

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JUNE 10, 2003

SESSION OF 2003

187TH OF THE GENERAL ASSEMBLY

No. 41

HOUSE OF REPRESENTATIVES

The House convened at 10 a.m., e.d.t.

**THE SPEAKER PRO TEMPORE
(MATTHEW E. BAKER) PRESIDING**

PRAYER

REV. LOUISE WILLIAMS BISHOP, member of the House of Representatives, offered the following prayer:

Thank you, Mr. Speaker.

Let us pray:

Dear God, our heavenly Father, I thank You today that in this world of high tech and fast pace, I can still reach You without a cell phone, without an e-mail, and without a fax machine.

You are indeed an unchanging God in a changing world. Thank You for the greatness of You, the glory of You, and the compassion of You.

I pray today Your blessings in particular upon the House of Representatives and all of its members. Bless us as we begin a most difficult task, the task of finding resources at a time when they are very short, at a time when the well is almost dry, but You have promised to be water in dry places.

And so we trust You for divine intervention, taking care of the needy, helping us through this difficult time, and no doubt the debates will be long and trying. Be with us with Your grace, I pray today, and even the debates can become short and fruitful when You are in charge.

Guide us, strengthen us, sustain us once again as we do the business of the people of the Commonwealth of Pennsylvania. Thank You, God. 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, June 9, 2003, will be postponed until printed.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1569 By Representatives METCALFE, GODSHALL, HUTCHINSON, CREIGHTON, FAIRCHILD, EGOLF, WILT, BENNINGHOFF, LEWIS, S. MILLER, ARMSTRONG, DENLINGER, CORRIGAN, BASTIAN, SATHER, ROHRER, COLEMAN, R. STEVENSON, ROBERTS, McILHATTAN and YEWIC

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for spending limitations on the Commonwealth.

Referred to Committee on STATE GOVERNMENT, June 10, 2003.

No. 1570 By Representatives McILHATTAN, KENNEY, CREIGHTON, BELFANTI, BENNINGHOFF, BUNT, CAPPELLI, COLEMAN, DALLY, FAIRCHILD, GORDNER, GRUCELA, HARHAI, HARRIS, HERSHEY, HUTCHINSON, KIRKLAND, LEDERER, R. MILLER, S. MILLER, O'BRIEN, O'NEILL, READSHAW, SOLOBAY, STEIL, STERN, R. STEVENSON, E. Z. TAYLOR, WILT and YUDICHAK

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for creditable nonschool service.

Referred to Committee on EDUCATION, June 10, 2003.

No. 1571 By Representatives ZUG, ADOLPH, BUNT, BELFANTI, CAPPELLI, CORRIGAN, COSTA, CREIGHTON, DALLY, DeLUCA, DENLINGER, FICHTER, GEIST, GEORGE, GOODMAN, GORDNER, GRUCELA, HERMAN, HORSEY, HUTCHINSON, LAUGHLIN, LEH, LEWIS, McNAUGHTON, MELIO, PALLONE, READSHAW, REICHLEY, ROBERTS, SAINATO, SCAVELLO, SCHRODER, SHANER, SOLOBAY, T. STEVENSON, E. Z. TAYLOR, TURZAI, WATERS and YOUNGBLOOD

An Act amending the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, further providing for property tax and rent rebate eligibility.

Referred to Committee on CONSUMER AFFAIRS, June 10, 2003.

No. 1572 By Representatives GERGELY, COSTA, DIVEN, COLEMAN, FABRIZIO, HARHAI, KIRKLAND, LEWIS, MAHER, PALLONE, PISTELLA, SCAVELLO, TIGUE and TRAVAGLIO

An Act providing for prohibition of levy or collection of tax on homestead property, for the Homestead Property Tax Elimination Fund, for imposition of sales and use tax, for increase in personal income tax and for realty transfer tax.

Referred to Committee on FINANCE, June 10, 2003.

No. 1573 By Representatives GERGELY, COSTA, DIVEN, COLEMAN, FABRIZIO, HARHAI, KIRKLAND, LEWIS, MAHER, PALLONE, PISTELLA, SCAVELLO, TIGUE and TRAVAGLIO

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for uniformity of taxation.

Referred to Committee on FINANCE, June 10, 2003.

No. 1574 By Representatives GERGELY, BUNT, CAPPELLI, COSTA, CREIGHTON, DENLINGER, DeWEESE, FABRIZIO, GEIST, GEORGE, GODSHALL, GOODMAN, GRUCELA, HARHAI, HARRIS, HERSHEY, HORSEY, KELLER, LAUGHLIN, LEACH, LESCOVITZ, MANN, S. MILLER, PALLONE, PISTELLA, READSHAW, ROBERTS, SCAVELLO, SHANER, SOLOBAY, STABACK, SURRA, TIGUE, WALKO, WANSACZ, WATERS, WHEATLEY, WOJNAROSKI and YOUNGBLOOD

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, providing for free flight of raptors.

Referred to Committee on GAME AND FISHERIES, June 10, 2003.

No. 1575 By Representatives DeWEESE, BEBKO-JONES, COY, BUNT, CRAHALLA, GEORGE, GOODMAN, HANNA, HUTCHINSON, KIRKLAND, LAUGHLIN, LEDERER, MUNDY, READSHAW, SATHER, SHANER, STERN, TRAVAGLIO, WANSACZ, WHEATLEY, YOUNGBLOOD, TANGRETTI, BELARDI, DALEY, CAPPELLI, FABRIZIO, GERGELY, GRUCELA, HARHAI, JOSEPHS, KOTIK, LEACH, MARKOSEK, NAILOR, SAINATO, SCRIMENTI, SOLOBAY, TIGUE, WALKO, WASHINGTON, WOJNAROSKI, YUDICHAK and SURRA

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for minimum number of corrections officers; and imposing limitations on inmate capacity at State correctional institutions.

Referred to Committee on JUDICIARY, June 10, 2003.

No. 1576 By Representatives FLICK, CREIGHTON, EGOLF, SCAVELLO, ARMSTRONG, BAKER, BALDWIN, BARD, BENNINGHOFF, BUNT, CRAHALLA, DENLINGER, GEIST, HARRIS, HENNESSEY, HERMAN, HERSHEY, HICKERNELL, KOTIK, LEWIS, R. MILLER, NAILOR, O'NEILL, PAYNE, PHILLIPS, REICHLEY, ROSS, RUBLEY, SAYLOR, SCHRODER, STERN, R. STEVENSON, E. Z. TAYLOR, TRUE, TURZAI, VANCE and WATSON

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for contracting and for the applicability of Education Empowerment; and making a repeal.

Referred to Committee on EDUCATION, June 10, 2003.

No. 1577 By Representatives CORRIGAN, COY, DALEY, DeWEESE, HARHAI, SCRIMENTI, SOLOBAY, READSHAW, PALLONE, GRUCELA, SHANER and TANGRETTI

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, providing for an increase in use and occupancy permit fees for the support of volunteer fire departments and ambulance and rescue squads.

Referred to Committee on STATE GOVERNMENT, June 10, 2003.

No. 1578 By Representatives STURLA, SOLOBAY, DeWEESE, BEBKO-JONES, TIGUE, GOODMAN, YOUNGBLOOD, GRUCELA, BELARDI, BISHOP, BLAUM, BROWNE, BUXTON, CASORIO, CAWLEY, CIVERA, CRUZ, CURRY, FABRIZIO, FRANKEL, FREEMAN, GERGELY, THOMAS, TRAVAGLIO, WASHINGTON, HARHAI, HORSEY, JAMES, LEACH, MACKERETH, MANDERINO, MANN, McCALL, McGEEHAN, MELIO, PALLONE, PISTELLA, READSHAW, SAINATO, SANTONI, SHANER and STABACK

An Act establishing and funding grant programs for municipal fire companies, emergency service entities and water or vehicle rescue squads and for shared municipal services; establishing the Municipal Firefighter and Emergency Service Advisory Board and the Municipal Firefighter and Emergency Service Grant Fund; and making an appropriation.

Referred to Committee on APPROPRIATIONS, June 10, 2003.

No. 1579 By Representatives SAMUELSON, HESS, PISTELLA, WATSON, PALLONE, GRUCELA, SATHER, YUDICHAK, MELIO, FREEMAN, SCRIMENTI, HABAY, EACHUS and B. SMITH

An Act relating to long-term care facility residents' rights; and providing for requirements for admission, care, transfer, discharge, funds and privacy of long-term care facility residents and for remedies.

Referred to Committee on AGING AND OLDER ADULT SERVICES, June 10, 2003.

No. 1580 By Representatives KENNEY and OLIVER

An Act amending the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, providing for employment of health care practitioners.

Referred to Committee on HEALTH AND HUMAN SERVICES, June 10, 2003.

SENATE MESSAGE

HOUSE BILLS
CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 235, PN 264;** and **HB 331, PN 377,** with information that the Senate has passed the same without amendment.

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
June 9, 2003

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week, it reconvene on Monday, June 16, 2003, 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 Monday, June 16, 2003, 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.

LEAVES OF ABSENCE

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

The Chair recognizes the majority whip. There are no leaves of absence.

The Chair recognizes the minority whip, who asks that a leave of absence be granted to Representative GRUITZA for the remainder of the week. Without objection, the leave of absence is granted.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni

Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Biancucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rublely	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

ADDITIONS—0

NOT VOTING—0

EXCUSED—1

Gruitza

LEAVES ADDED—2

Kenney

Waters

LEAVES CANCELED—1

Waters

CALENDAR

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 276, PN 1812**, entitled:

An Act amending the act of December 4, 1996 (P.L.911, No.147), known as the Telemarketer Registration Act, further providing for definitions and for unwanted telephone solicitation calls.

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.

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Bianucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Daley	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood

DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—1

Gruitza

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.

GUESTS INTRODUCED

The SPEAKER pro tempore. Serving as guest pages today are Courtney and Kari Kinard. Courtney will be a junior this year and is homeschooled. Kari will be a sophomore at York College. They are the guests of Representative Saylor. Welcome.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 225, PN 1898**, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for termination of annuities.

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

BILL RECOMMENDED

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

Mr. S. SMITH. Mr. Speaker, I move that HB 225 be referred to the Appropriations Committee.

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

* * *

The House proceeded to third consideration of **HB 356, PN 420**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for attendance at schools for the performing arts.

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

BILL RECOMMITTED

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

Mr. S. SMITH. Mr. Speaker, I move that HB 356 be referred to the Appropriations Committee.

