Any grant approved by the department must be matched by funding in a like amount by the county from county funds, except that, if any Federal funding should become available for the construction of local correctional facilities, then both the department and county shares shall be reduced in like proportion.

(3) Grants shall be available only for the repair, expansion, construction, reconstruction, rehabilitation and improvement of local correctional facilities or multicounty regional prison facilities.

Section 715. Multicounty regional prison facilities.

(a) Authorization to counties.—Any county or counties or any county authority created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, are authorized to acquire, hold, construct, finance,



improve, maintain, operate, own or lease, either in the capacity of lessor or lessee, any county or multicounty regional prison facility for the purpose of incarcerating their own inmates and inmates of other counties. A county or multicounty regional prison facility may also house Commonwealth inmates.

(b) Prison services contracts.—The Commonwealth and any county may enter into contracts with any county or multicounty regional prison facility authorized under subsection (a) for the incarceration of State or county inmates and all services necessary, appropriate or incident to the housing and care of such inmates.

#### Section 716. Appropriation.

(a) Appropriation to fund.—The sum of \$200,000,000, or as much thereof as is able to be borrowed by temporary financing or by bonds, is hereby appropriated to the Local Criminal Justice Fund for the purposes set forth in this chapter. The General Assembly may make appropriations from time to time to the Local Criminal Justice Fund or to the department to carry out the purposes of this chapter, which appropriations shall be continuing appropriations and shall not lapse.

(b) Other sources of funds.—In addition to the moneys appropriated from time to time by the General Assembly for its work, the department is authorized to make application for and expend such Federal grants as may be available and may also receive and expend contributions from other public, quasi-public or private sources as may become available.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Michlovic.

Mr. MICHLOVIC. Thank you, Mr. Speaker.

Mr. Speaker, my amendment is an amendment that does several things. It authorizes indebtedness in the amount of \$200 million for grants, for grants to counties, for the construction of county and regional jails, and it suggests a formula for distribution of funding based on a 50-50-percent match. It also places a question on the ballot for a referendum to the voters of Pennsylvania to authorize indebtedness in the amount of \$200 million.

Mr. Speaker, the reason I am offering this amendment is because the counties are in a dire financial crisis on the matter of building prisons. A recent survey by the Pennsylvania State Association of County Commissioners showed that the projected construction programs of county prisons are over \$400 million across the State. Listen to some of the figures: Allegheny County, \$50 million; Beaver County, \$11 million; Carbon County, \$11 million; Chester County, \$10 million; Clarion County, \$4 1/2 million; Dauphin County, \$27 million; Greene County, \$42 million; Lackawanna County, \$30 million; Lancaster County, \$25 million; Lehigh County, \$54 million; McKean County, \$2.8 million; Northampton, \$7.5 million; Pike County, \$8 million; Snyder County, \$2.5 million; Venango County, \$9 million; Westmoreland County, \$32 million; and York County, \$20 million.

Mr. Speaker, all of those numbers that I have just recited are tax dollars that your counties are expected to raise in property taxes and other local taxes to build prisons for prisoners on issues that we in the hall of this House have legislated, things like driving while under the influence, mandated prison sentences, mandatory sentencing. We have all cast that on the

counties. Now it is time to step up to the table and help those counties to pay the bill.

My amendment deals with \$200 million of construction. I had introduced a bill - HB 2310 - some months ago. It was a \$400-million proposal. In light of the Governor's offer of \$100 million in low-interest loans, we thought that a compromise measure of \$200 million, doubling his amount and cutting our amount in half, would be a suitable compromise. That is how the \$200-million figure was determined.

Mr. Speaker, this amendment essentially sets up a procedure for the counties to tap into on the basis of grants, not loans, under the rationale that we in the legislature have passed mandatory sentencing, making the conditions for prison overcrowding even more right. So I am asking, along with my colleague, Representative Evans, for your support of the amendment so that we can help our counties get a share of this solution to the problem of overcrowding, not just in the State prison system, but we need help in the county prisons as well.

I ask for support on the amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Philadelphia, Mr. Evans.

Mr. EVANS. Mr. Speaker, I, too, rise to support the Michlovic amendment.

Representative Michlovic has given a very good description of a problem that is throughout the Commonwealth of Pennsylvania, that every single county prison in the various counties are having their problems. There are seven counties that are under Federal mandate that need some type of relief. I think that with the idea that Representative Michlovic is offering, there is an opportunity for us to have some type of consistent policy for our counties. Since the majority of us, and rightfully so, are responsible for a great deal of the mandatory sentencing that we have passed in the last 10 years, and I have been one of those people who have supported those sentences, I am now saying to you today that we have an opportunity to help our local governments.

So I would ask that people stand with Representative Michlovic and support him on his amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Delaware, the minority leader, Mr. Ryan.

Mr. RYAN. Mr. Speaker, here a week ago when we were going to impose a cost on the counties, I put an amendment in that was rejected by a number of the present speakers that would require the State to pay for bills where we had mandated something, and you did not like that at the time. Now all of a sudden we want the State to pay for a county bill. Well, you know, that is great and it sounds terrific, but you are talking about a couple of problem areas.

First you are talking about \$200 million in indebtedness for a county obligation. You are talking about that in a bond issue over a period of—make it up—20 years, so you are talking \$400 or \$500 million in State debt. The other thing you are doing is you are creating a little bit of a range war, in my

opinion, because just as I listened to the gentleman go through the list of prisons, I, for instance, did not hear my county's name mentioned. I did not hear a number of other counties' names mentioned, and yet you would send this off to a statewide referendum. I think you are going to, with that type method, create terrific problems.

The other part of it is, the gentleman, Mr. DeWeese, and I just offered and had accepted by you an amendment that provided for loans to the counties without interest. Now—see if you can follow this—the 100 million dollars' worth of loans to the counties spread over the period of some 20-odd years generates 75 million dollars' worth of costs that this Commonwealth would have to absorb for the counties, on behalf of the counties, in connection with the loan program. That is what the fiscal note says that was distributed here a moment ago. That is a tremendous advantage to our counties.

We are incurring tremendous debt in connection with the State prison system. That is where our responsibility is. We created it. If we create the problem, then I think we have an obligation to pay for the problem. Here the county is not necessarily of our creation. Sure, we declared that this is a crime and that is a crime, but it is not the type that qualifies you for the State prison.

Now, I think we are making a mistake if we incur all of this long-term debt which, I am guessing, would end up being the best part of \$400 million that we are going to have to pay for over a long period of time. The other system that Mr. DeWeese and I put in by our last amendment at least rolls that money back to us on the repayment of loans, and I think it is a far more fiscally prudent way of handling this very sensitive subject.

Thank you, Mr. Speaker. I ask that the amendment be rejected.

The SPEAKER pro tempore. The Chair recognizes the majority leader, Mr. DeWeese.

Mr. DEWEESE. Mr. Speaker, I would also rise to respectfully ask my caucus and the members to reject this amendment.

I believe that we would be more prudent to develop a loan program than a grant program. I think that with money coming in and going out on an ongoing basis, our ability to help the counties with the amendment that Mr. Ryan and I were able to offer a few moments ago will take a significant step in the direction that the gentleman from Allegheny is trying to proceed.

As he enunciated the list of facilities that may, may, be built, I think it is also important that people on both sides of the aisle - Mr. Nailor, Mr. Haluska, Mr. Jarolin, Mr. Lucyk, Mr. Bunt, Mr. Tangretti, Mr. Hayes, Mr. Fargo, Mr. Bush, Mr. Petrone, Mr. Jarolin, Mrs. Rudy, Mr. Hayes, myself, and Mr. Staback - realize that we are sitting on a powder keg of nitroglycerin. We are very, very apprehensive about the ability of our prison system to maintain order. We need to solve the problem, and I am afraid that the Michlovic amendment will get serious gubernatorial oversight. It will probably stall the passage of the bill, and I think it would be more

prudent for us to move forward without its adoption. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, many hours of hard work and discussion were held with the gentleman, Mr. Michlovic, and the gentleman, Mr. Evans, and some accommodations were reached. Unfortunately, I am not able to support this amendment either, for some of the reasons expressed by the minority leader whereby we would incur a debt of \$400 million over the 20-year amortization, vis-a-vis a \$75-million debt.

Also, in the legislation itself, HB 2116, I would like to repeat to the members that we are for the first time now giving the counties the ability to enter into lease/purchase agreements with the private sector. Many of you have already been contacted by your county commissioners and have been told that there are private sector moneys waiting and available, who are willing to build, at no cost to the county taxpayers, a prison to either house county prisoners or multicounty sites, and these prisons can be built without any taxpayer moneys whatsoever.

These private investors may take advantage of the \$100-million loan pool which is now a no-interest loan. We reduced the low-interest loan from what originally was to be 4 percent down to 2 percent, and as of 11 o'clock this morning, a zero-percent loan program. I daresay that there are not many members of the House who would not borrow all the money they could borrow if it was at zero percent.

The Michlovic amendment will force a gubernatorial veto. We will revisit this issue if that is the case, and I am afraid that the fast track that the prison issue is now on will be derailed.

If you are serious about tackling the issue of overcrowded prisons; if you are serious about getting the maximum security prisoners out of our minimum and medium security prisons in this State; if you are serious about getting county prisons built in an expeditious manner without going through a referendum, without delaying this another year or two, then I believe the prudent course of action is to defeat the Michlovic amendment. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I rise in support of the Michlovic amendment. With all due respect to Mr. Ryan and Mr. DeWeese, I have to tell them when they tell us that it is not our fault at the State level that the county system is overcrowded, I have to tell them that they are wrong. They are simply not accurate. I should have talked to you about this earlier, Matt, but we did not have the opportunity.

But at any rate, there are several reasons why they are wrong. The first reason is something called DUI, driving under the influence. Virtually all, if not all, DUI sentences are served in the county facilities. From 1982 to 1984 DUI's in county jails rose 500 percent - from 1,055 to 6,286 - and in 1988 they totaled 9,621 in our county jails.

Reason number two: Our State system is grossly overcrowded, and many State-sentenced prisoners - prisoners who should be in the State prison; prisoners who have sentences in excess of 2 years - are serving those sentences in county jails, and we are not paying for it, Mr. Speaker. We are simply not paying for it.

Thirdly, we recently enacted a lot of mandatory minimums for drug offenses, and if you do not think a lot of the burden of that is going to fall on the counties, you are absolutely mistaken.

We have helped to create the problem for the counties. We should pay for the problem that we have created. We should pay for it through a grant program as suggested by Mr. Michlovic. And for those of you who are from counties that have recently gone through a prison expansion project, I will be offering an amendment to Mr. Michlovic's amendment making some of the money available to those counties that, in the last 5 years, from the date of their application, went through an expansion project, that they could become eligible for at least a partial reimbursement.

Mr. Speaker, we have a responsibility to pass the Michlovic amendment if we are serious about keeping our counties' property taxes at a reasonable level. I urge that we pass it.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the lady from Lehigh, Ms. Ritter.

Ms. RITTER. Thank you, Mr. Speaker.

I wonder if I might interrogate the maker of the amendment briefly, please?

The SPEAKER pro tempore. The gentleman from Allegheny consents to being interrogated, and the lady from Lehigh may proceed.

Ms. RITTER. Thank you, Mr. Speaker.

I looked through here quickly, Mr. Speaker, and I cannot really tell from this; I was listening to what the gentleman, Mr. Piccola, just said. But it appears to me that there is no prohibition in this bill against an application being made from a county which has already begun construction at the time of the passage of this legislation.

In Lehigh County we have issued the bonds and we have begun the construction of an expansion of our local facility, and what I am wondering is, under section 714, "Grants to counties," on page 5, would Lehigh County or other counties in the same situation be prohibited from applying for these grants that would be issued under this amendment? If they have already begun construction.

Mr. MICHLOVIC. The way I read the amendment, you are correct. There is no prohibition against them applying for the money. The amendment states that "The department shall, by regulation, establish procedures to implement the purposes of this chapter,..." and in that process, I would imagine they determine which projects would be eligible, whether those under construction are eligible for the costs.

Now, if the gentleman, Mr. Piccola, adds his amendment, that will further define that point and also define how much those counties may apply for and receive.

Ms. RITTER. All right. Thank you.

But it is your understanding and intention, Mr. Speaker, that a project that would be under construction at the time of the passage of this legislation would be eligible? Not going back a certain number of years perhaps, but certainly a project that is under construction as of this moment that has not yet been completed would be eligible.

Mr. MICHLOVIC. Yes; that would be my intent.

Ms. RITTER. All right. Thank you, Mr. Speaker.

Thank you.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman from Cambria, Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

I rise to oppose the Michlovic amendment. There is no free lunch. The county government realizes that; State Government realizes that; local government understands that. I think we had an amendment that was just passed that made a no-interest loan, and I think that is quite fair. The money comes out of the same pocket - the constituent's. We are looking at a bond situation of \$200 million. It depends on the bond market, and by the time each of the counties finally gets around to building a prison, they will be needing to build new prisons. On the other track, since we make it so attractive, whether counties need them or not, it is such a good deal they might just decide to build a prison just because the State is giving money away.

It is a bad premise to start with. I realize we have an overcrowding situation. The issue was brought up about there are many prisoners that should be in State institutions that are in counties. Many of those are by the decision of the judge, and if they were a little more strict, they could send them to the State prisons.

I think that this is a very expensive proposition. As much as I would like to help the counties out, and I am sure many of them could use financial support, I think that an interest-free loan is very reasonable, and I think that developing a grant program, I think down the line there is still going to be strong recognition that some counties that are financially capable will be moving very quickly while, once again, those counties that do not have the wherewithal or do not really have a need are going to be slow. Depending on how the bonds are issued, those that have will get and those that do not have will be slow to receive.

I urge opposition to this amendment.

The SPEAKER pro tempore. The gentleman from Columbia, Mr. Stuban, is now recognized.

Mr. STUBAN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment, and my reason for opposing the amendment is that there has been a previous amendment put in that allows for interest-free loans to counties. How many counties do we have across the State that now have reached their millage limit? We have many counties across the State that have reached their bond indebtedness. What this amendment does is ask for matching funds to get grants. So the richer counties throughout the State and those that have not reached their bond indebtedness will be

the counties that get the grants, and I for one know that my county has reached its bond indebtedness. Unless it goes into a reassessment program and does some other things to increase its bond indebtedness, it will not qualify for grants.

I believe that the bill the way it stands with the amendment is a good bill. I oppose the Michlovic amendment.

The SPEAKER pro tempore. The Chair recognizes the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Michlovic amendment, and I want to share with the membership an additional factor that I think should be considered with regard to county jail overcrowding.

The Pennsylvania Commission on Crime and Delinquency has always been the recipient of Federal funds which PCCD then uses as subgrants. This year these Federal funds, which come from the drug control and systems improvement program, would have given PCCD \$11 million. Nine million of that \$11 million had already been promised for county jail overcrowding programs, and that money was expected to be awarded at the March 13 and June meetings of the Pennsylvania Commission on Crime and Delinquency. However, that \$9 million that our counties had planned for, worked hard for, and very badly need, they will not be receiving if the Governor's proposed budget becomes law. The Governor saw that \$9 million which PCCD has always allocated, took it away from PCCD and their opportunity to provide it to our county jails, and has put it into the General Fund to fund general obligations such as State Police overtime. Therefore, that is another \$9 million that our counties will not be receiving to deal with the county jail overcrowding problem.