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

* * *

The House proceeded to third consideration of **HB 395, PN 1971**, entitled:

An Act establishing the Keystone Scholars Award to recognize and reward excellence in academic achievement and performance among graduating seniors in this Commonwealth's public secondary schools.

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.

The following roll call was recorded:

YEAS—198

Adolph	Egolf	Levdansky	Sainato
Allen	Evans, D.	Lewis	Samuelson
Argall	Evans, J.	Lynch	Santoni
Armstrong	Fabrizio	Mackereth	Sather
Baker	Fairchild	Maher	Saylor
Baldwin	Feese	Maitland	Scavello
Bard	Fichter	Major	Schroder
Barrar	Fleagle	Manderino	Scrimenti
Bastian	Flick	Mann	Semmel
Bebko-Jones	Forcier	Markosek	Shaner
Belardi	Frankel	Marsico	Smith, B.
Belfanti	Freeman	McCall	Smith, S. H.
Benninghoff	Gabig	McGeehan	Solobay
Bianucci	Gannon	McGill	Staback
Birmelin	Geist	McIlhattan	Stairs
Bishop	George	McIlhinney	Steil
Blaum	Gergely	McNaughton	Stern
Boyd	Gillespie	Melio	Stetler
Browne	Gingrich	Metcalfe	Stevenson, R.
Bunt	Godshall	Micozzie	Stevenson, T.
Butkovitz	Goodman	Miller, R.	Sturla
Buxton	Gordner	Miller, S.	Surra
Caltagirone	Grucela	Mundy	Tangretti
Cappelli	Habay	Myers	Taylor, E. Z.
Casorio	Haluska	Nailor	Taylor, J.
Causar	Hanna	Nickol	Tigue
Cawley	Harhai	O'Brien	Travaglio
Civera	Harhart	Oliver	True
Clymer	Harper	O'Neill	Turzai
Cohen	Harris	Pallone	Vance
Coleman	Hasay	Payne	Veon
Cornell	Hennessey	Petrarca	Vitali

Corrigan	Herman	Petri	Walko
Costa	Hershey	Petrone	Wansacz
Coy	Hess	Phillips	Washington
Crahalla	Hickernell	Pickett	Waters
Creighton	Horsey	Pistella	Watson
Cruz	Hutchinson	Preston	Weber
Curry	James	Raymond	Wheatley
Dailey	Josephs	Readshaw	Williams
Daley	Keller	Reed	Wilt
Dally	Kenney	Reichley	Wojnaroski
DeLuca	Kirkland	Rieger	Wright
Denlinger	Kotik	Roberts	Yewcic
Dermody	LaGrotta	Roebuck	Youngblood
DeWeese	Laughlin	Rohrer	Yudichak
DiGirolamo	Leach	Rooney	Zug
Diven	Lederer	Ross	
Donatucci	Leh	Rubley	Perzel, Speaker
Eachus	Lescovitz	Ruffing	

NAYS—0

NOT VOTING—1

Thomas

EXCUSED—1

Gruitza

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.

* * *

The House proceeded to third consideration of **HB 1284, PN 1690**, entitled:

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, further providing for medical professional liability insurance.

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

BILL RECOMMITTED

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

Mr. S. SMITH. Mr. Speaker, I move that HB 1284 be referred to the Rules Committee.

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

* * *

The House proceeded to third consideration of **HB 1287, PN 1759**, entitled:

An Act establishing the Mcare Assessment Need Program.

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

BILL RECOMMENDED

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

Mr. S. SMITH. Mr. Speaker, I move that HB 1287 be referred to the Rules Committee.

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

GUEST INTRODUCED

The SPEAKER pro tempore. The Chair welcomes Christopher Manderino as a guest page for the week. He will be a senior at Giebel Catholic High School next year and lives in Monessen, Pennsylvania. He is the nephew of the Honorable Representative Kathy Manderino. Welcome.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 248, PN 277**, entitled:

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, further providing for tax levy; and making an editorial change.

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.

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.

Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Bianucci	Geist	McIlhatten	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Daily	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—1

Gruitza

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.

* * *

The House proceeded to third consideration of **HB 249, PN 278**, entitled:

An Act amending the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, further providing for tax levies.

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

Mr. SOLOBAY offered the following amendment No. A1361:

Amend Sec. 1 (Sec. 1709), page 2, lines 8 through 13, by striking out all of said lines and inserting purpose of:

(A) building and maintaining suitable places for the housing of fire apparatus [and for the purpose of];

(B) purchasing, maintaining and operating fire apparatus [and for the purposes of];

(C) making of appropriations to fire companies within or without the township [and of];

(D) contracting with adjacent municipalities or volunteer fire companies therein for fire protection[.];

(E) the training of fire personnel and payments to fire training schools and centers;

(F) the purchase of land upon which to erect a fire house; and

(G) the erection and maintenance of a fire house or fire training school and center.

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

The SPEAKER pro tempore. On that question, the Chair recognizes Mr. Solobay.

Mr. SOLOBAY. Thank you, Mr. Speaker.

Basically, this is a technical amendment that just adds some other language. It was also included in HBs 248 and 250, which we will also be looking at, just expanding the allowable uses of the fire tax for townships of the first class.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—199

Table listing names of members who voted 'YEAS' for the amendment, including Adolph, Allen, Argall, Armstrong, Baker, Baldwin, Bard, Barrar, Bastian, Bebko-Jones, Belardi, Belfanti, Benninghoff, Biancucci, Birmelin, Bishop, Blaum, Boyd, Browne, Bunt, Butkovitz, Buxton, Caltagirone, Cappelli, Casorio, Causer, Cawley, Civera, and Clymer.

Table listing names of members who were present or absent during the roll call, including Cohen, Coleman, Cornell, Corrigan, Costa, Coy, Crahalla, Creighton, Cruz, Curry, Dailey, Daley, Dally, DeLuca, Denlinger, Dermody, DeWeese, DiGirolamo, Diven, Donatucci, Eachus, and Egolf.

NAYS—0

NOT VOTING—0

EXCUSED—1

Gruitza

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

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

The following roll call was recorded:

YEAS—199

Table listing names of members who voted 'YEAS' for the bill, including Adolph, Allen, Argall, Armstrong, Baker, Baldwin, Bard, Barrar, Bastian, Bebko-Jones, Belardi, Belfanti, Benninghoff, Biancucci, Birmelin, Bishop, Blaum, and Boyd.

Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS-0

NOT VOTING-0

EXCUSED-1

Gruitza

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.

* * *

The House proceeded to third consideration of **HB 250, PN 279**, entitled:

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, further providing for township and special tax levies.

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.

The following roll call was recorded:

YEAS-199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Biancucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS-0

NOT VOTING-0

EXCUSED-1

Gruitza

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.

GUESTS INTRODUCED

The SPEAKER pro tempore. The Chair welcomes guest page Bobby Thompson, a Lower Paxton Township resident, who will be a ninth grader at Bishop McDevitt High School. Bobby is the guest of the Honorable Representative Ron Marsico. Welcome.

The Honorable Representative Camille “Bud” George of Clearfield County would like to recognize a special guest joining us today in the gallery. Van Johnson of Curwensville is an alternative education teacher in the West Branch Area School District in Clearfield County. An elementary education teacher for 28 years, Mr. Johnson is in the Capitol today as part of lobby day on education issues. Welcome.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 500, PN 1788**, entitled:

An Act providing for a residential neighborhood enhancement program to be administered by the Department of Community and Economic Development.

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

Mr. **FREEMAN** offered the following amendment No. **A1514**:

Amend Sec. 2, page 2, line 5, by inserting after “in”
close

Amend Sec. 2, page 2, lines 6 and 7, by striking out “for 40 or”
in line 6, all of line 7 and inserting
since before 1961.

Amend Sec. 3, page 2, line 20, by striking out “a comprehensive
plan to develop and revitalize” and inserting
and implementing a revitalization strategy for

Amend Sec. 3, page 2, line 22, by inserting after “in”
close

Amend Sec. 3, page 2, line 27, by inserting after
“subsection (c).”

The department shall require that a map be
furnished with all applications clearly identifying
the established residential neighborhood and
demonstrating its close proximity to a commercial
district.

Amend Sec. 3, page 3, line 16, by striking out all of said line and
inserting

(iii) Promoting home ownership and other
housing options.

(iv) Addressing social and economic concerns
including, but not limited to, crime, blight, employment
opportunities and public services and amenities.

Amend Sec. 3, page 3, line 17, by striking out “(iv)” and
inserting

(v)

Amend Sec. 3, page 3, line 18, by striking out “any”

Amend Sec. 3, page 4, line 6, by striking out “a clearly defined”
and inserting

an established

Amend Sec. 3, page 4, line 7, by inserting after “in”

close

Amend Sec. 3, page 4, line 16, by inserting after “municipality.”
A hardship exists if the municipality meets one of the following
criteria:

(1) The municipality is declared as financially distressed
under the act of July 10, 1987 (P.L.246, No.47), known as the
Municipalities Financial Recovery Act.

(2) The matching requirements for the application would
exceed 5% of the municipality’s annual operating budget.

(3) Part or all of the established residential neighborhood
identified in the application is participating in the Pennsylvania
Weed and Seed Program as administered by the Pennsylvania
Commission on Crime and Delinquency.

(4) A minimum of 20% of the municipality’s population
falls below 150% of the Federal poverty level.

Amend Sec. 3, page 4, by inserting between lines 20 and 21

(f) Cooperative projects.—The department may consider
applications submitted by two or more municipalities as a single
application for a single project area.

(g) Priority projects.—The department shall give priority to
projects with an established residential neighborhood that was already
in existence prior to 1951.

Amend Sec. 3, page 4, line 21, by striking out “(F)” and inserting
(h)

Amend Sec. 3, page 4, line 22, by striking out “to each applicant”
and inserting

per project area

Amend Sec. 4, page 5, line 1, by inserting before “In”

(a) Program limits.—

Amend Sec. 4, page 5, by inserting between lines 6 and 7

(b) Prohibitions.—No funds from this program shall be expended
to develop or convert farmland to residential, commercial or industrial
uses. Farmland is any land that supports, or land with a recent history
of supporting, the commercial production of agricultural crops,
livestock or livestock products, poultry products, milk or dairy
products, fruit or other horticultural products.

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

The SPEAKER pro tempore. On that question, the Chair
recognizes Mr. Freeman.