Just to briefly mention—and I apologize if they were—the status of overcrowding in our county jails: Thirty of our counties are 120 percent over capacity; 9 are over 100 percent; and 8 are between 85 percent and 99 percent of capacity. Our county jails have a serious problem. As previous speakers have indicated, that problem has in large measure been caused by laws that we have passed.

I urge acceptance of this amendment.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Northumberland, Mr. Belfanti, for the second time.

Mr. BELFANTI. Thank you, Mr. Speaker. I will be very brief.

I once again ask opposition for this amendment.

The gentleman, Mr. Stuban, made some points, and I hope that many of my colleagues paid attention to the points he was attempting to make. Those of you who are from counties that have reached their bond indebtedness, those of you who do not have bond money to use as a match with a State grant program, will rate nothing towards a county prison facility or a multicounty facility. Under the Ryan-DeWeese loan pool, all 67 counties are eligible for zero-percent-interest loans for the construction of prisons.

Finally, Mr. Speaker, I would also like to remind the members that the reason we went to a lease/purchase system

in this legislation—which started out to be simply three prisons that were going to be State prisons—the reason we went to lease/purchase was because we did not have \$200 or \$300 million to build prisons by using public funds. Now, we have settled that earlier in this legislation, and we are going right back to it. If the Michlovic amendment passes, we are incurring a \$200-million debt, which then ends up being a \$400- or \$450-million debt. We do not have the money.

If we are serious about the prison system, if we are serious about building prisons both at the county and State level, we need to defeat the Michlovic amendment and move on to final passage and get this bill to the Governor and not to the general public on a referendum sometime next year. Thank you, Mr. Speaker.

### THE SPEAKER (ROBERT W. O'DONNELL) PRESIDING

The SPEAKER. The Chair recognizes Mr. Michlovic and thanks the gentleman, Mr. Itkin, for presiding.

Mr. MICHLOVIC. Thank you, Mr. Speaker.

I think it is important for the members to realize that the interest-free provision, as I understand it, in the Ryan amendment only goes back 1 year, so in response to the questioning of Ms. Ritter to me, if the project of construction started prior to 1 year, then their county may not be eligible for the reimbursement.

I want to also make the point that all 67 counties are eligible, not just those counties that I listed. I just listed those counties which had the most expensive and most immediate kinds of costs, and I was, again, reporting from a survey done by the Pennsylvania State Association of County Commissioners.

There was some concern by the sponsors of the bill and various amendments in the bill that there would be a Governor's veto of this bill if the amendment went in. I can tell you, if the amendment does not go in, the counties are not even in the room when they are considering a conference bill. I cannot stand here and assure you that this amendment will be in the final product, but I can assure you, if this amendment does not go in the bill, the administration and the leadership on both sides of the aisle are going to have to deal with the problem of the county overcrowding in our prisons.

One other point that I would like to make is that on the lease/purchase provision, even though there are provisions in the bill already to provide for lease/purchase, that does not necessarily relieve the problems in those counties with heavy overcrowding. In Allegheny County, for example, we are under a court order just to replace the current cells that we have because they are overcrowded and inhumane, so a lease/purchase arrangement is very unlikely to help us out in a more-than-\$30-million construction program.

For all those reasons, Mr. Speaker, I would urge that the members vote for the Michlovic-Evans amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. DeWeese.

Mr. DeWEESE. Just quickly, I would like to remind the membership that if we are going to attempt to solve the problem of overcrowding in our penitentiaries, the best way for us to do that is to pass this measure bereft of a lot of additional amendments and baggage. I regretfully indicate that we cannot deal with every problem with this particular measure. The bill is much better off if it is not inclusive of the Michlovic amendment, and I would respectfully ask for its defeat. Thank you.

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

The following roll call was recorded:

**YEAS—142**

Acosta	Evans	Kukovich	Robbins
Allen	Fairchild	Langtry	Robinson
Angstadt	Fargo	Laughlin	Roebuck
Argall	Farmer	Leh	Rudy
Barley	Fleagle	Lescovitz	Rybak
Belardi	Flick	Levdansky	Saloom
Billow	Fox	Lloyd	Scheetz
Birmelin	Freeman	McCall	Schuler
Bishop	Freind	McHale	Semmel
Black	Gallen	McNally	Smith, S. H.
Blaum	Gamble	McVerry	Snyder, D. W.
Bortner	Geist	Markosek	Snyder, G.
Brandt	George	Marsico	Stairs
Bunt	Gigliotti	Mayernik	Strittmatter
Burd	Godshall	Merry	Tangretti
Burns	Gruppo	Michlovic	Taylor, E. Z.
Caltagirone	Hagarty	Micozzie	Taylor, F.
Carlson	Haluska	Miller	Taylor, J.
Carn	Harper	Moehlmann	Thomas
Cawley	Hayden	Mowery	Tigue
Cessar	Hayes	Mrkonc	Trello
Chadwick	Heckler	Murphy	Trich
Civera	Herman	Nahill	Van Horne
Clark, B. D.	Hess	O'Brien	Vroon
Clymer	Howlett	Olasz	Wambach
Cohen	Hughes	Oliver	Wass
Colafella	Itkin	Perzel	Weston
Cornell	Jackson	Petrarca	Williams
Cowell	Jadlowiec	Petrone	Wilson
DeLuca	James	Piccola	Wogan
Davies	Johnson	Pistella	Wright, D. R.
Dieterick	Josephs	Pressmann	Wright, J. L.
Distler	Kaiser	Preston	Yandrisevits
Donatucci	Kenney	Raymond	
Dorr	Kondrich	Rieger	O'Donnell,
Durham	Kosinski	Ritter	Speaker

**NAYS—47**

Adolph	DeWeese	Lee	Scrimenti
Battisto	Daley	Linton	Serafini
Belfanti	Dempsey	Lucyk	Smith, B.
Bowley	Dombrowski	Maine	Staback
Boyes	Foster	Morris	Steighner
Broujos	Gannon	Nailor	Stish
Bush	Gladeck	Noye	Stuban
Clark, D. F.	Hasay	Phillips	Telek
Clark, J. H.	Hershey	Reber	Veon
Cole	Jarolin	Reinard	Wozniak
Corrigan	Kasunic	Ryan	Wright, R. C.
Coy	LaGrotta	Saurman	

**NOT VOTING—5**

Cappabianca	Melio	Pitts	Richardson
Gruitza			

**EXCUSED—7**

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashinger	Pesci	

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

On the question recurring,

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

Mr. PICCOLA offered the following amendment No. A1164:

Amend Sec. 714, page 5, by inserting between lines 54 and 55 (A0970)

(4) Priority in the grant process shall be given to those counties which have expanded their prison facilities within five years of the date of the application and which are presently at or exceeding 115% of rated capacity. Under no circumstances shall any such grant exceed \$1,000,000.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

This amendment amends Mr. Michlovic's amendment and permits those counties that, during the 5 years prior to their application for the grant, entertained and constructed a prison expansion project, making them eligible for at least some compensation under this grant program. I think it is a good way to go because I think some of our counties were able to and did in fact act responsibly without the carrot of a State grant program, and they should at least be recognized and given some consideration under this program.

I urge that the amendment be adopted.

**PARLIAMENTARY INQUIRY**

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, a point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point.

Mr. RYAN. Mr. Speaker, we had an amendment placed in that would loan up to \$100 million to the county without benefit of referendum. We have another amendment that has been added that provides for a referendum and a grant of up to \$200 million, I believe. What is the status of the bill right now with these amendments?

The SPEAKER. Is the gentleman's question whether they are cumulative?

Mr. RYAN. My question, I guess, is, could county A ask to borrow \$10 million and county B ask to be considered for a \$10-million grant, or has something happened to one or the other of these two amendments?

The SPEAKER. To construe the gentleman's inquiry as a parliamentary inquiry, I would reframe the question as, does

the DeWeese amendment strike the language in the bill, and the answer is no, and therefore, the Chair would infer, but not as a parliamentary matter, that there are now two programs, separate and independent, existing under the bill, but the Chair does not offer that as a parliamentary conclusion.

Mr. RYAN. Now, Mr. Speaker, did the Michlovic amendment strike the DeWeese amendment? Pardon me.

(Conference held.)

Mr. RYAN. I am advised that perhaps it was misstated when I asked for a point of parliamentary inquiry and that it is the belief of our staff at this time that all that is left is the Michlovic \$200-million grant program, that no longer is there in the bill the \$100-million loan program. I think it is important that we get this straightened out before we go on to final passage because—

The SPEAKER. The Chair would request the gentleman to come to the podium.

Mr. RYAN. Thank you.

(Conference held at Speaker's podium.)

The SPEAKER. For the information of the members and in response to the gentleman's inquiry, the amendment that was offered by the gentleman, Mr. Michlovic, A0970, has the effect of striking chapter 7 of the bill, which was the existing referendum and loan program, and substituting the content of A0970.

The Chair recognizes the gentleman, Mr. Michlovic, who requests to interrogate the gentleman, Mr. Piccola.

The gentleman indicates that he is willing to be interrogated. The gentleman, Mr. Michlovic, may proceed.

Mr. MICHLOVIC. Thank you, Mr. Speaker.

Mr. Speaker, in the amendment that you have presented to us, you are prioritizing grants to counties that have already built prisons, constructed prisons, in the last 5 years. Is that correct?

Mr. PICCOLA. Yes, Mr. Speaker.

Mr. MICHLOVIC. And in that amendment you say that under no circumstances shall any such grant exceed \$1 million.

Mr. PICCOLA. Yes, Mr. Speaker.

Mr. MICHLOVIC. That language does not at all restrict or cap grants for new construction or new projects. Is that correct?

Mr. PICCOLA. That is correct. It only applies to those already-completed projects for which counties are retroactively applying for grants.

Mr. MICHLOVIC. Okay. Thank you, Mr. Speaker.

Mr. Speaker, a short comment.

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

Mr. MICHLOVIC. Mr. Speaker, I think that out of the \$200 million that we have just passed in the grant program, there may be—I do not know how many—5 or 10 counties that have constructed prisons in the last 5 years. I would say we ought to at least reimburse them up to \$1 million, and I

can support the Piccola amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—174

Acosta	Dombrowski	Kondrich	Robbins
Adolph	Donatucci	Kosinski	Robinson
Allen	Dorr	LaGrotta	Roebuck
Angstadt	Durham	Langtry	Rudy
Argall	Evans	Laughlin	Ryan
Barley	Fairchild	Lee	Saloom
Battisto	Fargo	Leh	Saurman
Belardi	Farmer	Lescovitz	Scheetz
Belfanti	Fleagle	Levdansky	Schuler
Billow	Flick	Linton	Scrimenti
Birmelin	Foster	Lloyd	Semmel
Bishop	Fox	Lucyk	Serafini
Black	Freeman	McCall	Smith, B.
Blaum	Freind	McHale	Smith, S. H.
Bortner	Gallen	McVerry	Snyder, D. W.
Bowley	Gamble	Markosek	Snyder, G.
Boyes	Gannon	Marsico	Staback
Brandt	Geist	Mayernik	Stairs
Broujos	George	Michlovic	Stish
Bunt	Gigliotti	Micozzie	Strittmatter
Burd	Gladeck	Miller	Stuban
Burns	Godshall	Moehlmann	Tangretti
Bush	Gruitza	Morris	Taylor, E. Z.
Cappabianca	Gruppo	Mowery	Taylor, F.
Carlson	Hagarty	Mrkoncic	Taylor, J.
Carn	Haluska	Murphy	Telek
Cawley	Harper	Nahill	Thomas
Cessar	Hasay	Nailor	Tigue
Chadwick	Hayden	Noye	Trello
Civera	Hayes	O'Brien	Trich
Clark, B. D.	Heckler	Oliver	Van Horne
Clark, D. F.	Herman	Perzel	Vroon
Clark, J. H.	Hershey	Petrarca	Wambach
Clymer	Hess	Petrone	Wass
Colafella	Hughes	Phillips	Weston
Cole	Itkin	Piccola	Williams
Cornell	Jackson	Pistella	Wilson
Cowell	Jadlowiec	Pitts	Wogan
Coy	James	Pressmann	Wozniak
DeLuca	Johnson	Raymond	Wright, J. L.
Davies	Josephs	Reber	Wright, R. C.
Dempsey	Kaiser	Reinard	
Dietterick	Kasunic	Richardson	O'Donnell,
Distler	Kenney	Rieger	Speaker

NAYS—16

Cohen	Howlett	Melio	Steighner
Corrigan	Kukovich	Merry	Veon
DeWeese	McNally	Ritter	Wright, D. R.
Daley	Maine	Rybak	Yandrisevits

NOT VOTING—4

Caltagirone	Jarolin	Olasz	Preston
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EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashingner	Pesci	

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

On the question recurring,

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

**BILL PASSED OVER**

The SPEAKER. HB 2116, page 2 of the calendar, will be over for today, including the pending amendments.

**VOTE CORRECTIONS**

The SPEAKER. For what purpose does the gentleman, Mr. Melio, rise?

Mr. MELIO. Just to correct the record, Mr. Speaker.

On amendment 970 to HB 2116, I would like to be recorded in the negative, please.

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

The Chair recognizes the gentleman, Mr. Cappabianca.

Mr. CAPPABIANCA. Mr. Speaker, on amendment 970 to HB 2116, I would like to be recorded in the negative, please.

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

**SENATE MESSAGE****AMENDED SENATE BILL  
RETURNED FOR CONCURRENCE**

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House by amending said amendments to **SB 648, PN 2085**.

Ordered, That the clerk present the same to the House requesting concurrence.

**SUPPLEMENTAL CALENDAR A****BILL ON CONCURRENCE  
IN SENATE AMENDMENTS  
TO HOUSE AMENDMENTS**

The clerk of the Senate, being introduced, returned the following **SB 648, PN 2085**, with information that the Senate has concurred in the amendments made by the House by amending said amendments in which the concurrence of the House of Representatives is requested:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," authorizing the Department of Corrections to enter into contracts with the Federal Government for the housing of State prisoners in Federal correctional facilities; and requiring certain State heating systems to be fueled by coal.

On the question,

Will the House concur in Senate amendments to House amendments?

The SPEAKER. Is the gentleman, Mr. Lloyd, moving to concur?

Mr. LLOYD. Yes, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman.

Mr. LLOYD. Mr. Speaker, the Senate amended an amendment which the House added dealing with the use of coal in State facilities. The Senate amendment makes clear that you

do not use coal or any other fuel unless it is the cheapest one available.

Secondly, the amendment of the Senate makes clear that in the case of electricity, it is a competitor just like every other fuel, and when it is cheaper, it is what is used.

In addition, the Senate amended the bill to exclude from the coal preference State-related universities.