Mr. **FREEMAN**. Thank you, Mr. Speaker.

Mr. Speaker, amendment A1514 replaces a previous
amendment. There had been an error in the drafting of that
previous amendment. So this amendment is actually a corrective
reprint of amendment A1389.

Basically, the amendment we have before us is a technical
amendment which was developed in collaboration with
Representative Sheila Miller. At her request we sat down and
walked through some of the provisions of the Elm Street
Program in HB 500, and I thank Representative Miller for her
contribution to that effort and for her insights and advice.

I think what we have before us is an amendment which
tightens the program to make sure it is focused where it belongs,
and I would urge the members to vote in favor of the
amendment and on the bill on final passage.

The SPEAKER pro tempore. The Chair thanks the
gentleman.

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

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Biancucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—1

Gruitza

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

On the question,
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?

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

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Biancucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—1

Gruitza

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.

* * *

BILLS PASSED OVER TEMPORARILY

The SPEAKER pro tempore. HB 1446 is over temporarily. HB 1455 and HB 1326 are over temporarily.

* * *

The House proceeded to third consideration of **HB 1096**, **PN 1287**, entitled:

An Act designating a portion of State Route 837 in Allegheny County as Charles R. McDevitt Highway.

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?

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER pro tempore. Mr. Levdansky, do you seek recognition?

Mr. LEVDANSKY. Yes, Mr. Speaker.

Mr. Speaker, this bill would name a State highway that runs through West Elizabeth Borough in my legislative district after a native son of West Elizabeth and a gentleman who had a long and distinguished service to the public in West Elizabeth and the school district there, and I have some remarks that I would like to have presented for the record. Thank you.

The SPEAKER pro tempore. The gentleman may present those to the clerk. The Chair thanks the gentleman.

Mr. LEVDANSKY submitted the following remarks for the Legislative Journal:

HB 1096 is of great personal interest to me because it honors the memory of a longtime civic leader who was a true American hero – my good friend, Charles R. McDevitt. Chuck was like a second father to me and to hundreds of kids who grew up in the West Elizabeth area. Today I have the opportunity to sing the praises of a man who long toiled as a great unsung hero in the hearts and minds of thousands of people.

As a young man, Chuck served in the U.S. Army from 1952 through 1954 and continued serving in the Reserves until 1960. Following his military services, he and his wife, Barbara, established their homestead and welcomed three beautiful daughters into the world. Chuck entered public service in 1961 when at the age of 29 he became the first elected mayor of West Elizabeth and the youngest mayor in the State at that time.

In 1973 Chuck did not seek reelection as mayor and decided instead to run for West Jefferson Hills school director. Many successful

elections followed, and he served on the board from 1974 to 1995, assuming the positions of president and vice president of the board during those years.

Although his elected position was on the school board, Chuck McDevitt also served as West Elizabeth borough secretary from 1974 to 1997, when he resigned to wage a successful campaign for borough council. As borough secretary of a rather small community for 23 years, residents knew they could call on Chuck any time of the day or night to take care of a borough problem they faced. And Chuck was always there to help.

Chuck McDevitt's legacy as a public official is one of great distinction. All communities should be as fortunate as West Elizabeth to have someone of Chuck's stature, competence, and caring to make government work for the people it serves.

Chuck's civic involvement did not end with elected office. He served as a member of the West Elizabeth Fire Company and was an organizer of the Community Days celebrations. He also served on the borough's sanitation authority board.

His commitment to his family, friends, and neighbors did not end when he left a school board or borough council meeting. Chuck dedicated his life to helping people from all walks of life with problems and challenges they faced.

His three daughters – Debbie, Sharon, and Lisa – were good students and active in sports. The McDevitt household was a hub of activity for area young people year round who spent hours in the backyard at the pool, playing volleyball, tossing horseshoes, or participating in other activities. Chuck and Barb's home was always open to area youths as their home away from home, and to hundreds of young people Chuck assumed the role of a second father. His ear was always open to listen, offer advice when it was requested, provide encouragement, and lend assistance to help people resolve problems. When you needed a friend, Chuck was there.

When Chuck McDevitt retired from Allegheny County after working for 35 years at South Park where he was superintendent of the Allegheny County golf course, his days were just as full. He viewed retirement as an opportunity to spend even more time as a volunteer for various community and athletic endeavors. For many years he worked with the school district Boosters Club supporting track, football, volleyball teams, and other athletics.

Chuck McDevitt was my friend, my political mentor, and my second father. As chairman of the West Elizabeth Democrats, he was always interested in supporting progressive candidates committed to making government work for the people of "God's country," as he referred to West Elizabeth. Chuck's encouragement, guidance, advice, and friendship were critical to me many times during my political career. He was an enlightened political leader who did not fear change, but rather, embraced change. Chuck McDevitt was a man who devoted his life to public service, not to seek notoriety, but because helping others and making the world a better place was the right thing to do.

Because Chuck was the kind of man who preferred to toil behind the scenes and not seek the public spotlight, he would probably be embarrassed by HB 1096 which names a portion of Route 837 in his honor. But on behalf of his family, friends and neighbors, who deeply loved him and want to honor his memory, I proudly offer this bill that would name the section of Route 837 from the Elizabeth Bridge south to the Washington-Allegheny County line the Charles R. McDevitt Highway.

This section of Route 837 is the main thoroughfare traversing the community of West Elizabeth. Chuck McDevitt's life was a thoroughfare of public service, true friendship, community pride, and kindness to his fellow man that lasted for 71 years. I can think of no better way to honor his life than in naming this road so that his friends, family, the citizens of West Elizabeth and generations that follow will be reminded of this honorable man and emulate his spirit of community involvement and personal integrity.

At a time when we all need heroes to honor and respect, I offer my memories of my personal hero, Chuck McDevitt.

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.

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Biancucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—1

Gruitza

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.

GUESTS INTRODUCED

The SPEAKER pro tempore. The Honorable Representative Kate Harper has guests in the gallery, the Filippi family from Montgomery County – George and Ann and Sara Filippi. Welcome.

RESOLUTION PURSUANT TO RULE 35

Mr. STERN called up **HR 309, PN 1944**, entitled:

A Resolution recognizing October 6, 2003, as “National Physician Assistant Day” in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Biancucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright

Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS-0

NOT VOTING-0

EXCUSED-1

Gruitza

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

SUPPLEMENTAL CALENDAR A

RESOLUTION PURSUANT TO RULE 35

Mr. PERZEL called up **HR 310, PN 1974**, entitled:

A Resolution designating June 8 through 14, 2003, as "School Crossing Guard Week" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-199

Adolph	Evans, D.	Lewis	Samuelson
Allen	Evans, J.	Lynch	Santoni
Argall	Fabrizio	Mackereth	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Manderino	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Freeman	McCall	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Bianucci	Geist	McIlhattan	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	McNaughton	Stern
Blaum	Gillespie	Melio	Stetler
Boyd	Gingrich	Metcalfe	Stevenson, R.
Browne	Godshall	Micozzie	Stevenson, T.
Bunt	Goodman	Miller, R.	Sturla
Butkovitz	Gordner	Miller, S.	Surra
Buxton	Grucela	Mundy	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causler	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali

Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Washington
Crahalla	Horsey	Pistella	Waters
Creighton	Hutchinson	Preston	Watson
Cruz	James	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Kirkland	Rieger	Wojnaroski
DeLuca	Kotik	Roberts	Wright
Denlinger	LaGrotta	Roebuck	Yewcic
Dermody	Laughlin	Rohrer	Youngblood
DeWeese	Leach	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	Perzel,
Eachus	Levdansky	Sainato	Speaker
Egolf			

NAYS-0

NOT VOTING-0

EXCUSED-1

Gruitza

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

FILMING PERMISSION

The SPEAKER pro tempore. The Chair wishes to advise members that he has given permission to Gary Dwight Miller of the news organization the Patriot-News to take still photographs of various local members for approximately 10 minutes.

For the benefit of the members, the House will remain at ease for the arrival of the Boyes family. We will be conducting a memorial service at that time.

**THE SPEAKER (JOHN M. PERZEL)
PRESIDING**

JUDICIARY COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Speaker.

When the Chair announces what time we are going to resume after our recess, I would like to inform the members of the Judiciary Committee it is my intention to call a meeting of the committee in the rear of the House 10 minutes before we resume session, in the back of the House.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Mr. O'Brien would like to inform the members of the Judiciary Committee it is his intention to call a meeting of the committee in the rear of the House 10 minutes before we resume session.

BILLS SIGNED BY SPEAKER

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

HB 235, PN 264

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for the age of holders of falconry permits and for disabled person permits.

HB 331, PN 377

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for disabled persons permits for bow and arrow or crossbow.

Whereupon, the Speaker, in the presence of the House, signed the same.

**BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES**

HB 322, PN 368

By Rep. FLICK

An Act amending the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law, further providing for the definition of "taxing district" and for repeals; and imposing duties on the Department of Community and Economic Development and the Legislative Reference Bureau.

FINANCE.

HB 1407, PN 1990 (Amended)

By Rep. FLICK

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for escheat of property held by insurers.

FINANCE.

**MEMORIAL SERVICE FOR
HON. KARL W. BOYES**

The SPEAKER. We were all deeply saddened to learn of the untimely death of Representative Karl Boyes. His passing is a loss not only for us in the House of Representatives but also for the people of the 3d Legislative District. We will all miss his wise counsel, but most of all we will miss his friendship.

As is our custom, we will now take a few moments for a memorial service to reflect upon the service of Karl Boyes to the Commonwealth of Pennsylvania.

CONDOLENCE RESOLUTION

The SPEAKER. We shall now consider the condolence resolution for Representative Karl Boyes.

The Sergeants at Arms will close the doors of the House, and the clerk will read the resolution.

The following resolution was read:

COMMONWEALTH OF PENNSYLVANIA
THE HOUSE OF REPRESENTATIVES

CONDOLENCE RESOLUTION

WHEREAS, The House of Representatives of Pennsylvania wishes to honor the memory of the Honorable Karl Boyes, a member of the House serving the Third Legislative District, who passed away on May 11, 2003, at the age of sixty-seven; and

WHEREAS, Born in Erie to the late W. and Florence Boyes on March 1, 1936, Representative Boyes was a graduate of Strong Vincent High School in Erie and a 1959 graduate of Edinboro University of Pennsylvania, where he received a bachelor of science degree in social studies. Returning to Erie after graduation, he began a lifetime of public service when he accepted a teaching position at McDowell High School. There he taught government and economics for six years and during that time also took graduate classes at Allegheny and Union Colleges. He served as a Supervisor of Millcreek Township, Erie County, from 1965 to 1970; as Deputy Director of the Governor's Justice Commission from 1971 to 1975; and as an Erie County Commissioner from 1976 to 1979. Elected to the House of Representatives in 1980, he served with distinction as a member of that body from 1981 until the time of his passing. During his tenure with the House, Representative Boyes served on the Appropriations, Conservation, Federal-State Relations, Firefighters' Legislative Caucus and Policy, House Republican Policy and Professional Licensure Committees, and in 1995, he was named Chairman of the Finance Committee. He was the recipient of numerous awards and accolades, including the Distinguished Service Award from the Jaycees, the Mercyhurst College Law Enforcement Award and the Pennsylvania Health Care Association Better Life Award, and he is listed in Who's Who in Government for the eastern region of the United States. Beloved husband, father, grandfather, friend, colleague and public servant, his wisdom and experience, as well as his commitment to the citizens of the Third Legislative District and all Pennsylvanians, will be sorely missed; now therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania note with great sadness the passing of the Honorable Karl Boyes; and extend heartfelt condolences to his wife of thirty-nine years, Sue; his sons, Brian and Bradley; and his three grandchildren; and be it further

RESOLVED, That a copy of this resolution, sponsored by Representatives John M. Perzel, Samuel H. Smith and H. William DeWeese, be transmitted to Mrs. Sue Boyes.

John M. Perzel
Speaker of the House
ATTEST:
Ted Mazia
Chief Clerk of the House

On the question,
Will the House adopt the resolution?

The SPEAKER. Those in favor of the resolution will rise as a mark of respect for Representative Boyes. The guests will also please rise.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memory of the Honorable Karl W. Boyes.)

The SPEAKER. The resolution has been unanimously adopted.

The members and guests may please be seated.

REMARKS BY SPEAKER

The SPEAKER. Good morning.

In the middle of the House of Representatives here there is an empty chair pulled up to a desk draped in black. Too often over the years we in this House have observed the sad symbol of the death of a colleague. Too often over the years, as Speaker and as floor leader, I have participated in memorial services for many, many good friends. Today is another such day of reflection on our own lives and the lives of a public servant, Karl Boyes.

Quiet and kind, Karl was a good man and a member of the General Assembly's family. I know that he loved Erie, as all of you do, and he was a lifelong resident of the area, and he wanted the best for all its citizens, young and old. Karl was a devoted husband and was married to his wife, Sue, for 39 years. He was also a caring father for his two sons, Brian and Brad. He was the kind of boss that brought out the best in his staff here in Harrisburg and the district office. Their loyalty and their devotion speaks volumes for Karl Boyes and his character.

I only really knew Matthew Ryan and Karl Boyes as friends in the General Assembly. As most of you in this General Assembly, you know the people that are here, but you do not know them personally that often. But Karl I did know personally, and I know at times he was tough, but he was always our friend. I mean, the first time he got elected, Mr. Gannon and myself were over at, I guess it was a party that one of the people were throwing at Christmastime, and we were just milling around and finally I said, "Oh, who are you?" He said, "Well, I'm Karl Boyes." I said, "Oh, it's really great to meet you. Nobody ever expected you to win. You kept us here in the majority, Karl. Thanks a lot," and we started off a relationship that became a very, very long and a lasting one.

He was with me through a lot of the times and the trials that you go through, and I do not know, a number of you have run for leadership and lost, as I lost twice, but the very first time I ran for leadership, the gentleman that defeated me knew of Karl's longstanding support for me, so they went down and they took his furniture away. It is a tough business that we are all in. So I sent up whatever furniture I had – I guess being a little more senior than Karl, they let me keep mine – and I sent up what I had that I could help him out with.

Then one time I was bebopping by his office – I used to walk by most of the offices, which most of you know I still even do today – and he had this, it was a report put out by Ben Wilson, and I said, "Karl, what are you doing here?" He said, "Oh, John," he said, "it's a great report. I'm going to mail it out to all the nurses." I said, "Yeah, but it's got Ben Wilson's name written all over it." He said, "Oh, yeah." He said, "You know, I want to make sure Ben gets the credit." So I ripped off Ben Wilson's page and I said, "Ben Wilson didn't write it either, so we're going to type up a piece of paper with your name on it, put it on there, and then we're going to send it back out." And he said, "Oh, I don't know if I can do that. What about the wasted paper?" So I sent that down to our print shop, and they made up little notepads, so it was never wasted paper, so he could staple them together and use them as notepads. But he did send it out with his name. After that he realized that, truthfully, in our business that we are in, your name is really what you have, and that is what really is the product that you have, and the people back home know you, and that is what is

really important and that is what it is about. But we used to go to dinner with Jess Stairs, Lenny Gruppo, Bob Nyce, Tom Gannon, and myself. Those dinners were an awful lot of fun, and Karl was really a lot of fun to be around.

I wanted to mention a couple things that are important. Number one, a lot of the programs that both sides of the aisle use right now were really Karl Boyes's ideas – those senior citizens breakfasts, the seminars for bringing young people into the district so that you could show them all the different things that were available from State government, and a lot of the ideas that we use right now are Karl's ideas. They were things that he thought up. I am not going to say this to disparage Governor Casey, but Governor Casey put a tax reform proposal on the ballot, and you guys all know, you were all here, not all of you but most of you, and it was defeated by a million votes, and then Karl came with the idea of a homestead exemption. And I thought, truthfully I said to myself, well, Karl is crazy again, but we will give it a little try and see if maybe it makes some sense, and we did get it on the ballot as the homestead exemption, and sure enough, Karl was right. The people of Pennsylvania voted for that, and because of that, we can sit here and honestly talk about what we would like to do for local tax reform. Had that not been done, we still would have been required to go back to the ballot to get the people to vote for that. So, I mean, that is a major, major step for what we have done, and Karl as chairman of the Finance Committee was able to accomplish that. And you know over the next couple weeks we are going to be doing some major things on tax reform, but none of it, none of it would have been possible without Karl Boyes – none of it.

So, Karl, the people of Pennsylvania owe you a debt of gratitude for at least getting it to a point where we could make the decisions here as to what was best for the people of Pennsylvania rather than just getting it tied up in a political "I hate this; I hate that," because no matter what we do, all the people of Pennsylvania will not like it. Karl knew that. Karl did know that.

I just wanted to say that he was truly a friend, and he will be sorely missed by not only myself but all the people of Pennsylvania because he had a lot of good ideas. Thank you very much, Karl Boyes.

REMARKS BY MAJORITY LEADER

The SPEAKER. The Chair recognizes at this time the majority leader, Representative Sam Smith, to make remarks.

Mr. S. SMITH. Thank you, Mr. Speaker.

To Mrs. Boyes and the family members and the members of the legislature and other special guests, it is an honor to continue in this tribute of our longtime friend, Karl Boyes.

My most vivid memories of Karl are from when I served on the House Finance Committee, a body that he chaired, and he chaired it with great pride, as most of us would recognize here inside the House. I guess it is the only committee he ever wanted to chair, according to Roger Nick, who was the chief of staff for the Speaker all those years. Roger would sit down with the committee chairmen or contact the committee chairmen and ask them, you know, what they were looking at, what they wanted to do in the next term, and Karl, when asked what his three choices were, according to Roger, was always Finance, Finance, Finance. It is the only committee he ever really wanted

to chair, and he certainly loved the fiscal policy that went with it. I do not know, perhaps those roots came from his time as a township supervisor and local county commissioner. But regardless of those, he had a passion for finance, and it was a passion that he certainly used very successfully to craft policy and to build coalitions.

When he was working on an issue, he devoted a good deal of his time to what he referred to as “reaching out” and bringing people together, and he would do that a lot through just, you know, telephoning people. I shared an office, or my office at one time was next door to Karl’s over in the Ryan Office Building, and Karl, when we were both in town, he was frequently on the phone. And he was extremely insightful when he would develop these coalitions and try to reach out to these people, bringing a piece of legislation forth, and I think most of us recognize that Karl had a unique ability to drive these connections together, to help people come together. He was one that always wanted to bring a bill to the floor that had been fully debated and aired out, and he wanted to present it in a fashion that would really serve the people of Pennsylvania well.

One thing that Karl did not have much time for were the people that were not willing to pull their weight within one of those coalitions. He used to make observations about people or interest groups who wanted a finance issue to move forward but they were not willing to devote what he called “sweat equity” to get the job done, and anyone who was not willing to work in that way probably did not get real far with Karl over the years.

He had two famous observations on tax policy, and I think most of the people that have either served on the committee in the past or present might recognize some of these or one or the other one anyways. As we would struggle with difficulties of dealing with, you know, the fiscal policies and tax issues, Karl would often repeat a famous quote, and the quote was, “The tax I like the best is the tax the other guy pays” – “The tax I like the best is the tax the other guy pays.” There is a lot of truth to that one that we all sort of recognize. And he was also fond of quoting Russell Long, who said, “Tax reform means, don’t tax you, don’t tax me, tax that fellow behind the tree.” I remember Karl quoting that one quite often, and usually he would kind of chuckle and laugh afterwards and just say, “Better watch out if we ever catch up with him,” and I guess that is the truth. “Don’t tax you, don’t tax me, tax that fellow behind the tree.”

When Karl was not pretty much knee-deep in his legislative issues, when he was not involved in his legislative issues, he also enjoyed traveling and jogging. He used to say that that was his way of recharging his batteries, and it is something that all of us in this legislative process and perhaps in many, many vocations, that we need to have some form of an outlet to relax and recharge our batteries.

Karl will be remembered in this chamber as a leader who was very direct. Whether you were a freshman member or a member of leadership, whenever you went and talked to Karl and either asked him to support you on a position or asked him for advice as to how to accomplish something, you could count on Karl to give you a very direct answer, a truthful answer. You always knew where you stood with Karl. He did not play those games; he just laid it out there for you, sometimes brutally so. If he was not exactly seeing eye to eye with you or if you were not seeing eye to eye with him, he would usually tell you exactly where he was. He was very hardworking and insightful

in that way, and as a legislator I think that is something that we all very much appreciate, is someone who tells us where they are on the issue, tells us why they are, and that type of direct honesty is something that really makes this place work the way it works today, and Karl certainly contributed to that in full measure. He had a keen political mind that ensured many legislative and political victories, and for 23 years his presence here is one that will not soon be forgotten in this chamber.