Mr. Speaker, these are agreed-to amendments. The bill itself dealt with paying the Federal Government for housing prisoners in Federal jails. We need this legislation to authorize the payment, and I suggest a "yes" vote.

The SPEAKER. The question recurs, will the House concur in the amendments inserted by the Senate?

The Chair recognizes Mr. Lee.

Mr. LEE. May I interrogate the prime sponsor of the bill?

The SPEAKER. The gentleman, Mr. Lloyd, indicates he is willing to be interrogated. The gentleman may proceed.

Mr. LEE. Just one quick question, Mr. Speaker.

You said that this bill will not have State facilities using coal unless it is the cheapest method. Then if that is true, why do we need this bill at all, because is that not required by law that State facilities bid for such types of things and then put the cheapest and most efficient systems in?

Mr. LLOYD. No; in fact, Mr. Speaker, it is not required by law. Unless we have specified in capital budgets, which we have done for the last several years, coal preference language, there is nothing in the law now which dictates what kind of fuel will be used for any particular facility. Hopefully, in most instances at least, they use the cheapest thing available, but in fact, there is no legal requirement, and this legislation will impose that legal requirement, and consequently, it does change existing law.

Mr. LEE. Why would they use anything but the cheapest fuel available?

Mr. LLOYD. Convenience, availability.

Mr. LEE. So we are taking that ability away to take the most convenient fuel, available fuel, and forcing the use of coal.

Mr. LLOYD. I think in recent years there has been an effort made by the last two administrations to use coal whenever they could. We are trying to put that policy into permanent State law. We have passed this kind of legislation in the last four capital budget bills, and so all the projects in those bills where it is cost effective and environmentally acceptable, this is the requirement, but for any project which was authorized prior to that, any project which does not require capital budget authorization, and any project that might come in the future, you need this legislation to impose the same rules.

Mr. LEE. Thank you, Mr. Speaker.

The SPEAKER. The question recurs, will the House concur in the amendments inserted by the Senate?

Those voting to concur will vote "aye"; those opposed, "no."

On the question recurring,

Will the House concur in Senate amendments to House amendments?

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

## YEAS—192

Acosta	Donatucci	Langtry	Robinson
Allen	Dorr	Laughlin	Roebuck
Angstadt	Durham	Lee	Rudy
Argall	Evans	Lescovitz	Ryan
Barley	Fairchild	Levdansky	Rybak
Battisto	Fargo	Linton	Saloom
Belardi	Farmer	Lloyd	Saurman
Belfanti	Fleagle	Lucyk	Scheetz
Billow	Flick	McCall	Schuler
Birmelin	Foster	McHale	Scrimenti
Bishop	Fox	McNally	Semmel
Black	Freeman	McVerry	Serafini
Blaum	Freind	Maine	Smith, B.
Bortner	Gallen	Markosek	Smith, S. H.
Bowley	Gamble	Marsico	Snyder, D. W.
Boyes	Gannon	Mayernik	Snyder, G.
Brandt	Geist	Melio	Staback
Broujos	George	Merry	Stairs
Bunt	Gigliotti	Michlovic	Steighner
Burd	Gladeck	Micozzie	Stish
Burns	Godshall	Miller	Strittmatter
Bush	Gruitza	Moehlmann	Stuban
Caltagirone	Gruppo	Morris	Tangretti
Cappabianca	Hagarty	Mowery	Taylor, E. Z.
Carlson	Haluska	Mrkonic	Taylor, F.
Carn	Harper	Murphy	Taylor, J.
Cawley	Hasay	Nahill	Telek
Cessar	Hayden	Nailor	Thomas
Chadwick	Hayes	Noye	Tigue
Civera	Heckler	O'Brien	Trello
Clark, B. D.	Herman	Olasz	Trich
Clark, D. F.	Hershey	Oliver	Van Horne
Clark, J. H.	Hess	Perzel	Veon
Clymer	Howlett	Petrarca	Vroon
Cohen	Hughes	Petrone	Wambach
Colafrella	Itkin	Phillips	Wass
Cole	Jackson	Piccola	Weston
Cornell	Jadlowiec	Pistella	Williams
Corrigan	James	Pitts	Wilson
Cowell	Jarolin	Pressmann	Wogan
Coy	Johnson	Preston	Wozniak
DeLuca	Josephs	Raymond	Wright, D. R.
DeWeese	Kaiser	Reber	Wright, J. L.
Daley	Kasunic	Reinard	Wright, R. C.
Davies	Kenney	Richardson	Yandrisevits
Dempsey	Kondrich	Rieger	
Dietterick	Kosinski	Ritter	O'Donnell,
Distler	Kukovich	Robbins	Speaker
Dombrowski	LaGrotta		

## NAYS—0

## NOT VOTING—2

Adolph           Leh

## EXCUSED—7

Colaizzo       Fee           Maiale       Pievsky  
Dininni       Lashingner   Pesci

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments to the House amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

## VOTE CORRECTIONS

The SPEAKER. The Chair recognizes Mr. Richardson.  
Mr. RICHARDSON. Mr. Speaker, I would like to correct the record.

The SPEAKER. The gentleman may proceed.

Mr. RICHARDSON. Mr. Speaker, on HB 2116, amendment A970, my vote was not recorded. Had it been recorded, I would have voted in the affirmative.

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

The Chair recognizes Mr. Merry.

Mr. MERRY. Mr. Speaker, I would like to correct the record.

On the vote on amendment A1164 to HB 2116, I was inadvertently voted in the negative, and I would like to have my vote shown as an affirmative vote.

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

The Chair recognizes the lady, Ms. Bishop.

Ms. BISHOP. Mr. Speaker, I wish to correct the record, please.

I voted in the negative and I would like to vote in the affirmative on SB 1046; SB 848, amendment A508; HB 1096; SB 1163; HR 280; and HR 284 from last week.

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

The Chair recognizes Mr. Leh.

Mr. LEH. Mr. Speaker, thank you.

I would like to be recorded in the affirmative on concurrence on SB 648.

The SPEAKER. The Chair recognizes Mr. Linton.

Mr. LINTON. Thank you, Mr. Speaker.

On amendment A970 to HB 2116, I was recorded in the negative. I would like to be recorded in the affirmative, Mr. Speaker.

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

## CALENDAR CONTINUED

## BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 916, PN 3207**, entitled:

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

On the question,

Will the House agree to the bill on third consideration?

Mr. COY offered the following amendments No. A1102:

Amend Bill, page 1, by inserting between lines 4 and 5

The General Assembly finds that there is a need for legislation to set forth certain rules governing product liability actions. The purpose of this legislation is to set forth clear rules so that manufacturers and other suppliers of products are held responsible for injuries caused by defective products and are encouraged to make



improvements in product safety while recognizing that suppliers cannot be held responsible as insurers or guarantors of the absolute safety of their products.

Amend Bill, page 14, lines 10 through 30; pages 15 through 20, lines 1 through 30; page 21, lines 1 through 19, by striking out all of said lines on said pages and inserting

Section 3. Section 7102 of Title 42 is amended to read:

§ 7102. Comparative [negligence] responsibility.

(a) General rule.—In all actions brought to recover damages for [negligence resulting in] death or injury to person or property, the fact that contributory responsibility is attributed to the plaintiff [may have been guilty of contributory negligence] shall not bar a recovery by the plaintiff or his legal representative where such [negligence] responsibility was not greater than the [causal negligence] responsibility of the defendant or defendants against whom recovery is sought, but any damages sustained by the plaintiff shall be diminished in proportion to the amount of [negligence] responsibility attributed to the plaintiff.

(b) Recovery against joint defendant; contribution.—Where recovery is allowed against more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of his [causal negligence] responsibility to the amount of [causal negligence] responsibility attributed to all defendants against whom recovery is allowed. The plaintiff may recover the full amount of the allowed recovery from any defendant against whom the plaintiff is not barred from recovery. Any defendant who is so compelled to pay more than his percentage share may seek contribution.

(c) Downhill skiing.—

(1) The General Assembly finds that the sport of downhill skiing is practiced by a large number of citizens of this Commonwealth and also attracts to this Commonwealth large numbers of nonresidents significantly contributing to the economy of this Commonwealth. It is recognized that as in some other sports, there are inherent risks in the sport of downhill skiing.

(2) The doctrine of voluntary assumption of risk as it applies to downhill skiing injuries and damages is not modified by subsections (a) and (b).

(d) Voluntary assumption of risk in product liability actions.—The doctrine of voluntary assumption of risk as it applies to product liability actions as defined in section 8373 (relating to definitions) is not modified by subsections (a) and (b).

[[d]] (e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Defendant or defendants against whom recovery is sought.” Includes impleaded defendants.

“Plaintiff.” Includes counterclaimants and cross-claimants.

“Responsibility.” Negligence, and in a product liability action subject to Subchapter G of Chapter 83 (relating to product liability actions) also means the responsibility of a supplier under theories of liability other than negligence, including strict liability in tort, breach of express or implied warranty, or any other theory.

Section 4. Chapter 83 of Title 42 is amended by adding a subchapter to read:

CHAPTER 83  
PARTICULAR RIGHTS AND IMMUNITIES

\* \* \*

SUBCHAPTER G  
PRODUCT LIABILITY AND WORKPLACE SAFETY

Sec.

8371. Short title of subchapter.

8372. Scope of subchapter.

8373. Definitions.

8374. Basic limitations on the liability of suppliers.

8375. Product design.

8376. Warnings or instructions about products.

8377. Alteration or modification of products.

8378. Product misuse.

8379. Admissibility of evidence of adherence to government or industry standards.

8380. Inadmissibility of evidence of subsequent improvements or measures.

8381. Limitation on liability for punitive damages for harm caused by products regulated by the Federal Food and Drug Administration.

8382. Presumption and standard of proof as to the existence of defect after expiration of 15 years.

8383. Employers' liability for intentional harm.

§ 8371. Short title of subchapter.

This subchapter shall be known and may be cited as the Product Liability Act.

§ 8372. Scope of subchapter.

This subchapter does not and is not intended to set forth all of the proof required or all of the defenses available in product liability actions. It is intended only to codify, clarify and establish the limiting principles set forth herein and to make those limiting principles applicable to all product liability actions, irrespective of the legal theory or statute on which the product liability action is based. Except insofar as this subchapter sets forth a defense, burden of proof or other limitation on liability, it shall not be construed to limit the theories upon which liability may be based or to impose burdens of proof or other obligations upon plaintiffs in addition to those imposed under otherwise applicable law.

§ 8373. Definitions.

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

“Defendant.” Includes impleaded defendants.

“Harm.” Death or injury to person or property.

“Plaintiff.” Includes counterclaimants and cross-claimants.

“Product liability action.” Any action or claim against a supplier for recovery of damages for harm alleged to have been caused by a product (including any action or claim for contribution or indemnity), including, but not limited to, actions or claims based on strict liability in tort, negligence, breach of warranty or misrepresentation.

“Supplier.” A person who manufactures, sells or otherwise supplies a product and is engaged in the business of supplying such a product.

§ 8374. Basic limitations on liability of suppliers.

(a) General rule.—In a product liability action, a supplier of a product shall not be liable if the plaintiff does not prove that the product was supplied by that supplier in a defective condition unreasonably dangerous for its intended use as a result of:

(1) a material deviation of the product from the design specifications, formulae or performance standards of its manufacturer or from otherwise identical units manufactured to the same specifications, formulae or standards;

(2) the design of the product;

(3) the failure of the supplier to provide adequate warning or instruction about the product; or

(4) the failure of the product to conform to an express factual representation which was made by that supplier about that product and on which there was reasonable reliance.

(b) Additional basic limitation applicable to nonmanufacturing suppliers.—

(1) Except as provided in paragraph (2), a supplier of a product who did not manufacture the product in whole or in part shall be liable in a product liability action only if the plaintiff proves one or more of the following in addition to

other elements required by this subchapter or otherwise applicable law for imposition of liability on that supplier:

(i) The supplier exercised substantial control over the design, testing, packaging or labeling of or the providing of warning or instruction about that aspect of the product which caused the harm for which recovery of damages is sought.

(ii) The supplier altered or modified the product, and that alteration or modification was a substantial factor in causing the harm for which recovery of damages is sought.

(iii) The supplier had, at the time that supplier supplied the product, actual knowledge of the product defect which caused the harm for which recovery of damages is sought.

(iv) The supplier made an express factual representation about that aspect of the product which caused the harm for which recovery of damages is sought.

(2) Paragraph (1) shall not apply if:

(i) valid in personam jurisdiction cannot be obtained in this Commonwealth over either a manufacturer of the product or any other supplier described in paragraph (1)(i) through (iv); or

(ii) the court determines that neither a manufacturer of the product nor any other supplier described in paragraph (1)(i) through (iv) would be able to satisfy a judgment if found liable in a product liability action.

(3) A nonmanufacturing supplier shall be dismissed from a product liability action without prejudice upon filing of an affidavit stating:

(i) that all information in the possession of the supplier concerning the identity of the manufacturers and other suppliers of the product at issue has been provided to the plaintiff; and

(ii) that the supplier is not described in paragraph (1)(i) through (iv).

The filing of such affidavit shall have the effect of tolling or extending the statute of limitations as to the supplier filing it. If the court determines that the statements made in any affidavit filed hereunder are inaccurate, or that no manufacturer or other supplier described in paragraph (1)(i) through (iv) is both subject to valid in personam jurisdiction in this Commonwealth and able to satisfy a judgment if found liable in a product liability action, the court shall, upon motion of a party, immediately reinstate the claims against such supplier.

(4) Paragraph (3) is not intended to preclude any other means by which a nonmanufacturing supplier may seek dismissal from a product liability action on the basis of this subsection or otherwise, and this subsection is not intended to preclude any other defense available to a nonmanufacturing supplier in a product liability action.

#### § 8375. Product design.

(a) General rule.—In a product liability action, the product shall not be found to be in a defective condition unreasonably dangerous for its intended use as a result of the design of the product if:

(1) the plaintiff does not prove that at the time the product left the control of the manufacturer there was a feasible alternative design of the product which would have prevented the harm for which recovery of damages is sought without substantially impairing the intended use or desirability of the product. An alternative design is feasible only if, at the time the product left the control of the manufacturer, the technical, medical and scientific knowledge relating to that alternative design was developed, available and capable of use in the manufacturing of the product; or

(2) notwithstanding proof by the plaintiff of the existence of an alternative design as set forth in paragraph (1), the

supplier proves that, as of the time the product left the control of the manufacturer, that alternative design was not practical, taking into consideration such factors as the substantiality of its cost and of its potential for causing harm other than the harm for which recovery of damages is sought.

(b) Inherent or unavoidably unsafe aspects of products.—A supplier shall not be liable in a product liability action based on the design of a product for harm caused by an inherent or unavoidably unsafe aspect of the product. An inherent or unavoidably unsafe aspect of a product is an aspect incapable, in light of the state of the technical, medical and scientific knowledge available at the time the product left the control of the manufacturer, of being eliminated or made safe without substantially impairing the intended use or desirability of the product.

(c) No effect on liability for failure to warn.—The limitations established by this section shall not affect any liability of the supplier for failure to provide adequate warning or instruction about the product.