I think the good Lord may have given him a premonition of sorts in his final days. I was told that he made many phone calls to family and friends during those times, and during a conversation that his staff member, Mark Ryan, relayed to us, he said that Karl indicated that he knew there was a better place for him. And I guess that at the end of the day, for each of us, knowing that our loved ones are comforted in going to a better place is something that comforts us at that time, and I think that, again, Karl was engaging in that skillful planning that he used as a legislator as he looked forward to the afterlife.

At the funeral service in Erie, the minister mentioned that Karl, after traveling, would come back with a collection of bulletins that he used to sort of prove to the minister that he had not been shirking his religious duties and that he had actually attended churches in other places wherever he might have been, and he would bring them back kind of as proof to the pastor that he was remaining faithful to his religion. Bulletins or no bulletins, Karl’s place with the Lord is secured, and for us today, it is up to us to build on his good works and look to the future.

May God bless Karl Boyes, and God bless the family.

Thank you very much.

REMARKS BY DEMOCRATIC LEADER

The SPEAKER. The Chair recognizes at this time the Democrat leader, Mr. William DeWeese, for remarks.

Mr. DeWEESE. Mr. Speaker, colleagues, Sue and family and guests, my 5 minutes will be a stream of consciousness, but that is easy, because for those of us who work here and those of us, and I think that is unanimous, that thrill with the excitement and the challenge of the endeavor, get to know everybody in this room a little bit, some better than others. But as the Speaker said in Erie – and those of us that were there remember the personal reflections – all of us have a personal reflection or two or three, and the ones I have about Karl deal with Florida and the YMCA.

Now, Karl sat rather far away, and for most of us Karl lived rather far away, but as has been observed by my colleagues, his persona was not a distant one. It was warm and happy and congenial, and obviously he had the undergirding of a very solid domestic life. And I used to go to Florida and play a round or two of golf around Presidents’ weekend, and Karl was a part of our group. And as the Speaker said, during their dinners together in years gone by, you get to know someone at that dinner table, and as many of us will aver, there is no better place in the world to get to know a colleague, even a Senator, than on a golf course. You really get to measure that person, and some rounds of golf and some beverages and dialogue in the faraway Sunshine State crystallized my acquaintanceship with Karl Boyes.

It was further reinforced by year after year after year in the locker room and the steam and the exercise facility at our

Harrisburg YMCA. I think it was Sam who said that jogging was a passion, and from the crown of his head to the tips of his toes, Karl was an athlete. It is unfortunate, of course, that he did not get his three score and ten, but the years that he did live were so vibrant and so strong and so punctuated by his athleticism.

I think that all of us will remember Karl as a decorous and restrained man, an earnest and unruffled colleague, a very special, quiet participant from faraway Presque Isle. Shakespeare's immortal dictum that I have used before and I will use again, because I believe it is poignant and apropos, is that all the world is a stage, all the world is a stage, and all the men and women merely players. They have their exits, and that is what we are here to remember, and they have their entrances, and one man in his time plays many parts.

Well, with Sue and his political colleagues that launched him in Erie and his wonderfully responsive and sensitive staff and the guys at the YMCA and the golfers in Florida, Karl played many parts, as I said, in that unruffled and decorous way of his. He was a sophisticated, warm, genial, happy warrior, as F.D.R. (Franklin Delano Roosevelt) might have said, and as my colleagues, the Speaker and the majority leader, said, all of us will miss our friend, Karl Boyes.

Thank you.

REMARKS BY MR. GANNON

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Members of the House, Sue, family members, and guests, I first met Karl Boyes right after his 1980 election. I was at one of our Harrisburg receptions, which the Speaker referred to earlier, and I remember Karl was standing by the table overlooking the cheese-and-vegetable platter, and he had just won a very close election. Since I had 2 years in the legislature under my belt already, I took it upon myself to offer Karl some advice. I told him there, he was principally here to represent the people of the 3d District of Pennsylvania. All Karl did was smile, we became immediate close friends, and over the next several months I came to realize that I should have been asking advice from Karl rather than offering advice to him. I did not know that he was bringing to the General Assembly a rich experience as a local government official, military service, and a teacher. Additionally, being sent to the General Assembly by the voters of the 3d District was not the first time that Karl Boyes had gone to Harrisburg. For several years he had been in State government service at the State capital.

Now, Karl liked to call himself a retail politician, and to him that meant that he listened and he learned from the people that elected him. Now, that sounds pretty basic, but given human nature it is sometimes difficult to put into practice. Karl Boyes worked at it. One example that comes to mind is his work to bring into reality the Presque Isle nature trail. Karl engaged the opponents, fought for the people, and worked hard with Federal and State agencies to bring about something that will be remembered on his behalf for generations.

Now, we heard some remarks about Florida and we know that Karl loved to travel, and as a close friend we frequently traveled together to legislative conferences. In fact, the first

time I traveled with Karl, we went to Florida. At that time I did not know he was having a love affair with Florida. It was his second favorite place in the United States to go to. But anyway, we had worked out a travel arrangement, and that was that it was his job to arrange for the flights – he had a knack for finding the cheapest fares and the best flights – and my assignment was to arrange for transportation at the conference location, and that meant getting a rental car.

Now, the first time we traveled – we are in Florida – I went to the rental-car agency along with Karl, and I began to negotiate with the counter clerk, and every time she suggested a particular car, I kept on asking for something cheaper. Now, we finally got down to what I would call a sub-subcompact, and at that the clerk made a comment to me that we would have to travel with our luggage in our laps because there was no trunk. I remember Karl was on my right at the counter, and he turned to me and he said, “Tom, I am really proud of you for getting the least expensive car that the agency has to offer and saving the State that expense money,” and I turned to Karl and I said, “Karl, you don't understand. We have to pay for the car rental. That's not a reimbursable expense.” And I remember Karl put his hand up and he said to the clerk, he said, “Do you have a motorcycle with a sidecar?” Karl had a sense of humor.

I remember we went to an Arizona trip one time, we went to a conference out there, and at that time I realized that the cheapest place to get a car was what they call the off-airport-premises car-rental agencies. Well, this particular agency was not only off premises, it was not even near the airport, and the car, probably two of them would fit on that desk over there, it was that small, and it was the most obnoxious color of blue that I could think of. But the car was outside, and after I signed the papers, I got in the driver's seat, and Karl walked around the car and got in the passenger seat, and he looked at me and he said, “Tom, did you look at this car? Is it okay?” I said, “This is great. This is perfect. Let's go.” He said, “Well, now wait a minute. Did you check this out?” and I said, “Yeah, it's fine.” He said, “Well, why don't you just get out and walk around just to take a second look.” So I went around to the other side of the car, and it looked like it had been broadsided by a truck. So we had to go into the agency and make a notation on the rental papers so that I was not charged with that.

One of the side benefits of being a friend of Karl was, of course, I got to travel to Erie a couple times a year, and you had to have dinner at the Aviation Club. That was a great spot for Karl. He loved to bring you out there and treat you like a visiting fireman. But since my last name is Gannon and, of course, Gannon University is in Erie and that is a famous university founded by the bishop, invariably if we were at the Aviation Club and Karl would be introducing me, he would say, “This is Representative Gannon,” and of course the next question would be, “Are you related to the bishop?” and Karl would turn to the person and say, “Yeah, this is his son.”

Karl was a great friend. Pennsylvania has lost a capable and hardworking public servant, and I have lost a dear and close friend. These are sad events that put life into perspective, that our time here is limited and that life is fragile. Goodbye, dear friend, and may you be with God.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

REMARKS BY MR. DeLUCA

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

Mr. DeLUCA. Thank you, Mr. Speaker.

To Sue and the family, I offer my deepest sympathy, and I am very honored and proud to be able to say a few words on behalf of my good friend, Karl Boyes.

You know, William Penn once said that death is no more than the turning of us over from time to eternity. When I learned of Karl Boyes's death, my heart was very heavy, because on that day this chamber lost a devoted statesman, but that day I lost a very good friend. Karl was the true essence of a bipartisan elected official. We spent many years serving together in the House, and neither being a Democrat nor Republican prevented us from working together on issues that were more in the best interests of everybody in the Commonwealth.

Now, Karl was a go-to man. You knew he would get things done, and they would be done right. His kindness and dedication to the people in his district, particularly those who did not feel that they had a voice, made Karl their champion. From the legislation he sponsored to the committees he served on, Karl worked to bring about real change and positive change to this great State that he loved. Now, Karl was a gentleman and he was a gentle man, and it reflected in the work that he did for the people in his district. I will definitely miss my colleague on the other side of the aisle, but I also will miss my friend.

I remember when I served in the majority, and I happened to be on the Finance Committee. Freddie Trello was the majority chairman, Karl was the minority chairman, and Karl used to, when we used to go to Erie, I can remember the boat trips he would line up for us in Erie. And I was not a person who liked boats very much, and Karl said do not worry about it; you know, we will take care of you; I will get those pills that you will not get seasick and that there. But I said, "I don't know, Karl," and a couple times he had to give me a couple of them. But we had some very good times.

And also, when he was in the majority, he used to call me over to his office or come on the floor of the House, and he would say, "Tony, I want you on board this legislation." You know, we both came from local government; we know what it is to serve the people of this Commonwealth, and he said, "I want you to participate in this bill and be second on it." And we really had a very good friendship going, and I think that is what I will miss the most, when Karl would come over to this side of the aisle and say, "Tony, I need some more votes from your members; can you round up some of the Democrats?" and we were able to do that. For over 20 years Karl extended me his hand in true friendship, and that will continue in my heart for the rest of my life.

Actor Jack Lemmon once said, "Death ends a life, not a relationship." I say goodbye to you today, Karl, and wish for you that God hold you in His hands, and may you rest in peace. God bless you.

Thank you. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Sue, I have to be honest with you: This place has not been this quiet since I got this new job.

Karl really wanted me to be Speaker, and I never ever thought in my life that I would make it, and thanks, truthfully, to all of you I have this job. But, I mean, he wanted to come here to be one of the nominees for me, which Julie Harhart read the nomination that Karl had written for me, and I do not think I would have ever made it without Karl being there to help me. I can never thank you and the family enough for that honor of him sticking with me the way he did, because it was hard. I was really a hardheaded, obstinate Philadelphian, and he stuck with me anyway.