#### § 8376. Warnings or instructions about products.

(a) General rule.—In a product liability action, the product shall not be found to be in a defective condition unreasonably dangerous for its intended use as a result of the failure of the supplier to provide adequate warning or instruction about the product if the supplier provided information with respect to the dangers or safe use of the product which a reasonably prudent person in the same or similar circumstances would have provided, applying the expertise reasonably expected of a supplier and taking into account the characteristics of and the ordinary knowledge common to the class of persons to whom the information is to be conveyed. A warning or instruction is provided when it is communicated in a manner reasonably calculated to convey the information:

(1) to intended users or consumers of the product;

(2) to the extent that it is not practical and feasible for a supplier to convey information directly to intended users or consumers, to those persons who can reasonably be expected to act in accordance with the information for the protection of users or consumers or who can reasonably be expected to convey the information to users or consumers; or

(3) in the case of prescription drugs or other products required by law to be used or consumed only at the direction of certain persons, to those persons qualified to direct the use or consumption of such products.

(b) Unnecessary warnings or instruction.—A supplier shall not be liable in a product liability action for failing to provide information about the product which was:

(1) known by the person to whom the warning or instruction would have been provided; or

(2) ordinary knowledge common to the class of persons to whom the warning or instruction would have been provided.

(c) State of knowledge.—A supplier shall not be liable in a product liability action for failing to provide information about the product which that supplier did not know and, in light of the technical, medical and scientific knowledge available at the time the supplier supplied the product, could not reasonably have known.

(d) Governmentally required warning or instruction.—If a warning or instruction conforms to the requirements of a Federal or State statute or agency regulation or the terms of a product approval by a Federal or State agency, there shall be a rebuttable presumption that an adequate warning or instruction was provided with respect to the matters concerning the dangers and safe use of the product dealt with by such warning or instruction.

#### § 8377. Alteration or modification of products.

A supplier shall not be liable in a product liability action for harm caused by an alteration or modification of the product by a person other than that supplier if the alteration or modification

was not reasonably foreseeable by the supplier or if there was not a practical and technically feasible means by which the supplier could have prevented, deterred or controlled the alteration or modification or otherwise prevented the harm caused by the alteration or modification.

§ 8378. Product misuse.

A supplier shall not be liable in a product liability action for harm caused by misuse of a product if the misuse was not reasonably foreseeable by that supplier or if there was not a practical and technically feasible means by which the supplier could have prevented or deterred the misuse or otherwise prevented the harm caused by the misuse.

§ 8379. Admissibility of evidence of adherence to government or industry standards.

Evidence that the aspect of the product alleged to have caused the harm complied in material respects, at the time the product left the control of the manufacturer, with standards, conditions or specifications established, adopted or approved by a Federal or State statute or by any agency of the Federal or State government with authority over the design, packaging, labeling, performance or approval of the product, or with industry-wide standards, practices or customs relating to the product shall be admissible in a product liability action. The trier of fact shall determine the weight, if any, to be given to such evidence.

§ 8380. Inadmissibility of evidence of subsequent improvements or measures.

When, after a supplier has supplied a product alleged to have caused harm, improvements are made or measures are taken with respect to that product or any similar product which, if made or taken previously, would have made the harm less likely to occur, evidence of those subsequent improvements or measures is not admissible against the supplier in a product liability action to prove that the product was defective. Evidence of subsequent improvements or measures may be admitted when offered for the purpose of impeachment.

§ 8381. Limitation on liability for punitive damages for harm caused by products regulated by the Federal Food and Drug Administration.

Punitive damages shall not be awarded in a product liability action if a drug or device or food or food additive which caused the harm for which recovery of damages is sought was subject to premarket approval or licensure by the Federal Food and Drug Administration (FDA) under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) or the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.) and was approved or licensed; or is generally recognized as safe and effective pursuant to conditions established by the FDA and applicable regulations, including packaging and labeling regulations. This limitation on liability for punitive damages shall not apply if the plaintiff proves that the product manufacturer intentionally withheld or misrepresented information required to be submitted under the regulations of the FDA, which information was material and relevant to the harm for which recovery of damages is sought. For the purposes of this section, the terms "drugs," "devices," "food" and "food additive" shall have the meanings given in the Federal Food, Drug, and Cosmetic Act.

§ 8382. Presumption and standard of proof as to the existence of defect after expiration of 15 years.

(a) General rule.—Except as provided in subsection (b), in any product liability action against a supplier for harm alleged to have been caused by the use or consumption of a product after the expiration of that supplier's period of repose applicable to that product, there shall be a rebuttable presumption that the product was not in a defective condition unreasonably dangerous for its intended use at the time that supplier supplied the product. A "supplier's period of repose" shall mean the period ending 15 years after that supplier supplied for use or consumption the product alleged to have caused the harm for which recovery of

damages is sought or, if that supplier did not supply the product for use or consumption, the period ending 15 years after the product was first supplied for use or consumption by a subsequent supplier.

(b) Exceptions.—

(1) This section shall not apply to a product liability action if harm caused by the product did not manifest itself or could not reasonably have been discovered at or immediately following the time at which the product was used or consumed.

(2) If a supplier makes an express warranty about a product and the express warranty explicitly refers to a time beyond that supplier's period of repose for that product, this section shall not apply to an action for breach of that express warranty to the extent that the express warranty explicitly extends beyond that supplier's period of repose.

(c) No extension of limitations.—This section shall not extend the period within which any civil action or proceeding may be commenced under any provision of law.

§ 8383. Employers' liability for intentional harm.

(a) General rule.—The immunity from suit against the employer under the act of June 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act, shall be lost if the employer intentionally causes injury to an employee. For purposes of this section, an employer intentionally causes injury to an employee only if:

(1) the employer acts with the specific purpose to cause serious injury or death to an employee; or

(2) the employer directs or assigns an employee to work under a specific unsafe working condition despite the employer's actual knowledge that the specific condition is substantially certain to cause serious injury or death to the employee.

(b) Damages.—In cases in which liability of an employer is alleged under the standards for loss of immunity set forth in this section punitive damages shall not be awarded, and any compensatory damages shall be reduced by the amount of benefits paid by the employer pursuant to The Pennsylvania Workmen's Compensation Act.

Section 5. Sections 3 and 4 of this act shall apply to any action commenced on or after the effective date of this act.

Amend Sec. 5, page 21, line 20, by striking out "5" and inserting

6

Amend Sec. 6, page 21, line 25, by striking out "6" and inserting

7

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

Mr. Speaker, the very fact that we have HB 916 before us today, the very fact that the Judiciary Committee reported out this bill, is a clear acknowledgment that Pennsylvania's product liability law needs to be changed. The General Assembly has never spoken on this issue. We have no product liability statute on the books. It is an issue that we have let the courts handle on a case-by-case basis, and the courts, acting with the best of intentions, have created a body of law that simply does not do what it is supposed to do.

Our current product liability law is confusing and extreme. It holds manufacturers to impossible standards. It discourages manufacturers from investing in product research and

development, and that is how products are made safer, through research and development, so by discouraging that investment, our current law is actually reducing the likelihood that products will be made safer. Bottom line: The law is not working, and it is not working because it is unrealistic and it is unfair. It is hurting the people who make products, and it is hurting the people who use products. That is the situation I sought to address when I introduced HB 916 last year.

I want a statute that gives manufacturers strong incentives to make their products as safe as possible. I want a statute that gives consumers fair compensation when they are injured by products that are not safe. I want a statute that protects the interest of both manufacturers and consumers. I want a statute that is both reasonable and fair.

I have discussed this bill with a great many people over the last year, and I have discussed it at length with many of you here. Some of you expressed concern over one particular provision of the bill. Some of you said that other parts of the bill needed to be made clearer. I have paid attention to those concerns and suggestions, and you will see them addressed in this amendment. But the overwhelming impression I have gotten, based on those discussions I have had with you, is that the original version of HB 916 was perceived as sensible and a workable piece of legislation. It was clear to me that the original version of the bill had broad support. I stress "original" version because, as you know, the bill before us today, HB 916, is not the original HB 916. You will probably hear this version described this afternoon as a compromise. It is not a compromise. It is not a compromise when the committee stripped the bill of many of its major provisions. You do have a compromise, though, in the amendment before us now.

Mr. Speaker, the amendment that Representative Heckler and I are jointly offering does two things: It restores several of the original provisions of HB 916, and it clarifies the intent of some of those provisions. It also makes major changes in the original bill. We think that those recommendations were on target. We think that the original HB 916 was a good piece of legislation, and we think that this amendment will make it an even better one.

Mr. Speaker, the bill has been a topic of discussion for a year now. We have circulated extensive analyses of it, and both caucuses have reviewed this amendment, so for now, I would like to provide only a few brief overviews of what the amendment does. But before we talk about what it does do, we have to clearly understand what it does not do.

The foundation of our current law, the key doctrine, is strict liability. Strict liability means that if a supplier puts a defective product into a consumer's hands, the supplier is legally responsible for any injury that the product causes, even if the supplier was not negligent. Under the legislation we are proposing, that doctrine, strict liability, is still in force, unchanged. If you make a defective product and it hurts someone, you are legally responsible, regardless of whether you were negligent. So the legislation does not change the fundamental doctrine of strict liability. What it will change, in a very positive way, is the uncertainty and the unpredictability

in the law. This legislation means that manufacturers and retailers will now have statutory guidelines in product liability cases.

Here is what the legislation will do: In order for a person to prevail in a product liability lawsuit, something will have to be wrong with the product; the product will have to be defective. If you are a retailer and you happen to sell a defective product, you normally will not be held responsible for it if you have not done something to make the product defective. If you make or sell a product that someone misuses, you will not be responsible unless you could have done something to prevent the misuse. If you make or sell a product that is unavoidably dangerous - like a motorcycle, like a car with a convertible top - your product will not be considered defective just on the basis of the unavoidably dangerous feature. If a product liability lawsuit involves a product's warnings or instructions, if the issue is whether those warnings or instructions were adequate, the court will apply a commonsense standard: What information would a reasonable person have provided? And finally, if you are injured by a defective product and if the jury decides that you are partly responsible for your own injury, say 10 percent, then your compensation may be reduced by 10 percent. That is Pennsylvania's law in other types of cases, like negligence cases, and we are simply extending it to product liability cases.

Mr. Speaker, those are the major provisions of HB 916 that we are attempting to restore with this amendment. We are also adding an important new provision. I should mention at this point that Representative Heckler and I have worked closely with Representative Lloyd on portions of this amendment, including this particular provision, and I will let Representative Lloyd discuss it in greater detail a bit later.

This provision falls under the heading of "workplace safety." It is directed at an employer who intentionally does something that makes a workplace dangerous, like removing a safety device from a piece of machinery. If an employee is injured or killed as a result of the intentional act, the employer can be sued. His immunity under the Workmen's Compensation Act is removed by this provision. This provision gives the worker a clear remedy if he is injured by an intentionally unsafe act by his employer, and at the same time, it preserves the integrity of the workers' compensation system. It is a carefully written provision. It is fair and reasonable, in my opinion.

Mr. Speaker, this issue, intentionally unsafe products in the workplace, is a major issue for organized labor. Representative Heckler and I addressed it in this amendment and in the spirit of fairness and compromise, and in that same spirit, we have made other significant changes to HB 916. We started with the provision that seems to have prompted the most concern, the 15-year statute of repose. Here is what we have done with that section of the legislation.

First of all, we have eliminated the statute of repose. There is now nothing in this bill that prevents a person from filing a lawsuit. What would happen now is this: A jury would simply be told that if a product lasts for 15 years without causing

harm, there is a presumption that it was not defective when it was sold. In other words, the defendant initially gets the benefit of the doubt because his product has stood the test of time, but from that point on, the lawsuit is exactly the same as any other product liability lawsuit. There is a significantly different approach from the original HB 916. It is a compromise, and we have actually taken it a step further. This provision specifically does not apply to lawsuits that involve latent injuries. When the statute of repose in the original bill was discussed, people asked me, what about products like asbestos; what about Agent Orange? So we have carved out a specific exception for creeping diseases. It is a major concern for a lot of people, and we have addressed it.

We have done the same sort of thing with the so-called state-of-the-art provision. This is the provision that establishes when a product's design is defective. In the original bill the plaintiff had to prove two things: He had to prove that there was a safer design available, and he had to prove that the design was practical. We have looked at that requirement again, and we have decided to change it. We have split the burden of proof between the plaintiff and the defendant. Under the new provision, the plaintiff only has to show that there was a technologically feasible way of making the product safer. Once he has done that, he has satisfied the burden of proof. At that point the burden shifts to the defendant. The defendant has to prove that the design was not practical. Here again, we have significantly changed a key provision of the bill.

Let me call your attention to another of those original provisions, the one that addresses common consumer products with health risks. This is the provision, you will recall, that was singled out for the criticism in the Judiciary Committee, and the committee removed that part of the bill. That provision, called comment i, comes directly from the American Law Institute. It was drafted by legal scholars as a recommended guideline, and it is the law in some other States. Pennsylvania courts have already adopted it. But we are sensitive to the concerns that the provision has raised, and I want to indicate that we are withdrawing that provision, that comment i section.

Mr. Speaker, I want to stress again that we have listened very carefully to the comments and recommendations we have received with respect to this legislation. We were told that the language in certain sections could be more precise. We have reviewed the language and we have made the changes. We were told that it was not entirely clear when a person could recover damages under certain provisions of the bill, so we have looked at those provisions again and we have clarified them. We have made it clear that a person could recover damages.

Mr. Speaker, Representative Heckler and I think that the finished product, the amendment that is before us, is a tightly drafted, straightforward, solid piece of legislation. We think it is responsive to the concerns that were raised about the original bill, and we think it is fair and preserves enough of the bill to be effective and fair.

Mr. Speaker, I ask for support for this amendment to HB 916.

The SPEAKER. The Chair recognizes Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the amendment.

Last week in caucus when we discussed this amendment, a number of concerns were raised, including some which I raised. Following that caucus, we had conservatively 8 hours and probably about 10 hours of intense discussions about the line by line of this amendment.

As Mr. Coy has indicated, a number of changes were made to clarify language, to tighten language, and those changes, addressing almost all the major concerns which I had, are addressed in the Coy-Heckler amendment. There are some remaining concerns, but I intend to support this amendment, and I hope that those who are interested in meaningful product liability reform will also support it. But then subsequently there will be separate amendments, one which I will offer dealing with the statute-of-repose question, which I would have preferred to have seen not in this legislation at all, but notwithstanding our inability to come to final agreement on that subject, I am satisfied that with the exception of that issue and the issue of comparative negligence, this is a very well-balanced piece of legislation, that it is one which strikes a middle ground between those who are concerned about consumer rights and those who are concerned about the ability of Pennsylvania businesses to compete and the ability of Pennsylvania retailers to have the peace of mind that they are not going to be unreasonably called to account for things over which they had no control.

So, Mr. Speaker, I would urge that we vote "yes" on the Coy-Heckler amendment.

The SPEAKER. The Chair recognizes Mr. Heckler.

Mr. HECKLER. Thank you, Mr. Speaker.

Mr. Speaker, this bill and the amendment which we are now offering deals with difficult and complex legal concepts. That very fact makes it easy for those who wish to be advocates on either side of this issue to misrepresent and confuse the various concepts that this House is being called upon to consider. In that regard, I would direct the members' attention specifically to the text of a press conference that was held yesterday. Evidently, Mr. Ralph Nader's comments were fed into the Media Center here by satellite feed, and someone has been good enough to share with us the text of those comments on the floor.

Now, I have read this bill, as have the gentleman, Mr. Coy, and the gentleman, Mr. Lloyd, and a great many of the other folks who are going to be debating it today. After having seen the tape and read the transcript, I really have to wonder if Mr. Nader ever got a chance to read the bill or the Coy-Heckler amendment. I suspect that his words are based more upon the representations about this legislation that he heard from the folks who paid for the satellite hookup that brought his words here.

He speaks of our language as removing from State jurisdiction matters of product liability. I would suggest to you, just

as Mr. Coy has represented, the only part of the bill which has anything to do with changing jurisdiction is the part of the bill—and I would suggest one of the most important parts—that allows our local retailers, the people who sold these products, to get out of a case when it is deemed appropriate, when they satisfy certain legal standards to do so.

Mr. Nader speaks of making Federal Government standards control in our State and of denying the ability of the local courts to shape the evolution of product liability law. In fact, the only thing the Coy-Heckler amendment does on this subject is allow into evidence the standards of either government or industry promulgation that apply to the particular matter at hand, and as part of the clarifying language which Mr. Coy has referred to, we specifically provide that that evidence is to be weighed by the jury with all the other evidence in the case. We do not give it special weight. We do not suggest that the jury is supposed to defer to regulations. The plaintiff is going to be perfectly free to say, well, fine; the defendant adhered to those regulations, but they were no good; they are old; they are obsolete; you should not pay any attention to that. It is just part of the evidence in the case, and let me point out, Mr. Speaker, that right now, as Judge Wieand, one of our more distinguished appellate judges, pointed out, the law in Pennsylvania is an anomaly. A failure of a product to comply with industry standards is relevant to show that a product is defective. However, the Supreme Court has held that industry standards are irrelevant to show that the product was not defective. So what we have in present law—and it is why we are here today—is a situation where the plaintiff can use government or industry standards to show that a product fell below those standards, but if in fact the product met or exceeded those standards, that evidence is not going to come in. The Coy-Heckler amendment cures that, and that is all it does.

Mr. Nader suggests that FDA (Food and Drug Administration) approval of a drug product would immunize it; would prevent an injured Pennsylvania citizen from suing under the Coy-Heckler amendment. Again, not true. He must have been reading somebody else's amendment. This language quite simply says that punitive damages - damages that arise from outrageous conduct - will not be available when the company that produces this product has complied with all FDA regulations and has gotten FDA approval. I would suggest that that is a minimum, reasonable standard, but once again, as with all the language in this bill, nobody is kept out of court.

Mr. Nader suggests that this amendment would remove strict liability from the law of Pennsylvania. As Mr. Coy has just pointed out to you, the general rule that is articulated in this bill is virtually a repetition, a restatement of the black-letter law, a restatement of torts on strict liability for products.

Mr. Nader, obviously not having been much informed about Pennsylvania law, talks about the people being injured in elevators or buildings and that the businesses of our country will make a profit on the broken backs of those people. I would suggest to you that right now and for many

years in our law, there has been a statute of repose for architects and people who construct buildings and suppliers of products that are integrated into the structure of that building. That is a statute of repose, not what we have evolved our legislation into - merely a presumption after 15 years that the product is okay. Right now in Pennsylvania law, if you are an architect or a builder and the building stands up for 12 years, you are absolutely in the clear; you cannot be sued. Obviously, Mr. Nader was not aware of that.

The one thing that Mr. Nader finds to be acceptable in Pennsylvania's legal tradition, the one thing he approves of and comments favorably upon, is the decisions of Mr. Justice Musmanno, who certainly was one of our more distinguished members, and he suggests that one of the reasons we ought to stay with existing Pennsylvania law and not be fooling around with the subject in the legislature at all is that we follow the rulings of Mr. Justice Musmanno. Well, Justice Musmanno died in October of 1969. There have been an awful lot of legal decisions handed down since then, and that is the very problem that brings us here.

Mr. Speaker, why are we doing this? I first came to work in this building in 1983. One of the first issues I worked on was product liability reform. Then and before, the industries and businesses of this State, not some outside influence from Washington or wherever but the employers and manufacturers in this State, were gravely concerned with the crazy direction that Pennsylvania case law was taking in product liability. What has happened in this State is the courts have wandered off into a land of their own on the subject of product liability and they have taken our Commonwealth with them.

In 1979 a commentator wrote, "Azzarello"—which is one of the most outrageous cases that has made a mess of our law—"will surely add even more voices to the clamor for [product liability] reform — a clamor which is likely to grow much too thunderous for Pennsylvania legislators to withstand any longer." Well, that was 1979. Here we are in 1990, finally heeding the words of the business community and legal scholars who look at the crazy quilt of our law. Those who have worked all those years to see this day come finally get their opportunity to take on the litigation industry in this State.

Part of the chaos that we see in our law was described by one of our former distinguished colleagues in this House of Representatives, then Justice Hutchinson, who said, "The instant madness is a creeping consensus among us judges and lawyers that we are more capable of designing products than engineers...."

What the Coy-Heckler amendment is about, Mr. Speaker, is getting fair, balanced evidence before the jury, giving fair, evenhanded, and predictable guidelines to the businesses and insurers and plaintiffs' attorneys of our State, and getting the lawyers and the judges out of the engineering business.

I urge your support for the Coy-Heckler amendment.

The SPEAKER. The Chair recognizes Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.



First, I would like to congratulate Representatives Coy and Heckler for their work on this amendment and for their presentation of these issues. I think that finally we are now cutting through the rhetoric and getting down to what these amendments are really all about.

One of the reasons the AFL-CIO was so concerned about the impact of this amendment is because what you purport to do for workers in the context of workplace safety you more than undo in the context of this amendment, because make no mistake about it, products liability actions account for approximately 50 percent of the plaintiffs that come from the working movement. That is why the AFL-CIO is so concerned about the impact of this amendment.

What is basically wrong with this amendment? I think what is wrong with this amendment is that it is based upon a false premise, and that premise has been stated by both Representatives Coy and Heckler - the premise that somehow our law is out of the mainstream and the Pennsylvania products liability law is somehow aberrational in its results.

Now, so far you have heard Representative Heckler speak about commentators' responses to Pennsylvania's products liability law. I think it is more important that we look at actual case results rather than individual commentators' responses to our law. The first thing you should know is that Pennsylvania courts have never held that we live in a completely risk-free society and that no product can be made absolutely safe in all circumstances. In fact, the courts have ruled exactly the opposite, and they have done so consistently in this State.

Before you vote on this amendment, I think it also helps, as Representative Heckler did, to dispel some of the inaccurate rhetoric which has surrounded this issue. Although both sides have been guilty of that rhetoric, I think we need to dispel some of the confusion referred to by both Representatives Coy and Heckler.

The first thing you should know is that this amendment is not about guns or gun control. When that issue first arose during the context of this debate about somehow inherently dangerous or unreasonably dangerous products, I said, well, let me see if Pennsylvania is out of the mainstream with respect to gun-related cases. I went to the reference librarian whom I spoke with yesterday in the Fulton Law Library. He has a computer which has access to every Pennsylvania case reported both at the appellate level and through Federal district courts, as well as the Philadelphia common pleas cases. I said to him, show me cases in which a plaintiff was successful against a gun manufacturer on the basis that the gun was inherently dangerous and, therefore, they should recover. He ran that search for me. He was unable to find any of those cases, and the reason is because in 1982, our Pennsylvania Supreme Court, when faced with a similar kind of case, a case called *Sherk v. Daisy Heddon*, a case in which a 14-year-old boy was shot and killed, a case in which the plaintiff argued that the manufacturer of the BB gun, an air rifle, did not supply sufficient warnings for the use of that product; therefore, the plaintiff should recover, the court said no; as a

matter of law, we are going to find for the gun manufacturer. I think most of us in this hall are comfortable with that result. I think the reasoning for that decision is logical, although in some cases some may view it as a harsh result for the plaintiff. This is not about gun control. It might be about something else, but it certainly is not about gun control.

It is also not about knives or butter or sugar. I have heard discussions and read some in the paper about, well, a knife is sharp. You cannot ever make a knife completely safe. Our courts have recognized that. Since 1975 the Pennsylvania Supreme Court in the *Berkebile* case, which is still the law in the State of Pennsylvania, recognized that you cannot make those products safe for all purposes.

This amendment is also not about drugs or prescription medications. Our courts have been with the mainstream. They have recognized the special characterizations that are entitled to drug cases. In fact, as early as 1971 our Pennsylvania Supreme Court said, "...neither the law of Pennsylvania, nor, so far as we are aware, the law of other states has imposed strict liability upon a drug manufacturer merely because of dangerous propensities of the product." I am confident that our Pennsylvania Supreme Court will continue to hold to those decisions in references to gun cases, in references to agricultural products, and in references to prescription drug cases. This amendment is completely unnecessary when it tries to cloak those specific products in the cloak of inherently dangerous or unsafe products. I will leave it to others later on to state whom they think that particular section is really deemed to take care of.

But even if you buy the underlying assumption of this amendment that somehow Pennsylvania courts are out of the mainstream with respect to products liability cases, I think you should still vote against this amendment for some very other compelling reasons.

We have heard some reference from Representative Heckler about black-letter law and about the *Azzarello* case. I would concede the issue that Pennsylvania stands alone with respect to a certain jury instruction related to the general rule on products liability. Had this amendment been restricted to changing that issue, I do not think we would have had a problem. But obviously, this amendment does not stop there.

We heard reference to black-letter law on 402A products liability. There is still a provision in this bill which permits the assessment of comparative responsibility. You should know that the Pennsylvania courts have held consistently that comparative responsibility has no place in the context of 402A cases. The reasoning for that is very simple, because what happens is, the important policy reason is that the case shifts away from the product and onto the conduct of the plaintiff where it does not belong.

When 402A was first proposed, the treatise which is the basis for products liability throughout the Nation, there is a specific reference to the comments in there which say comparative or contributory negligence is not an issue which should be considered in the context of product liability, and that is part of the problem that I have with this amendment. It seems

selective in its attempt to embrace certain aspects of black-letter law with respect to 402A but explicitly rejects others.

There is another fundamental change, which is also not a part of black-letter-law development with products liability in 402A, and that is the statute of repose. Although I want to compliment both Representatives Heckler and Coy for recognizing that the initial draft with respect to statute of repose was too Draconian in its approach, I would suggest that the measure that they propose here, because of its incorporation of a broad definition section and its inherent ambiguity, would also produce the same kinds of results.

Often during the course of this debate we have heard about leveling the playing field; giving the manufacturers a fair shot. In the situation of statute of repose, you should know that you do not get a shot; you do not get a shot at all. What happens is the plaintiff alleges a cause of action. The manufacturer comes back in and says to the court, this product is more than 15 years old; I want to get out of the case. If the plaintiff cannot overcome this rebuttal of presumption, which is a very difficult burden, the defendant gets out of the case. The jury never even considers what the defendant's conduct was in that case. Now, think about that for a minute. That may have some validity in the context of a product like a durable good, like a ladder or some other kind of material, which there is some justification for protecting if it is out in the general use for a number of years.

But how about the kind of conduct that some - albeit some - irresponsible manufacturers involve themselves in? How about fraud? How about intentional misconduct? Certainly we have evidence of that, particularly with respect to the asbestos litigation where there were specific attempts to try to hide and fail to disclose particular information to the public. That also was the recent case with respect to the generic drug situation here in the United States. What happens with the statute of repose is not only do you not level the playing field, you make sure that the other side does not even have a chance to suit up for the game.

There are other provisions in this amendment which you will hear about which go far beyond what we think are reasonable attempts to address the issues mentioned here. But I think one thing we need not to lose sight of in the course of this debate is the basis and the underlying reason for products liability and its adaptation not only in the State of Pennsylvania but in other States.

In 1953 Justice Jackson from the United States Supreme Court said:

This is a day of synthetic living, when to an ever-increasing extent our population is dependent upon mass producers for its food and drink, its cures and complexions, its apparel and gadgets. These no longer are natural or simple products but complex ones whose composition and qualities are often secret. Such a dependent society must exact greater care than in more simple days and must require from manufacturers or producers increased integrity and caution as the only protection of its safety and well-being.

Mr. Speaker, I would say that the only compromise that this amendment proposes is to compromise those values and concepts that Justice Jackson stated as early as 1953. I would respectfully request that you reject the Coy-Heckler amendment.

The SPEAKER. The Chair recognizes Representative David Wright.

Mr. D. R. WRIGHT. Thank you, Mr. Speaker.

I applaud Mr. Hayden's erudite analysis of the law. In fact, I am envious of his ability to grasp the law and to provide the analysis which he has done. But as I listened to him, it seemed to me that his very analysis demonstrates the need for codification of statutes relating to product liability.

I appreciated very much Mr. Heckler's refutation of Mr. Nader's diatribe, given somewhere, I presume, yesterday, and I was actually proud of Mr. Heckler that he was not intimidated by the consumer terrorist from Washington. Mr. Nader made his reputation in the glory days of his youth with a book called "Unsafe at Any Speed." It seems to me that the only thing anymore that is unsafe at any speed is Mr. Nader's verbal utterances.

I speak, Mr. Speaker, in favor of the Coy-Heckler amendment, and I do so because I believe it is a reasonable solution to a heretofore intractable problem. It is a solution that matches the problem. And unlike alternative amendments that place the blame for our current predicament anywhere but where it belongs, this amendment faces the problem head-on.

Now, opponents say the problem is that manufacturers make unsafe products, and no doubt some manufacturers do, but this amendment does nothing to protect those manufacturers. Opponents say that injured victims have a right to compensation, and of course they do. They have a right to compensation when they have been injured as a result of defective products, but that is not the problem, and this amendment would not prevent recovery of those damages. Opponents say that our present circumstance is really a problem caused by the insurance industry, that bad policy decisions by insurers have caused premiums to soar, but that is not the problem; it is a symptom of the problem. It is a symptom of a system that is out of control, a system that is badly in need of the reforms contained in the Heckler-Coy amendment.

Now, Mr. Speaker, I am not a lawyer and I am not an expert on insurance either, but when I asked about this amendment, when I asked if this amendment would lower insurance premiums, I had been told that there is no way to guarantee decreases. But then, that is not really the point of this legislation. The point of this amendment is fairness, and that is why this amendment is supported by companies that are self-insured, by companies that pay no insurance premiums at all, and that is the clear indicator that high insurance premiums are a symptom and not a cause of the problem.