FAMILY AND STAFF INTRODUCED

The SPEAKER. I would like to introduce the family and the staff for Representative Karl Boyes.

First, his wife, Sue Boyes, is here. Sue. Thank you.

Karl's son, Brian. Brian.

His staff: Juanita Hoffman, Patty Macut, Mark Ryan, Nathan Hench, and Patty Hippler.

BENEDICTION

The SPEAKER. The closing prayer will be offered by Representative Louise Williams Bishop.

Members and guests will please rise.

Ms. BISHOP. Thank you, Mr. Speaker.

Let us pray:

O God, our Heavenly Father, the God of heaven, the God of earth, and all in between, You are the God of our weary years and You are the God of our silent tears. You are the maker of every good and perfect gift, and we thank You for Your special gift, Your public servant, our friend and colleague, Karl Boyes, who served his legislative district and the entire Commonwealth of Pennsylvania with passion and with courage. The entire Commonwealth will grieve his passing and miss his commitment. His life was truly a reflection of all that is good. We now release him, God, and ask Your blessings upon his family, upon his staff, and upon his friends.

And certainly we ask Your blessings upon the House of Representatives, and help us as we go forward to be able to have the strength to pray the Prayer of Serenity. Grant unto us strength to accept those things we cannot change, grant unto us courage to change the things we can, but most of all we ask Your wisdom that we might know the difference.

Each of us who stand here today ask for Your hope. Help us to be able to live with hope. And where there is darkness, let us show light; where there is weakness, let us show strength; and where there is hatred, help us to show love. We look to You each day for Your divine guidance that we may never forget as Karl never forgot the people whom he served in the House of Representatives.

Blessings and peace be with all as we thank You now and ask that You comfort us as we know that Karl's ship has docked in Your eternal harbor where he will find peace and rest. Amen.

The SPEAKER. Members and guests may now be seated. The Sergeants at Arms will open the doors of the House.

Ladies and gentlemen, that concludes the memorial service, and the family and friends of Representative Boyes are free to leave at this time. Thank you very much for coming.

DEMOCRATIC CAUCUS

The SPEAKER. Are there any caucus announcements?

The Chair recognizes Representative Cohen for the purpose of an announcement.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, the Democrats will caucus immediately upon the call of the recess. We will go over the remaining bills that we will vote on today and Wednesday.

The SPEAKER. The Chair thanks the gentleman.

RECESS

The SPEAKER. This House will now be in recess until 1 o'clock.

AFTER RECESS

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

CALENDAR CONTINUED

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1326, PN 1888**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation laws allowed to the General Assembly relating to medical professional liability actions.

On the question,

Will the House agree to the bill on third consideration?

Mr. **TURZAI** offered the following amendment No. **A1268**:

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

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation laws allowed to the General Assembly.

Amend Bill, page 1, lines 7 through 16; pages 2 and 3, lines 1 through 30; page 4, lines 1 through 12, by striking out all of said lines on said pages and inserting

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 18 of Article III be amended to read:

§ 18. Compensation laws allowed to General Assembly.

The General Assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in]. In all other cases, the General Assembly shall not limit the recovery of economic damages for injuries resulting in death, or for injuries to persons or property and may by statute limit the recovery of noneconomic damages for injuries resulting in death, or for

injuries to persons or property. In case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Turzai.

Mr. **TURZAI**. Thank you very much, Mr. Speaker. If you could just give me one moment, sir.

Thank you very much, Mr. Speaker.

Amendment 1268 to 1326 changes HB 1326 from an emergency constitutional amendment to an amendment under the standard procedure provided in Article XI, section 1, of the Pennsylvania Constitution, and it removes the restriction from Article III, section 18, that impedes the ability to enact limitations on damages, and I would ask just very briefly at this point for people to recognize that this amendment to 1326 is ultimately about amending the Constitution and is not about enacting any specific caps legislation. We are using the standard amending procedure provided under the Constitution given amendment 1268, and it is designed to remove that restriction so that we can in two separate sessions allow this legislature, both Houses, to pass by 50 percent plus 1 a change in the Constitution to remove that impediment. Ultimately, Mr. Speaker, this goes to the voters of Pennsylvania, and this amendment is designed to say to the voters of Pennsylvania, will you give the General Assembly the power to ultimately enact caps on noneconomic damages only?

In addition, Mr. Speaker, the issue of what arena any caps legislation ultimately might have; whether there are any exceptions, such as in joint and several liability we had an exception for willful and wanton intentional behavior; and three, what the actual number should be, whether it should be a two-tiered approach such as they have enacted in Michigan or that they have enacted in Massachusetts or whether we should have an across-the-board approach – those are all items to be

discussed on another day, not really until as early as 2005 really, because we have to go through this twice in two successive sessions. Today, today, we are only by amendment 1268 to 1326 saying, let us give it to the voters and ask them if they want to remove that impediment.

Only four States have such an impediment. We are one of the four, and at least two of those other four are seeking to do the same thing, in Wyoming and in Kentucky.

I would call, Mr. Speaker, for an affirmative vote on amendment 1268 to HB 1326 to allow us to give the people of Pennsylvania an opportunity to move this artificial restriction in the State's Constitution.

Thank you very, very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentelady from Philadelphia, Ms. Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

Will the maker of the amendment stand for interrogation?

Mr. TURZAI. I certainly will.

The SPEAKER. The gentleman indicates that he will.

Mr. TURZAI. Yes.

Ms. MANDERINO. Thank you.

I appreciate your explanation. I was trying to both read the bill and the amendment kind of on the computer screen while I was standing up to be recognized, so I hope I am not being redundant.

I think you explained very clearly that this is removing the nonemergency procedure. Am I also correct that it is basically eliminating all of the language in 1326 and replacing it with the language of the amendment, so that in addition to it being now a nonemergency invoking of a constitutional amendment, it also covers not just medical malpractice that we would be allowing for the removal of or allowing for the imposition of any caps but for any tort claim?

Mr. TURZAI. If I might just address it. First of all, it absolutely does not invoke the emergency provision of Article XI, section 1. You are correct. It is invoking the standard amending procedures set forth in Article XI, section 1.

Secondly, I would just state, and I have heard many people refer to it, and in your question I believe that was implicit, sort of an across-the-board cap. What this does is it does not institute any cap whatsoever. That remains for another day when we enact legislation. All it does is remove the impediment in Article III, section 18, in its entirety with respect to noneconomic damages although not with respect to economic damages.

Briefly, noneconomic damages speak to pain-and-suffering damages, and if I might, just typically in a jury trial, according to the standard jury instructions of pain and suffering, instruction is a plaintiff is entitled to be fairly and adequately compensated for such past and future physical pain, mental anguish, discomfort, inconvenience, and distress as you find he or she has endured from the time of the accident until today. That undefined aspect of damages would be open to limitation in a subsequent piece of legislation. We are removing that restriction.

With respect to economic damages, it does not remove that restriction, economic damages being past and future medical expenses, past and future wage loss, and as was made clear in testimony before a majority Policy Committee hearing held in Pittsburgh in a case dealing with the very sad and very

sympathetic and very tragic case of a young lady suffering cerebral palsy, would not include economic damages including medical expenses and medical needs including the use of an elevator in a home and/or the use of a pool in a home to treat that terrible affliction. Thus, it does allow, this 1268 amendment does allow this General Assembly, once voted on by the people in Pennsylvania, to ultimately enact some legislation capping damages.

Thank you.

Ms. MANDERINO. One more brief answer to my next question on interrogation, and that is just, does this amendment, if passed, rule out of order any of the other amendments filed to this bill?

Mr. TURZAI. Some of them.

Ms. MANDERINO. Does it rule out of order any of the subsequent amendments, and please, I understand your argument that you just made that you do not want there to be any limits—

The SPEAKER. Ms. Manderino, a question of that magnitude should be directed to the Chair and not to another member.

Ms. MANDERINO. Thank you very much, Mr. Speaker.

The SPEAKER. No problem.

Ms. MANDERINO. I finished my interrogation. I would like to speak on the legislation.

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

Ms. MANDERINO. Thank you.

Just for the benefit of members, we caucused and discussed a lot of different variations of the bills, and I appreciate the sponsor's sensitivity to maybe how I had characterized his bill, but I think it is the layman's terms in which we have been thinking about these various versions of the bills that have been before us. So at least for clarity for members who are interested, this amendment does several things. It changes the current HB 1326, which was invoking the emergency procedures of our Pennsylvania Constitution, which required two-thirds vote to pass in the House, to a nonemergency procedure, which has to be done in two consecutive sessions but requires only a majority of the votes to pass.

The second thing that it does is unlike as originally written – 1326 was invoking an emergency procedure only to remove the constitutional impediment as it affected medical malpractice cases – this nonemergency procedure would remove the constitutional impediment to a cap on damages in any lawsuits, so that is beyond med mal. So those of you who were thinking of it in terms of all torts, the gentleman is right that it would depend on what the subsequent legislation is that is passed, but the impediment for capping noneconomic damages in all tort claims, not just med mal, would be an option should this amendment pass. So I just wanted to kind of clarify where we are on what this particular amendment does.

PARLIAMENTARY INQUIRY

Ms. MANDERINO. My question to the Chair is – I do not know if this is a question or a point of order – with regard to whether or not this particular amendment makes out of order other amendments, could you either by number or by subject matter educate us before we take the vote on what would be out of order, and in my case in particular, what I am asking is, is this amendment drafted in a way whereby some of the

subsequent amendments which attempt to further define in the Constitution how much a limit could be— I understand that is not the maker's intent, but if there are amendments that either try to put into language dollar amounts or restrictions, are any of those ruled out of order if this amendment passes?

The SPEAKER. All of those amendments would be out of order.

Ms. MANDERINO. Thank you, Mr. Speaker.

Then my further comment on final passage, again, is just to rehighlight the impact of that. To those members who were concerned about the language and found more comfort in the fact that there would be language available that could put in dollar-amount limits to which you would have a higher comfort level, feel would be fairer to your constituents and to injured people, all of those amendments are ruled out of order if this amendment passes.

Thank you, Mr. Speaker. I have finished my remarks.

The SPEAKER. The Chair thanks the gentlelady.

The Chair recognizes the gentleman from Luzerne, Mr. Blaum. The gentleman waives off.

The gentleman from Monroe, Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Speaker.