But having said that, we, all of us, have received letters from small business persons in our legislative districts all



across the State, and they complain about the high cost of insurance and sometimes about the lack of available coverage. And there is one aspect of our current system that contributes to the problem our small business people described to us: Insurance companies set rates based on predictions of future experience - 5 or 10 or 20 years into the future - and the fact is that the present system is devoid of predictability.

So finally, the issue comes down to the matter of common sense. This amendment would insure some predictability in the system, and the greater the predictability, the more stability we will experience in insurance rates. So the heart of the amendment is nothing more than plain common sense. It instills predictability and fairness and simplicity in a system that has become a legal crapshoot.

Mr. Speaker, I said earlier that I am not an expert on insurance and I am not a lawyer, but I do profess to some common sense, and I believe this amendment is a commonsense solution to a problem that simply will not go away. I urge support of the Coy-Heckler amendment.

The SPEAKER. The Chair recognizes Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Will the gentleman, Mr. Coy, stand for brief interrogation?

The SPEAKER. The gentleman indicates he is willing to be interrogated. The gentleman may proceed.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, may I direct your attention to page 7 of the amendment, section 8383, which is entitled "Employers' liability for intentional harm." Specifically under that section, referring you to subsection (a), reference is made to the fact that immunity shall be abolished with regard to an employer when an injured employee files suit under circumstances, and now I quote from the amendment, where "...the employer acts with the specific purpose to cause serious injury or death to an employee;..." or in the alternative, "...the employer directs or assigns an employee to work under a specific unsafe working condition despite the employer's actual knowledge that the specific condition is substantially certain to cause serious injury or death..."

As I understand it, under existing Pennsylvania law, if an accident occurs at the workplace, the employee may not file a lawsuit. The employee is limited to a workmen's compensation claim. In that context, what is your intent? What is the motivation behind subsection (a) as just quoted to you?

Mr. COY. Mr. Speaker, I, too, do not profess to be an expert, but my intent is to allow for a cause of action by an employee that is not currently allowed under today's law; to give an employee a cause of action which he does not have under today's law.

Mr. McHALE. As I understand what you have just said, it would appear then that you are reopening the courthouse door under limited circumstances. You are saying that where the employer intentionally causes harm to that employee or instructs the employee to work under circumstances where substantial harm or death is likely to occur, that you will allow that employee, under that circumstance, to file a lawsuit against the employer.

Mr. COY. Yes.

Mr. McHALE. What then is the purpose of subsection (b)? If subsection (a) reopens the courthouse door under the limited circumstance of an intentional harm, what is the motivation under subsection (b) in denying punitive damages under those outrageous circumstances to the injured employee?

Mr. COY. Under the procedure, the employee would be made whole by the compensatory damages which are allowed for, and that is the reason for the preclusion against punitive damages, which would extend it further.

In other words, the employee would be made whole by the compensatory damages which would be called for under the provision.

Mr. McHALE. I understand that; you allow him compensatory damages, but in subsection (b) you deny him punitive damages. Why?

Mr. COY. Well, let me say, Mr. Speaker, that we are going a step in the right direction, I feel.

Under current law they would recover nothing. Under current law they could not file the lawsuit. This at least gives them the opportunity to recover in some form not punitive but compensatory damages, which would make them whole at the time of an accident or injury.

Mr. McHALE. Thank you, Mr. Speaker.

That concludes my interrogation. May I speak on the amendment?

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

Mr. McHALE. Mr. Speaker, earlier in this debate it was noted that this amendment is in many ways legally and economically complex. I would submit to the members of the House, however, that section 8383 is chilling in its simplicity. If you have working men and women in your districts, I would urge you to please pay attention to section 8383 and what that section would accomplish if it were to be enacted.

Now, the gentleman, Mr. Coy, is absolutely correct. Under current law, only since 1987, pursuant to a Supreme Court decision, if an employee in our Commonwealth is intentionally hurt, not accidentally hurt but intentionally hurt by an employer, that employee may not file a lawsuit.

Now, what the gentleman, Mr. Coy, did not tell you was this: In March of 1987 the Pennsylvania Supreme Court decided a case called Poyser v. Neuman Company. In that case, an employee, Mr. Poyser, sued Neuman Company because he, Mr. Poyser, alleged that the Neuman Company intentionally removed certain safety devices from the machinery at the plant, and after that intentional removal of the safety equipment, Mr. Poyser was hurt. He filed a lawsuit against Neuman Company. Neuman Company said, under Pennsylvania law we are immune from liability. Whether that liability was accidentally caused or intentionally caused, we under the workmen's compensation statute, the company alleged, are immune from suit.

Contrary to decades of case law in Pennsylvania, the Pennsylvania Supreme Court agreed with Neuman Company and

said, based on legislative intent, the intent of the General Assembly as reflected in 1972 amendments to the workmen's compensation statute, that no lawsuit may be filed in Pennsylvania by an employee against an employer whether it is intentionally or negligently caused.

Now, what the Supreme Court did in that same opinion was this: The court invited us, by statutory action, to correct the mistake that was made in 1972 and override *Poyser v. Neuman Company*. The defect in the Coy amendment is that it does not override *Poyser*; it substantially adopts *Poyser*.

Let me tell you what the practical implications are of this. This amendment only applies when there is an intentional harm. If you read the amendment in subsection (a)(1), it applies where an "...employer acts with the specific purpose to cause serious injury or death,..." or in the alternative, the amendment applies where "...the employer directs or assigns an employee to work under a specific unsafe working condition despite the employer's actual knowledge that the specific condition is substantially certain to cause serious injury or death...." We are talking about a wrongdoer who has acted in a completely outrageous manner.

Now, if the gentleman, Mr. Coy's amendment only went so far as subsection (a), I would be supporting that subsection. The heart of this section, though, is contained in subsection (b), where despite the fact that the employer who is being sued has acted outrageously, has intentionally caused this harm, the employee who has been hurt is told in subsection (b) he may not sue for punitive damages.

In short, this amendment is a license to maim or kill employees so long as it is cost effective to do so. It may well be cheaper to pay compensatory damages on a periodic basis than to change the working condition that caused the injury.

It seems to me, looking at 200 years of history of punitive damages where the intent of punitive damages has always been to teach a wrongdoer a lesson and to deter wrongdoing on the part of other actors, that this is the clearest possible example of where punitive damages ought to be assessed against an employer who has acted so outrageously and wrongfully.

If we are going to protect the employees of Pennsylvania and guarantee to them a safe working place, we have got to use more than the incentive of compensatory damages. When an employer, and I quote again from the amendment, when an "...employer acts with the specific purpose to cause serious injury or death,..." he deserves punitive damages. When an "...employer directs or assigns an employee to work under a specific unsafe working condition despite the employer's actual knowledge that the specific condition is substantially certain to cause serious injury or death,..." he deserves to pay punitive damages.

The message that we ought to send to such employers is that there is a price to pay for that wrongdoing. More importantly, the deterrent message we should send to employers is, do not do it in the first place, because if you do, you will pay not only compensatory damages but much more substantial punitive damages. That is a power that I think a jury should have. If

this were my son, my daughter, my friend, or my constituent who was intentionally harmed by an employer, I would want a jury to have the traditional power of punitive damages. The fact that a jury might hold that power will, I guarantee you, protect the employees of Pennsylvania and deter this kind of misconduct before it occurs.

I urge a negative vote on the Coy amendment.

### FILMING PERMISSION

The SPEAKER. For the information of the members, the Chair has granted permission to the Republican Information Office for videotaping during this debate.

### CONSIDERATION OF HB 916 CONTINUED

The SPEAKER. The Chair recognizes Mr. McNally.

Mr. McNALLY. Thank you, Mr. Speaker.

I would ask the forbearance and the attention of the House for several minutes as I discuss the Coy-Heckler amendment. And rather than dwell on the technicalities of what everyone, I think, acknowledges is a very difficult and abstract subject, I thought what I would do is discuss this amendment in terms of how it would affect a real person, one of our constituents.

At the head of the hall of the House under the dome there is a woman pictured, and she has scales, and today those scales are evenly balanced. But I would submit to you that if we should pass the Coy-Heckler amendment, tomorrow they ought to be tipped.

The story I have to tell you is about a real little boy, a little boy named Noah George. He died last month in an automobile accident, and I would submit to you that his death involved some defective products.

Noah George and his family live in Cross Creek Township in Washington County, Vic Lescovitz's constituents. One day in February, little Noah was riding in the minivan driven by his mother. He was seated in a child booster seat secured to the rear seat of the minivan that his mother was driving. They were driving down State Route 50 near Avella in Washington County when the minivan hit a patch of ice. It spun out of control and hit another car. On impact, the backseat of that minivan where Noah was sitting collapsed, the back of the seat collapsed, and the seatbelt securing his car seat failed. The liftback of that minivan was flung open, and in an instant, a 2-year-old boy was flung 35 feet in the air out of the minivan. Being thrown from the minivan caused him to be thrown into a nearby stream abutting that State Route 50. He drifted 150 yards down that stream, carried by the water. After 30 minutes in the cold, little Noah was found by rescuers, but it was too late. What is amazing is that this little boy did not die of any injuries sustained in the accident. The death certificate says that the cause of death was cardiac arrest due to hypothermia. In plain English, he froze to death.

The Washington County coroner's jury that investigated and had an inquest on this case absolved the little boy's mother of any wrongdoing or negligence. They determined that the testing standards established by the Federal Govern-

ment for that car seat that that little boy was sitting in, those testing standards were deemed to be inadequate by the coroner's jury, and furthermore, that coroner's jury, six honest and good citizens of Washington County, determined that the manufacturer, in the construction of that seat in the minivan, was grossly negligent.

I think it is hard to believe that some people would like to protect manufacturers, like the automobile and car seat manufacturers, but that is the effect of this amendment. For example, in this Coy-Heckler amendment there is a provision that says that if a safer design of the product is not economically feasible, then the manufacturer is not liable; there is no defective product. But think about what that means. In the competitive world of the automobile industry, any safety feature which adds to the cost of a product, to the cost of that minivan, is not, arguably, economically feasible. So just adding a stronger material, stronger steel to the backseat of that minivan, is arguably not economically feasible; therefore, the manufacturer is not liable for having constructed a defective product. Or take, for example, the booster seat that that little boy was sitting in. Putting a shoulder strap, which was not available, on this booster seat, that adds additional cost to that product. Or, for example, on the box that that car seat was contained in when the family bought it at a store, it says that the booster seat is designed, is designed, for a child who weighs 30 to 60 pounds. However, according to the American Academy of Pediatrics, no child ought to be in a booster seat unless they weigh 40 pounds. Just changing that label on the box, changing the weight range of the design of that car seat, of that booster seat, from 30 to 60 pounds to 40 to 60 pounds is not economically feasible. Why? Well, think about it. There are fewer children in that weight range, that 20-pound weight range of 40 to 60 pounds, than there are in the 30- to 60-pound range. If there are fewer children who can use the booster seat, that means there are fewer parents who are going to buy that booster seat. Furthermore, if there are fewer parents buying that booster seat, there are going to be fewer profits for the manufacturer. It is not economically feasible.

Another defect noted by the Washington County coroner was that the material on this booster seat was made of vinyl, a very slippery surface, and as the Washington County coroner indicated, it should have had a more abrasive material, something that could cause friction that would prevent the child from being thrown out of that car seat, or at least inhibit him from being thrown out of the seat. But that would add to the cost of the product, too, and so it would not be economically feasible.

Another aspect of the Coy-Heckler amendment which deserves attention is the changes in the rules of evidence. For example, this amendment would require courts to admit evidence that a product, such as a booster seat or the minivan, complied with government, either Federal or State, standards or even industrywide standards. However, those standards are so minimal, so inadequate, that they are often misleading. They do not indicate that a product is safe.

For example, the minivan is classified under Federal regulations as a light truck. That classification was made after intense lobbying of the National Highway Traffic Safety Administration by the automotive industry. In fact, a minivan, as we all know—many of us drive and own minivans—a minivan is not a light truck; it is a passenger vehicle. A passenger vehicle has more strict, more stringent safety standards. But by being classified as a light truck, the manufacturer of that minivan can make a less safe product.

Then in the case of the booster seat. A booster seat, under Federal regulations, must pass a 30-mile-per-hour head-on collision test without letting the child go. But as the good people, the honest people, on that Washington County coroner's jury realized through their good common sense, not every collision is a head-on collision. This particular incident was a rear-end collision. So once again the Federal standards are inadequate, but the Coy-Heckler amendment would demand, would mandate, that adherence to those Federal standards, even though adherence is misleading, ought to be presented to the jury.

And lest I leave you with the impression that this case is somehow isolated, the fact of the matter is that there are 56 models of child safety seats on the market today which have failed compliance tests administered by the Federal Government but yet they must be considered in compliance, because there has not been a demand by the Federal Government to take them off the market.

I think finally, the most outrageous or obnoxious part of this amendment is that it goes far beyond the conventional horror stories that we have heard about strict liability. It gives greater protection to manufacturers who misrepresent facts about their products - manufacturers who lie about their products. Why should we give greater protection to manufacturers, to companies, who have lied? Why should a little boy have to pay the price for those misrepresentations and those lies?

I think that the real question in this debate, when you boil it down to real people and real problems, is whether you are going to be on the side of Noah George or you are going to be on the side of the auto manufacturer and the manufacturer of the booster seat. And that is not the only case. You know and I know that there are victims throughout this Commonwealth who have suffered from defective products, and now we are being told to tip the balance, tip the scales away from them, out of their favor.

Think about the 17 steelworkers at the Fairless Works in Bucks County who were killed over the last 10 years because United States Steel would not operate a safe workplace. For those of you from Bucks County, are you going to represent the interests of those steelworkers who have died in the Fairless Works or are you going to represent the manufacturers of the product that killed them?

And in Cambria County last summer when several steelworkers were incinerated by an explosion of a continuous caster, are you going to be on the side of those dead steelworkers and their families or will you be on the side of the

manufacturer of the continuous caster? That scenario can be played out in every legislative district in this Commonwealth.

I think that it is time that we protect and shield innocent victims and keep the scales balanced. Thank you.

The SPEAKER. The Chair recognizes Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, some members have been accused here today of providing rhetoric in this debate. I certainly would be one of those members who has been guilty and would plead guilty to providing enough rhetoric on this issue. But, Mr. Speaker, I do not shy away from providing that rhetoric from the beginning of this debate and will not shy away from providing that rhetoric at the end of this debate.

Mr. Speaker, some of my more learned colleagues and attorneys have provided much of the substance of our opposition on this issue. Mr. Speaker, the proponents of the Coy-Heckler amendment have suggested that this amendment will allow the corporate community in Pennsylvania to get an even playing field when it comes to product liability law in this State. Mr. Speaker, I strongly believe they are wrong. The Coy-Heckler amendment would in fact place a legal stranglehold around the necks of consumers and workers throughout the State of Pennsylvania. If this amendment passes, you will be witnessing a public hanging of the rights of the workers in Pennsylvania. We should be in the business of guaranteeing the safety rights of workers, not destroying them on the floor of this House.

Make no mistake about it, Mr. Speaker - this issue is about the safety rights of workers, average middle-class workers in Pennsylvania, some blue collar, some white collar, but average middle-class workers in Pennsylvania. This issue is not about products; it is about people. Members should understand that the single largest category of product liability cases is actions filed by workers injured in the workplace in Pennsylvania. It is not about the psychic from Philadelphia who should be denied her claim. It is not about all those other horror stories that we all heard and we think those claims should be denied. Mr. Speaker, it is about workers. Fifty percent of the cases filed are filed by workers in workplace incidents.

Each year, Mr. Speaker, 270 Pennsylvanians on an average are killed in the workplace as a result of workplace injuries. More than 130,000 lost-time injuries each and every year are reported, and nearly one-half of these injuries are serious injuries. Many of the workers never again are able to earn the living that they are accustomed to earning. Mr. Speaker, I submit that many of these deaths and injuries are caused by defective products, and in my opinion, our current products liability law, including the strong threat of lawsuits for defective products, is a single most important reason for the production of safer workplace machinery and safer products to be used in the workplace. It has been an incentive.

Mr. Speaker, this is a complex and complicated issue. As you listen to this debate today and as you listen to the proponents of the Coy-Heckler amendment, please keep in mind that we have an obligation to protect the safety of the working

men and women in Pennsylvania. The Coy-Heckler amendment, in my sincere belief, puts their safety in great jeopardy.

The Pennsylvania AFL-CIO, which has been mentioned several times here today on the floor, unlike any other organization involved in this issue, any other lobbying group, has no vested interest in the outcome, no moneyed interest in the outcome of this amendment or this bill; yet they have been lobbying vigorously, vigorously, for the defeat of the Coy-Heckler amendment. They are the single largest organization representing working people in Pennsylvania, and it is many of their members who have in fact been killed and maimed in the workplace because of defective products.

Mr. Speaker, if you are looking for reasons to vote against this amendment, let me suggest three reasons to vote against this amendment.

Number one, Mr. Speaker, you can defeat the Coy-Heckler amendment and you can support our bill as amended in the Judiciary Committee. It is a step towards the Coy approach. You can go back home to your business community and suggest that you did not give them everything they wanted but you gave them something in HB 916 as amended in the Judiciary Committee.

Mr. Speaker, reason number two: The gentleman, Mr. Lloyd, has even supported our position as being opposed to the statute-of-repose language in this bill. I think that is a reason in itself; the statute of repose is a reason in itself to defeat the Coy-Heckler amendment.

Reason number three, Mr. Speaker: Mr. Coy has suggested that the workplace safety language in his amendment protects the workers. I would submit that it does not. I would submit that the AFL-CIO and other groups interested in workers have been strongly opposing this amendment, including the Coy-Heckler approach to workplace safety.

Mr. Speaker, those are reasons that you can join us in defeating the Coy-Heckler amendment and passing HB 916 as amended in the Judiciary Committee, and I would respectfully ask that you do that. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Steighner.

Mr. STEIGHNER. Thank you, Mr. Speaker.

Mr. Speaker, Mr. Coy's amendment does not take us on some uncharted, unknown course. More than three-fourths of the States in this Union have adopted various product liability reforms since the mid-1970's. Since 1986 alone, 22 of those States - some of which include Ohio, New Jersey, California, and New York - have adopted similar reforms as well.

There are more product liability cases in the Federal courts of Pennsylvania than any other State in the Union. Since 1983 we have had a 350-percent increase in those cases, and those figures come not from one of the organizations involved either for or against this amendment but rather from the Court Administrator's office themselves. And, Mr. Speaker, those figures do not include the majority of those cases that are even settled out of court.

The cost of this flood of litigation—and we fool no one by suggesting otherwise—is ultimately borne by the consumers of this State. It is borne by the workers in the form of diminished

employment opportunities and by State and local governments in the form of lost tax revenues.

Breaking it down by just a couple of products, for a football helmet used in this State that runs \$200, 50 percent or \$100 of the cost of that is for liability insurance. For a \$12 dose of a childhood vaccine, DPT (diphtheria-pertussis-tetanus), a cost of \$12, \$11 of that is for liability insurance. I suggest, Mr. Speaker, that maybe, just maybe, that is why in the 1960's there were 12 companies involved in the research and development of vaccines. Today there are two.

Costs for the consumer families of this State per household range from \$400 to \$800 a year. That again comes not from one of the groups involved either for or against this amendment. That comes from the Center for the Study of American Business - a nonprofit, nonpartisan research office affiliated with Washington University in St. Louis, Missouri.

I believe Mr. Coy's amendment offers a fair and reasonable approach to the product liability problem by offering needed protection to the consumer, such as continuing the consumer's right to sue on a defective product. At the same time, I believe it sets that equal playing field, which is referred to back and forth in this debate, for businesses and manufacturers throughout this Commonwealth.

I ask for the support of the House on Mr. Coy's amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, there have been some questions today about what this bill is and what this bill is not. Since the Judiciary Committee acted, there are some of those who have been told that this bill is not about tobacco anymore, that tobacco was taken out. Mr. Speaker, in the original bill you never saw the word "tobacco." In fact, I think yesterday when the gentleman, Mr. Nader, spoke, if he said anything that hit to the point about this law and the way it has been written, he referred to it as "a lawyer's law." In other words, it is arcanelly, cryptically drafted so that it does not signal whose interests are really being protected and whose rights are being harmed. If you read the gentleman, Mr. Coy's amendment, nowhere will you see the word "tobacco." In the original bill you would not have either, but, Mr. Speaker, tobacco is in one end of this bill to the other.

Mr. Speaker, I find it hard to believe that this legislature would seek to protect an industry that kills 390,000 of its customers every year; an industry that, to replace those 390,000 customers, aims its advertising at minority groups and at women. Recently in Philadelphia we saw the appalling idea of the Uptown cigarette being introduced to induce more blacks to smoke, a group of our society that already smokes at a higher rate than most others. We have seen continue the advertisement aimed at women, "You've come a long way, baby," put on by the Virginia Slims company, and that is right; you have come a long way, baby. In 1950, when it came to lung cancer, only one in five persons who had this dreaded disease was a woman; now it is one in three. Yes; you have come a long way. Every year 49,000 women will die of lung

cancer. Lung cancer has now replaced breast cancer as the number-one killer of young women. Yes; you have come a long way.

Mr. Speaker, in the debate we have heard from the manufacturers and the people who support these bills, and they say to us, we need this protection. Mr. Speaker, the tobacco companies in this country of ours have not lost these cases; they have won them, yet they seek more protection than they already have under the law. They want to have it both ways. They do not lose the cases, but they want more protection.

So why do we need this protection for the consumers? What is the purpose? One of the things in this country that has driven us to safer products has been the threat of product liability suits. You hear that all the time, about how we have to do more research; we have to do more of this; we have to do more of that. Will the tobacco companies ever develop a cancer-safe cigarette or a fire-safe cigarette without the threat of lawsuits? No.

I agree with speakers who have said that maybe a person who has begun smoking since the warnings were put on the packs of cigarettes should not have a suit against the tobacco companies because they have been warned, but have they been warned adequately? And have you been warned, those of us who ingest secondhand smoke, of the dangers of secondhand smoke? No; you have not been, and you are not protected from it because they will not develop and market a smoke-free cigarette.

Another thing that has been cleverly done in the bill and the amendment is try to put cigarettes in with common consumer products such as bread, butter, eggs, and guns. There is a big difference. Cigarettes have no redeeming social value at all. They have no useful use. A gun does. You can hunt with it; you can protect yourself with it. But a cigarette does nothing but cause disease and death.

I think it is up to this legislature to stand tall on this issue, and if you believe that tobacco is out of here, go back there in the lobby and count all the tobacco lobbyists. They are not back there for nothing. They are out there protecting their interests and not the interests of the consumers of Pennsylvania.

I ask for a "no" vote.

The SPEAKER. The Chair recognizes Mr. Battisto.

Mr. BATTISTO. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Coy-Heckler amendment.

Mr. Speaker, I became involved in this issue about 7 or 8 years ago, and this is about a real-life case. A small manufacturer in my district came into my office and said, "Joe, why don't you do something about that terrible mess with respect to product liability?" Then he relayed a story to me, a real-life story about a manufacturing friend of his who made the same line of specialty equipment—and this manufacturer, by the way, is a small manufacturer—he made winches. He made this product in 1936. He never saw the product until 26 years or so later when it was brought back to be refurbished and rebuilt. He rebuilt the product in 1962. It went back to sea;

that is, it is used to haul fishing nets out of the water. In 1978, 16 years later or 30-some years after this product was manufactured—in fact, 40-some years, I guess—an experienced captain who had been at sea for many years—he was 50 years old; he was the owner of the ship; he was experienced—he took a protective shield off this winch, I guess for ease of operation. Unfortunately, his leg became entangled; his leg was disfigured. The company was sued based upon the fact that the shield was too easily removed; therefore, the product was defective. The company had a \$1.7-million judgment brought against it, and of course, it went bankrupt; it is out of business.

That is a real-life story. The person who came in and told me that story is a manufacturer in Stroudsburg. This is a competing friend of his. The fact of the matter is, he is under the same duress. He is being sued from time to time not because a product is defective but because somebody misuses a product. He pled with me some 6 years ago. We are at this point some 6 years later.

I contend that the Coy-Heckler amendment is a reasonable, sound amendment.

Let me relate something else to you. Some of you may have seen ABC News last fall. ABC news magazine "20/20" reported about the inventor and manufacturer of a new electronic ignition system for small airplanes. You may have seen this. This inventive, hard-working American businessman had produced a safer and more reliable way to keep an engine running smoothly. This is a real-life case, by the way. No doubt, you will imagine he is enjoying the fruits of his daring and creative activity. The fact of the matter is, it would seem to be the classic American success story. Unfortunately, Mr. Speaker, it is becoming the classic American tragedy, because you need not look skyward to see one of these marvelous, new electronic magnetos. You need only to explore the dark shells of the manufacturer's warehouse. After row after row filled with this equipment, you may ask, why; why did he not market the equipment; why did he not market the safer product; why did his lawyers advise him against this? Not because this product was unsafe; because the system was unsafe, unpredictable, and really unfair.

I feel the Coy-Heckler amendment will add, hopefully, innovation to the American product line. Right now innovation is stifled because of cases like this, real-life cases like this. Smaller manufacturers and American firms are going out of business, like the Hathaway Manufacturing and Machine Company which I just related to you, simply because they cannot stand the pressure from product liability suits.

I ask you, all of you, to vote for the Coy-Heckler amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, would Mr. Coy stand for a brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman may proceed.

Mr. REBER. Mr. Speaker, I would direct your attention to page 7 of your amendment, section 8383. This is the section that Representative McHale had some extended dialogue with you on.

Is it my understanding, Mr. Speaker, that it is your intention for the insertion into this particular amendment with this section to in essence preclude an employer from having the current immunity from suit that he currently enjoys if in fact he does intentionally injure an employee as a result of some action on his part?

Mr. COY. I really cannot understand the question, Mr. Speaker. Would you please repeat it?

Mr. REBER. Is my understanding correct, Mr. Speaker, that the reason why you have implanted section 8383 into this particular amendment is to preclude an employer from having immunity from suit, which is currently afforded to him under the Pennsylvania Workmen's Compensation Act as well as the Poyser decision? Is that the reason why you have in fact inserted this into the bill, so that an employee can recover if injury takes place?

Mr. COY. If your question is, did I include the language to overrule the Poyser decision, the answer is yes.

Mr. REBER. Thank you.

Mr. Speaker, may I speak on the amendment, please?

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I would admonish you to be cautioned of Greeks bearing gifts. If you look at section 8383, you will see that it specifically says that "The immunity from suit...shall be lost if the employer intentionally causes injury to an employee." However, it then goes on to specifically say and limit those instances where it is only one of such serious injury or death in subsection (1) and again where it is such serious injury or death in subsection (2). So in essence, what we have here is, on one hand, the statute giveth to the employee the opportunity, if in fact there is an intentional action, to sue for that injury, but then this language is so craftfully drawn that it limits only those which are serious injuries. Now, if you go a little bit further, Mr. Speaker, and you look throughout this amendment, you will not find anywhere the terminology "serious injury" defined.

I would submit to the ladies and gentlemen of this House that this section is exemplary of what is characteristic of this amendment in toto. In essence, what I am saying is, the language in this amendment is very craftfully drawn to take away substantive rights of consumers, to take away substantive rights of employees, to imply to us that it is giving them certain benefits when in fact it is only giving them at best a limited amount of benefits.

I cannot understand how someone can be intentionally harmed, suffer an injury, and not be able to recover simply because it is not a serious injury as defined in certain subsections of section 8383. Now, this very well may be a drafting error. I would daresay that it is a crafty error that has been put into this to eliminate certain types of actions from being

brought for intentional injuries to employees, which in fact is the intention, if I heard Mr. Coy's response, that this section was placed in there in the first place.

I think it is absolutely abhorrent, as Representative McHale has earlier discussed, the fact that punitive damages cannot be assessed and recovered for an intentional action by an employer. That is unbelievable in and of itself, but I think it is absolutely insulting to me and I think it should be absolutely insulting to every member of this General Assembly that this amendment is crafted in such a way to limit, to limit, even the types of injuries for which recovery can be had under section 8383 when the author of the bill, in his interrogation, said that the reason why this is put in is for an employee to have the right of recovery where injury takes place, but if you look a little further— And you can bet your bottom dollar that the big, silk-stocking, defense-oriented law firms that represent the employers that are going to be committing intentional actions under this section will be certainly attempting to delineate between an injury and what they determine to be the only types of injuries for which recovery can be had, and that is the undefined serious injury as contained in this amendment.

Now, Mr. Speaker, I am not going to belabor the debate, but I think if you take the time to sit down and read through this most recently redrafted Coy-Heckler amendment, you will find ambiguities; you will find inconsistencies such as this; you will find problems that will bring about lawsuits after lawsuits, just simply defining the particular aspects of this bill that we are allegedly attempting to eradicate here today.

Mr. Speaker, I think the Coy-Heckler amendment deserves defeat. Thank you.

The SPEAKER. The Chair recognizes Mr. Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, earlier one of the sponsors of this amendment raised the question, why are we doing products liability legislation? I am not entirely certain why we are doing it, but I have some firm ideas why we are not. We are not doing it because the lack of a products liability statute has caused a decline in research and development spending in the Commonwealth; we are not doing this legislation because the present tort system hinders the ability of Pennsylvania businesses to compete; and thirdly, I would argue that certainly we are not doing this because of economic considerations. In fact, I would argue that if you look at the issue on strictly economic grounds, there is no basis in fact to support this amendment.

I would call to your attention some business surveys that had been done in 1987; chief among them, a business survey done by the Conference Board. The Conference Board, for those of you who do not know, is a topnotch, reputable economic institution that does corporate research. It is not, by any stretch of the imagination, a liberal labor think tank, not at all. Yet when this organization surveyed professional risk managers in the major corporations across the country regarding what these risk managers and CEO's (chief executive officers) look at when they decide where to invest their

dollars, these factors were most mentioned by CEO's and risk managers in corporations, the following: Complement to existing production facilities, less union influence, the status of right-to-work laws, the probusiness attitude of State Government, productivity of the workers, access to markets, the skill of the relative labor force, availability of credit. The list goes on and on. There are at least 20 factors that CEO's and professional risk managers considered in making business location decisions. Not once in the survey was the relative liberality of a State's product liability statute even mentioned, not even once.