I am pleased to stand up today to continue the process of improving and updating our Pennsylvania health-care delivery systems. This system took over 321 years to develop, and accordingly, it is very difficult to fix overnight and there are no easy solutions. It is a process.

Yesterday our Governor stated, and I quote, "I want the public to know that we're proposing solutions that should keep physicians in Pennsylvania. If nothing is done, the cost of malpractice insurance will continue to rise, and retention and recruitment of physicians will become a greater problem. That will, in turn, translate into a problem for Pennsylvanians who find it more difficult to find a physician, hospital or trauma center and to access the high level of medical care that they are accustomed to receiving."

Governor, we agree. The time to act is now.

Also yesterday our Governor proposed three new standards and guidelines to stop, quote, "awards so excessive and unconscionable," quote, "awards that deviate from reasonable compensation," and quote, "guidelines to use when considering reasonableness of awards for noneconomic damages, such as pain and suffering."

Governor, we agree. The time to act is now.

The Governor's proposal also specifically states, quote, "Limit attorney's contingency fees." Let me emphasize the Governor's proposal, quote: "Limit attorney's contingency fees."

Governor, we agree. The time to act is now.

It is time to turn the focus of our debate to some of the real problems of the medical liability system. It is time to make stop the parasites that are slowly killing our health-care delivery systems. It is time to stop filling the pockets of trial lawyers instead of the victims. In the present system, the only winner is the trial lawyers. No wonder they are fighting this change so vehemently. We need to make sure our Pennsylvania health-care delivery system survives. We need to make sure our health-care delivery system provides excellent care. We need excellent doctors, excellent hospitals, and excellent nurses and health-care professionals.

Let us examine a case with \$500,000 in economic damages and \$500,000 in noneconomic damages.

When a lawyer takes their 40-percent contingency fee, the plaintiff loses \$400,000 to the lawyer right off the top. But wait. The lawyer also spends another \$100,000 on experts, tests, photocopies, phone calls, friends, neighbors, and relatives. But wait. Let us not forget the cost of defense lawyers and the direct and indirect costs of maintaining the court system. That is easily another \$150,000.

The end result is not focused on the victim. The end result is focused on the lawyers and the lawyers' support infrastructure to win bigger and bigger lawsuits.

After 321 years of Pennsylvania jurisprudence, a plaintiff spends \$750,000 to recover \$400,000, even though the trial court determined that the plaintiff's actual damages were \$500,000. It is a totally broken system. It is a system that is making the wrong persons rich. It is a system that needs to be immediately fixed.

Governor, we agree. The time to act is now. Today's legislation is another step in this process. The General Assembly needs to take this step in the process, and I look forward to working together to make our health-care delivery system more accessible and more excellent for all Pennsylvanians.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

GUESTS INTRODUCED

The SPEAKER. The Chair welcomes the fourth graders from the Holy Name of Jesus School, who are the guests of Representative Ron Marsico. Those guests are in the balcony. Would they please rise.

CONSIDERATION OF HB 1326 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Turzai amendment. Mr. Speaker, we have done a lot of work in this House over the past year or two on this medical malpractice issue, and certainly many of the things that we have done, I believe, will result in the long term in improving the malpractice climate and situation.

We have all agreed that there are a number of different solutions that are needed out there, and we have indeed acted on many of them, but the one key ingredient that has been missing up to this point is the issue of caps on noneconomic damages. So while there are those who might correctly say that it is not the sole answer to the problem, I truly believe it is the linchpin upon which this solution lies, and that is why we need to move forward with the Turzai amendment and with this bill today.

Mr. Speaker, caps are already used in a number of areas. We use caps on workers' compensation claims where damages are based upon a schedule with no provisions for pain and suffering. Cases against the Commonwealth of Pennsylvania are capped. Noneconomic damages, Mr. Speaker, are very subjective, and they lack standards. Unfortunately, no amount of money will restore one's health or will ease pain and suffering. What we are doing with pain-and-suffering damages

is we are attempting to compensate with money that which is really a nonmonetary consideration.

Mr. Speaker, many States across this country – depending on what figure you believe, it could be 24 or it could be 26 – have enacted caps on noneconomic damages, and unless we enact caps here in Pennsylvania on noneconomic damages, we will continue to have a system that gives juries a blank check to award huge damages based upon sympathy and emotion. That is what they are based upon right now, Mr. Speaker, sympathy and emotion, and our juries have been doing that here in Pennsylvania. The average jury award in Pennsylvania was \$402,000 in the year 2000, which was an increase of 93 percent from 1991. The number of million-dollar verdicts in Pennsylvania has increased from 2 in 2000 to 15 in 2002. Pennsylvania has one of the highest percentages of jury awards over \$1 million of any State, and that is according to Jury Verdict Research.

Mr. Speaker, States that have enacted caps such as California have not seen the wild swings and fluctuations that have caused so much consternation to our doctors and our patients in the medical community as we have experienced here in Pennsylvania. Mr. Speaker, from 1975 through the year 2001, California, which as we all know has a \$250,000 cap, their premiums did rise, but they only rose 168 percent during that period, while nationwide premiums rose over 402 percent during that period. Mr. Speaker, premiums rose 1400 percent here in Pennsylvania during that period, and since 1997 alone, med mal premiums rose 500 percent here in Pennsylvania. In 1998 Philadelphia paid out more in medical malpractice claims than the entire State of California. That is a staggering figure, Mr. Speaker.

Mr. Speaker, we can see it in the individual specialties as well. Obstetricians in Los Angeles pay \$67,000 per year. That is less than half of the \$140,000 paid in Philadelphia and Delaware County, according to a recent Philadelphia Inquirer article.

In general surgery, in Riverside and San Bernardino Counties, \$45,638 is their premium. In Montgomery County, Pennsylvania, it is over \$100,000 for general surgery. For orthopedic surgeons, in Los Angeles they pay \$55,000; in Philadelphia it is \$115,000, and make that \$153,000 if you have to go with the JUA (Joint Underwriting Authority).

Mr. Speaker, California is not the only State that has had success capping their damages. The State of Wisconsin capped damages in 1995, and they adopted a \$350,000 cap on noneconomic damages for medical malpractice claims. In 2001 medical liability insurers in Wisconsin paid out \$31 in losses for every \$100 collected in premiums, yet Pennsylvania paid out \$139 for every \$100 they collected.

Between 1998 and 2002, the average annual premium for general surgeons in Pennsylvania tripled to \$41,753, up from \$12,000. In Wisconsin in that same period, the rate increase was just 8.5 percent, rising to \$17,000, up from only \$16,000.

Mr. Speaker, I think it is clear from the experience of these other States and the relative ease that they have experienced during this time when medical malpractice rates have climbed so high here in Pennsylvania that it is incumbent upon us to enact caps. The time is now, and, Mr. Speaker, I urge everyone to please vote in favor of the Turzai amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

There was some question as to whether or not there was too much detail on the subject of caps. The legislation before us does put caps on jury awards. Therefore, there is leeway to talk about what the gentleman brought up just a few moments ago.

With that, the Chair recognizes the gentleman from Philadelphia, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, may I interrogate the maker of the amendment?

The SPEAKER. The gentleman, Mr. Turzai, indicates that he will.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I need some clarification.

One, is it your intent to change the basic configuration of HB 1326 in that are you opening the door for this legislature to determine the application of caps not just in medical malpractice cases but in products liability, in catastrophic damages, and in other situations?

Mr. TURZAI. Mr. Speaker, it is not my intention to decide in any manner what the nature of any subsequent caps legislation may or may not be. We are faced with a threshold question, do we want to remove the restriction in the Constitution? If we do, then the second threshold question is, do we want to allow the voters in Pennsylvania the opportunity to remove that restriction? That is it.

You can in fact— I do not mean you, Mr. Speaker. I mean, one can in fact be in favor of this amendment and say to his or her constituent, you know what? I only want to see a cap in the medical malpractice arena, but I cannot get there until we remove this restriction. Once we remove this restriction, I am going to come back and I am going to fight my best in the General Assembly to say, I want to see a cap in the medical malpractice arena.

Now, there might be others here who believe that the civil litigation system is out of control and that there should be other statutes, but that is a fight for another day.

Today it is about one thing: Do the voters in Pennsylvania get an opportunity to say that they would like to see this restriction, which is only in three other Constitutions, removed? Do we want to give the voters in this State, through its General Assembly, the opportunity to do what 34 other States have done who have not had such an impediment in their Constitution? That is what is at issue today.

Mr. THOMAS. Mr. Speaker, and it is the voters that I am talking about. My office has been overwhelmed with letters and calls from voters who raise this question, which is the question that I raise to you. They say, Representative Thomas, HB 1326 would allow us to vote on whether or not we want to remove the restriction as it applies to medical malpractice. Your amendment seems to go farther than that by removing that section of HB 1326, and here is the question that comes up: When the voters, when my constituents ask me, why can we not just limit this to HB 1326, medical malpractice cases, but if your amendment passes, would your amendment also affect a Flight 93 situation, where innocent people are brought down by a terrorist act, through no fault of their own, and they have families, companions, loved ones, who could and would claim noneconomic losses, and if your amendment passes and this Assembly decides, once this door is opened, this Assembly decides that caps should apply to all of these other situations like Flight 93, which tragically went down in Pennsylvania, should we be doing that?

Mr. TURZAI. Mr. Speaker, the answer is twofold. One, this amendment does not address that at all, because we have to remove the restriction. So the answer is, simply, no, and then only until a statute is enacted, which cannot happen until 2005 and which will require 50 percent plus one in both Houses and the signature of the Governor. So that is a debate for another day.

And secondly, just as an aside, as my good colleagues here have intimated, I do believe given that fact pattern, Federal law, actually, I believe, does apply and there are limits in those types of cases, given recent Federal legislation.

But the point is, amending the Constitution does not do a thing to say that any type of cap is enacted. It gives the voters of Pennsylvania an opportunity to say, should we remove this restriction to ultimately have another debate as to what arena should the caps be in, what exceptions, and what amounts, whether it be two-tiered or one-tiered.

Mr. THOMAS. But, Mr. Speaker, my basic question is, to the voter who asked me, the voter said, Representative Thomas, HB 1326 as it is currently drafted would remove the restriction and allow for a discussion on whether or not caps should be applied in medical malpractice cases. Now, your amendment seems to contradict that basic principle in HB 1326 by removing caps in all situations and allowing the General Assembly to decide where and under what circumstances and what cases caps should apply, and that is the question.