The Wharton study, which has been basically funded by the task force on products liability and which supposedly indicates all these economic ramifications for Pennsylvania business and industry, because of its very methodology, it is fatally flawed. I say this because anybody familiar with economics understands that the Wharton School specializes in econometric analysis and not a survey research method like they employed in the survey that they performed for the product liability task force. This survey was conducted of 113 corporations across Pennsylvania, recognizing that we have over 6,300 corporate entities. Less than 2 percent of all companies in Pennsylvania responded to the survey.

A second basis for the flaw in this survey was what I would call a screening bias. While manufacturing responses accounted for 24 percent of the responses, recognize that manufacturing firms only comprise 7.3 percent of the total companies in Pennsylvania. Additionally, while you have manufacturing overrepresented in the survey, the service sector is underrepresented. Thirty-three percent of all Pennsylvania corporations are involved in the service sector, yet only 7 percent of them comprise the survey population.

One final flaw I think is the fact that the Wharton study questioned only the chief executive officers from Pennsylvania-based corporations. They did not in fact consider questioning the professional corporate risk managers.

However, there was a study done in 1987 by the Conference Board, and just let me, if I may, highlight two quotes from that Conference Board. Again, understand that the Conference Board is not, by any stretch of the imagination, a progressive liberal or labor think tank but rather a think tank for major business organizations across the country. The major finding of their report is this, and I quote:

The most striking finding is that the impact of the liability issue seems far more related to rhetoric than to reality. Given all the media coverage and heated accusations, the so-called twin crises in product liability and insurance availability have left a relatively minor dent on the economics and organization of individual large firms....

One other quote—and I promise this will be brief—a quote from the American Enterprise Institute, again not at all a progressive organization. They state in their findings in research on this subject that "The...survey also refute the general contention of a severe and deepening crisis in tort liability..., at least for the nation's large corporations."



Mr. Speaker, while there have been many reasons, both good and bad, which have been articulated here today by the members in support of the Coy-Heckler amendment, I believe that this amendment will do nothing to improve the competitiveness of Pennsylvania businesses nor serve to encourage business or industry location in Pennsylvania.

I urge a negative vote. Thank you.

### WELCOME

The SPEAKER. The Chair welcomes Herb McAnulty and Anthony Perman from Homer City, Pennsylvania, who are the guests of Representative Paul Wass. They are to the left of the Speaker. Will the guests please rise.

### CONSIDERATION OF HB 916 CONTINUED

The SPEAKER. The Chair recognizes Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

I will be brief in my remarks in opposition to the Coy-Heckler amendment. However, I think that I would be remiss if I did not point out something that many of you may not be aware of, and many of you may. However, it has not been stated on the floor.

The Coy-Heckler amendment purports to insert into Title 42 of the Pennsylvania Consolidated Statutes a chapter dealing with product liability and workplace safety. If you turn to page 2 of your amendment, you will see chapter 83, subchapter G, creating causes of action and certain rules and regulations in statute relative to product liability.

You have been told and this amendment and bill has been sold to you that as part of product liability, we should consider comparative responsibility, that being the comparative responsibility of not only the manufacturer and supplier of the product but also those persons who use the product in the workplace. I suggest to you that the words "comparative responsibility" are a nifty euphemism to substitute for "negligence." Negligence is the historical concept by which an individual's conduct has been measured as to rights to collect for personal injury in the history of Pennsylvania. That is to say, negligence, in shortened form, is lack of due care under the circumstances. Have you been afforded due care under the circumstances? Have you afforded yourself due care under the circumstances? We have a body of law in Pennsylvania in which the courts have interpreted negligence and the rights of individuals to recover or not recover based upon the concept of negligence throughout the history of jurisprudence in Pennsylvania.

In 1978 this General Assembly passed a statute, a very brief one, which is also set forth in chapter 42, called comparative negligence. In essence, it says that in any personal injury action, the negligence of all parties must be weighed and a determination must be made by the jury as to who is more or less negligent. You have 100 percent of potential fault, and the respective fault of the parties is determined by the jury on a comparative basis.

The makers of this amendment and the backers of this law propose to change the concept of comparative negligence in Pennsylvania, and they do it in the first page of the amendment, not the page that deals with the subchapter establishing product liability but rather on the first page of the amendment where "comparative negligence" is deleted and "comparative responsibility" is inserted. That insertion is to section 7102 of Title 42. I bring this to your attention because section 7102 is not a subsection of the product liability portion of the amendment that is being sold to you today, but rather it is a statement of law applicable to all personal injury actions in Pennsylvania and not just those related to product liability. That is to say, Mr. Speaker, the proponents of this amendment are changing by statute the concept of negligence in Pennsylvania by which all tort-feasor conduct is measured. That is to say that from and after the enactment of this statute, we will have a brand-new standard for all personal injury actions in Pennsylvania, and that new standard will be comparative responsibility. And what is comparative responsibility? I am not sure, but I can tell you that the courts of Pennsylvania will be flooded with lawsuits to determine what comparative responsibility is from and after the enactment of this statute as compared to what comparative negligence is.

There is a body of law dealing with the issue of negligence, dealing with the interpretation of that legal notion, that legal concept, and I submit to you that we are going down the wrong road by changing the concept of negligence in Pennsylvania as it applies to all personal injury actions. If we want to deal with the issue of comparative responsibility in product liability cases, then let us deal with it in this amendment under the subchapter of product liability, not under the total statute dealing with the issue of negligence and comparative negligence in Pennsylvania.

I submit to you that the makers of the amendment, although not purposefully misleading us, have certainly led the majority of us to believe that the intention is to deal with comparative responsibility as it affects product liability claims. I submit to you that this amendment is very clear insofar as it changes the standard of negligence in all personal injury actions in Pennsylvania, irrespective of their involvement with products. As a result of which, I urge your negative vote on the Coy-Heckler amendment.

The SPEAKER. The Chair recognizes Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I listened to today's debate with a great deal of interest, because I think this is one of those very, very important issues that come before us from time to time. I think as we come here today and begin to cast our votes on product liability, a great majority of the House of Representatives understand this issue and comprehend the various nuances of product liability law, and that great majority who understand it, I think, have an easy time today because they are able to make up their minds quite definitely on one side or the other. Then there is the rest of us who struggle with the subtleties and the nuances of product liability law, and we come down somewhere in the middle and we have to make a



decision today. I believe it is those of us who struggle with this issue who are going to decide this issue this afternoon. We are going to decide whether or not this amendment passes or fails, those of us who are agonizing with the provisions contained in this bill.

I received the same letters and the same phone calls that everybody else has from the various interest groups who are concerned about this legislation, and frankly, I have to set them aside and try and decide what is in the best interest of the people who live on my street, of the people who live on my block, who, if injured, are going to be faced with the extreme reality of what we do here today.

There is a lot that bothers me about this amendment. I would like to vote for it, but there is an awful lot that bothers me. But perhaps the thing that bothers me most is that whole idea that Representative McVerry just got done talking about, comparative responsibility. I see people who are injured—my neighbors—when they go to court, being put on the stand by a clever defense attorney and being turned into the victim, once again the perpetrator of what went wrong. Just as some of our most tragic crime victims are put on the stand and ripped apart by talented defense attorneys, so, too, will our injured neighbors, now that comparative responsibility enters into this, be put on the stand and under the gun because you were partly responsible for it. Even if you were not, it would be totally wrong for a defense attorney not to do that. Even if the victim who was hurt, the plaintiff, had nothing and no responsibility for what happened, they will be put on the stand and made to look guilty by very talented defense attorneys. That defense attorney would be irresponsible if he did not do it. So then I come down to this: If I am going to do that, if I am going to do that and I am going to tell my neighbors that that is what will happen to them, and we think that that is fair, should not I get something in return; should not they get something in return?

When we passed auto insurance, we made optional a limited right to sue, but we gained something back in return, did we not? We lowered premiums on auto insurance. So now here today I am faced with kind of a similar thing. I am going to take some of the rights away from consumers to help business. Okay. Okay. That may make sense, but what do I get in return? Is there anything in this amendment which says that premiums for products liability in Pennsylvania are going to be reduced by 10 percent or 20 percent? There is nothing. We get nothing in return. We are hurting the people who live on our block by making them undergo what they are going to have to undergo just with the provision for comparative responsibility, let alone the other stuff, but we are not getting anything in return. We are not getting a 10- or 20-percent reduction in the products liability premiums that our businessmen pay. That is wrong.

I ask the members to vote against this amendment.

The SPEAKER. The Chair recognizes Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, there is a recurring question regarding this issue, a question which the proponents of this amendment

have failed to answer: Where is the products liability crisis in Pennsylvania? What businesses have closed their doors and pulled up stakes to leave our State, never to return again, due to our products liability law? The truth is, there is no products liability crisis here in Pennsylvania, but there is a concerted effort through this amendment to give, as Mr. Reber pointed out, carefully crafted cover to those who manufacture products. It is cover of a legal nature. It is cover that will allow the manufacturer of a defective product to run away, at least in part, from their responsibilities to the consumers and workers of this State.

There is not a single guarantee in this amendment that products liability insurance rates will come down or that the cost of products will come down. There is only the guarantee that the injured parties seeking just compensation will be given unreasonable hurdles to jump over, that they will have a very difficult time in the courts of this Commonwealth. Pitting an injured steelworker or a maimed child against a multinational corporation, with all of its resources and wealth, is not establishing an even playing field.

Let us not give companies excuses to shirk their responsibility to produce safe products. Let us not turn our backs on the consumers and working people of this State. I urge a "no" vote.

The SPEAKER. The Chair recognizes Mr. Heckler.

Mr. HECKLER. Thank you, Mr. Speaker.

I am very happy that Mr. Coy and I offered our amendment, with the possible reservation that we have given rise to an awful lot of speeches by lawyers and others. I am not going to add to those speeches. I think this House can read our amendment and that people have the information they need to make a proper vote, and I urge your support for the amendment. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—107

Allen	Donatucci	Langtry	Scheetz
Argall	Dorr	Lee	Schuler
Barley	Evans	Leh	Semmel
Battisto	Fairchild	Lloyd	Smith, B.
Birmelin	Fargo	Lucyk	Smith, S. H.
Bishop	Farmer	McCall	Snyder, G.
Black	Fleagle	Markosek	Stairs
Bortner	Flick	Marsico	Steighner
Brandt	Foster	Melio	Stish
Broujos	Fox	Merry	Strittmatter
Burd	Freind	Miller	Stuban
Burns	Gallen	Moehlmann	Tangretti
Bush	Gamble	Morris	Taylor, E. Z.
Carlson	Geist	Mowery	Thomas
Cessar	Gladeck	Murphy	Tigue
Chadwick	Godshall	Nailor	Trich
Clark, D. F.	Hasay	Noye	Van Horne
Clark, J. H.	Hayes	Perzel	Vroon
Clymer	Heckler	Phillips	Wambach
Colafella	Herman	Piccola	Weston
Cole	Hershey	Pitts	Williams
Cornell	Hess	Preston	Wilson
Coy	Jackson	Reinard	Wozniak
Davies	Jadlowiec	Richardson	Wright, D. R.
Dempsey	Jarolin	Robbins	Wright, J. L.

Dietterick	Johnson	Rudy	Yandrisevits
Distler	Kenney	Saurman	

NAYS—87

Acosta	Durham	Laughlin	Rieger
Adolph	Freeman	Lescovitz	Ritter
Angstadt	Gannon	Levdansky	Robinson
Belardi	George	Linton	Roebuck
Belfanti	Gigliotti	McHale	Ryan
Billow	Gruitza	McNally	Rybak
Blaum	Gruppo	McVerry	Saloom
Bowley	Hagarty	Maine	Scrimenti
Boyes	Haluska	Mayernik	Serafini
Bunt	Harper	Michlovic	Snyder, D. W.
Caltagirone	Hayden	Micozzie	Staback
Cappabianca	Howlett	Mrkonic	Taylor, F.
Carn	Hughes	Nahill	Taylor, J.
Cawley	Itkin	O'Brien	Telek
Civera	James	Olasz	Trello
Clark, B. D.	Josephs	Oliver	Veon
Cohen	Kaiser	Petrarca	Wass
Corrigan	Kasunic	Petrone	Wogan
Cowell	Kondrich	Pistella	Wright, R. C.
DeLuca	Kosinski	Pressmann	
DeWeese	Kukovich	Raymond	O'Donnell,
Daley	LaGrotta	Reber	Speaker
Dombrowski			

NOT VOTING—0

EXCUSED—7

Colaizzo	Fee	Maiale	Pievsky
Dininni	Lashingar	Pesci	

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

On the question,

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

BILL PASSED OVER

The SPEAKER. HB 916 will be over for today.

For the information of the members, a number of members have approached the Chair with a question about the veto message from the Governor on SB 498. That message has not been read across the desk and will be read tomorrow morning.

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, does that mean that the Chair is willing that the message not only be read tomorrow morning but be voted upon tomorrow morning?

The SPEAKER. The Chair can only express not his personal willingness but rather that the bill will be in a parliamentary position susceptible to that kind of vote.

Mr. RYAN. I would request then, unless it is advanced, that under order of business, I would be recognized in connection with the veto message.

The SPEAKER. The Chair looks forward to the majority leader's advice on the calendar. The bill will be in position tomorrow, and the veto message will be read across the desk first thing in the morning.

There will be no more votes taken today.

## BILLS SIGNED BY SPEAKER

The Chair gave notice that he was about to sign the following bills, which were then signed:

### SB 648, PN 2085

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," authorizing the Department of Corrections to enter into contracts with the Federal Government for the housing of State prisoners in Federal correctional facilities; and requiring certain State heating systems to be fueled by coal.

### SB 1273, PN 1585

An Act amending the act of October 1, 1981 (P. L. 279, No. 94), entitled "An act providing for shade trees in incorporated towns," further providing for the membership of shade tree commissions.

### SB 1518, PN 2007

An Act amending the act of December 12, 1973 (P. L. 397, No. 141), entitled "Teacher Certification Law," further providing for the Professional Standards and Practices Commission and for certain disciplinary proceedings; and making a repeal.

## SENATE MESSAGE

### SENATE CONCURRENCE IN HOUSE RESOLUTIONS

The clerk of the Senate, being introduced, informed that the Senate has concurred in **HR 267, PN 3160**; and **HR 280, PN 3231**.

The SPEAKER. Any further business from the majority leader? Any further business from the minority leader? Is there any member seeking to correct the record?

## BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

## ADJOURNMENT

The SPEAKER. The Chair recognizes Representative Fleagle of Franklin County.

Mr. FLEAGLE. Thank you, Mr. Speaker.

Mr. Speaker, I move that this House do now adjourn until Wednesday, April 4, 1990, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 6:29 p.m., e.d.t., the House adjourned.