Mr. TURZAI. I understand.

Mr. Speaker, the point of 1326's original language was a procedural point, not a substantive point. We cannot amend the Constitution unless we go through two successive sessions. It is a cumbersome approach. And in fact, when that was originally enacted, the session for the General Assembly was only 1 year. Subsequently, we made it 2 years. So we have added a long process to the amending process.

The only reason why medical mal was originally singled out in 1326 was because we believed that there was an argument under the emergency provisions of amending the Constitution to get this done in one session, but the fact of the matter is, the idea has always been to remove this impediment. HB 1326 and this language are not mutually exclusive. It is to always clean up the Constitution, to remove this impediment. Let the voters enable, the voters are enabling us as legislators to say, yes, there ought to be caps in certain areas with certain numbers and with certain exceptions.

And unless we take, Mr. Speaker, that enabling step to amend the Constitution, we never get to have the more full debate that I think you are in fact requesting here today. We cannot get there. You will be able to get there in 2005 if we amend the Constitution by passing this joint resolution in two successive sessions.

Mr. THOMAS. So, Mr. Speaker, I should just say to my voter that this amendment is not satisfied with the limited environment which 1326 deals with, which is whether or not we should remove the cap as it applies to medical malpractice.

Let me move on, Mr. Speaker.

Mr. Speaker, my second concern is, do you fundamentally believe that your amendment has a direct connection to the crisis or, as some would say, the alleged crisis that we are faced in the Commonwealth of Pennsylvania as it relates to the issue of medical malpractice premiums?

Mr. TURZAI. Yes.

Mr. THOMAS. You believe that your amendment runs directly to or has a direct relationship to the world of medical malpractice premiums in the Commonwealth of Pennsylvania.

Mr. TURZAI. 100 percent, yes.

Mr. THOMAS. Mr. Speaker, would you explain to me, to our colleagues, and to the public at large, what is the direct relationship, and how do you feel as though this amendment is going to reduce the excessive premiums that specialists and others have to pay in the Commonwealth of Pennsylvania?

Mr. TURZAI. There is no doubt that the—

Mr. THOMAS. Facts, not fiction, Mr. Speaker.

Mr. TURZAI. Yes, sir.

There is no doubt that the most likely recipient in a future legislative debate dealing with the details of legislation will be the health-care community. Most of us in this room recognize that while we need to be concerned with the civil litigation system as a whole, that the most pressing area in need of reform is the medical malpractice arena.

But for amending the Constitution, you and I can never get to the debate as to what type of cap in terms of dollar amount, in terms of exception, and in terms of area of coverage we need to get to. There are many folks and we heard from my colleague from Chester County who already eloquently spoke about the pressing need in that arena.

If we cannot remove this restriction, we cannot get to that debate, and it only makes sense from a constitutional perspective that you maintain broad concepts in your Constitution as opposed to narrow concepts in your Constitution. Constitutions are about broad strokes, the structure of the frame of government, and specific rights that are enumerated.

The cleanest, clearest way to amend the Constitution is to remove that restriction which 46 other States do not have and which 2 other States are trying to remove, just like us, so that we ultimately get to be in the position to have a legislative debate, like 34 other States have already had.

Mr. THOMAS. So, Mr. Speaker, the doctors who live down the street from me and around the corner from me in Philadelphia County who support Governor Rendell's proposal, one, that would urge the Pennsylvania Supreme Court to use its regulatory authority to bring about major reductions in medical malpractice premiums, doctors who support the Rendell proposal which says that it is reform in the insurance industry that will ultimately lead to major reductions in medical malpractice, Mr. Speaker, are you saying that I should say to those doctors down the street and around the corner that you do not know what you are talking about, that only a constitutional amendment is going to bring you the relief that you seek? Is that what you are saying, Mr. Speaker?

Mr. TURZAI. Mr. Speaker, and, sir, I do apologize by not continuing to use the term "Speaker," and I do not mean to be disrespectful.

Mr. THOMAS. Very simply, I am asking you, as the author of this amendment, what do I say to the practitioners who live down the street and around the corner from me who have said to me and said to other elected officials, I fundamentally believe that a change in the rules by the Pennsylvania Supreme Court and fundamental insurance reform is going to bring about the kind of relief that they are seeking in conjunction with all other practitioners similarly situated? Are you saying to me, and they have never raised a question of a constitutional amendment,

so my question to you is, should I say to them that they do not know what they are talking about, that a constitutional amendment is the only avenue in which they can secure short- and long-term relief?

Mr. TURZAI. Sir, with all due respect – and I want to give a two-part response – but the first part is, the focus is on quality access to health care for the citizens of this Commonwealth. To the extent that there is a crisis, that is the crisis, and we have said that over and over and over again. If you lose neurosurgeons, every single one of them who has been sued in this State, and continue to reduce it like it has been on our side of the State, from 59 neurosurgeons to 49 neurosurgeons with the 3 youngest leaving, you are in fact inviting yourself for a crisis in access to quality health care. So I say to you that, first of all, the frame in which the question should be focused is on the patient, not merely the provider.

Second, we have not ever, myself or members of this caucus, said that caps in and of itself are a solution to this crisis or to this civil litigation system being out of control. The fact of the matter is, it is a component part. Yesterday, in this distinguished institution, we passed HB 158, sponsored by Representative Micozzie, which addressed reporting requirements with respect to doctors on the Internet and which called for voluntary arbitration and which addressed trauma centers. By no means has this caucus or have I personally ever said that this issue is going to solely be solved by caps, but I will contend to you that it is a significant component to a reform element.

And finally, sir, with respect to your argument about the need for insurers' reform, I call to your attention the interim report of the Insurance Subcommittee of the Governor's Medical Malpractice Task Force. The findings of that subcommittee, the Governor's own task force subcommittee, said this: Investment asset distribution of medical liability insurance companies demonstrates that these companies have less than 9 percent of their investment portfolio in common stocks, and they have not lost significant investments as a result of the downturn in the financial market. There has been a rapid deterioration in this market because the risk is too great. We have gone from 20 insurers, and we are down to 2, and one of those insurers will no longer underwrite new business.

Therefore, I believe that the finger-pointing with respect to bad doctors and insurers is an obfuscation and is designed to take the notion or the focus off of real reform, and the people in this State know the civil litigation system is out of control, know that risk with respect to civil litigation is out of control, and are asking us to respond.

Mr. THOMAS. So, Mr. Speaker, in essence, I should tell those doctors down the street and around the corner from me that they do not know what they are talking about when they say that they believe that the way to bring about relief is to adopt several major sections of the Rendell proposal, and I should say to them, after I tell them that they do not know what they are talking about, I should give them a litany of what you just gave me the last 10 minutes.

Mr. Speaker, my final concern: What is the timetable in which the Turzai solution will see reality? What is the timetable in which the Turzai proposed solution will see reality?

Mr. TURZAI. Sir, your question seemed twofold.

First of all, I applaud the Governor for adopting a proposal that was essentially enacted or voted on by this House in Representative Micozzie's bill and that has been on—

Mr. THOMAS. Mr. Speaker, what I am asking is—

Mr. TURZAI. —and we were asking for a report sometime before that.

Mr. THOMAS. —you are proposing a constitutional amendment that would go to the voters—

Mr. TURZAI. Yes, sir.

Mr. THOMAS. —that has to be done by both Houses. There has to be an electoral process, there has to be money spent in that electoral process, and we have to get our messages out there. At the earliest, when will the voters have an opportunity, or at the earliest, when will this body and the Senate have an opportunity to impose and/or reject this removal of the restriction in the Constitution? Are we talking about a year, 2 years, 3 years, 4 years, 5 years?

Mr. TURZAI. Sir, it is 2005, because we have to pass it in two successive sessions, under the normal, standard amending procedures provided for in the Constitution.

Mr. THOMAS. Okay; 2005. So between 2003, June of 2003, and 2005 is the earliest that we would be able to see if there is any remedy for the doctors that are planning to leave the State around this whole issue of medical malpractice.

Mr. Speaker, I applaud you for your indulgence. I have concluded my interrogation, and I would like to make brief comments in reference to the Turzai amendment.

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

Mr. THOMAS. Thank you, Mr. Speaker.

Let me thank Mr. Turzai for his willingness to respond to some very difficult questions, and as the question goes, now that we have had this exchange, where are we and where should we go from here?

Number one, HB 1326, in its rawest context, proposes to remove this constitutional barrier and allow this body, the General Assembly, to deal with the question of caps in noneconomic losses as it relates to medical malpractice. We are here today because of this medical malpractice in the Commonwealth of Pennsylvania.

So the first question one must ask is, if medical malpractice is the issue that is before us and that there is in fact a crisis, why do we need to accept the Turzai amendment, which proposes to remove the barrier as it relates to all areas of tort – products liability, catastrophic losses, disfigurement? All areas would be on the table if the Turzai amendment passes.

So the amendment is in direct contravention with what I think is the general consensus of where this body is. Both sides of the aisle are concerned about the medical malpractice crisis and want to respond to that crisis in a very intelligent and expeditious manner. This amendment would not provide that.

Secondly, this amendment would not deal with the crisis as it currently exists in the Commonwealth of Pennsylvania. The author of the amendment has said that we will have to wait until 2005 in order to do anything that allegedly might affect the medical malpractice premium structure in the Commonwealth of Pennsylvania.

An earlier speaker indicated the excessive jury awards that have been awarded in the Commonwealth of Pennsylvania. That is what we want to deal with. We do not want to have to wait until 2005 in order to think about what it is that we might do. The Turzai amendment, while it is praiseworthy, it is too far in the future. That issue is not ripe for review at this particular time.

Secondly, and last but not least, the Turzai amendment would open a door that will bring us face to face with a world that we are not prepared to deal with. Number one, I have not heard from any colleague on either side of the aisle that we are interested in capping noneconomic losses in products liability cases. I have not heard from a colleague from either side of the aisle expressing interest in capping noneconomic losses in catastrophic situations, like Flight 93. I have not heard a colleague from either side of the aisle express an interest in a broad brush of tort reform. Fundamentally I do not believe that our civil system is in such chaos that we should be tampering with one of the most precious documents that outline our path and our direction in this great State.

A constitutional amendment is not something that we must deal with lightly or take lightly. It is not something that we need to be treading on every time there is a proposed crisis. And in this particular case, I do not think a constitutional amendment is something that will bring relief, has within its capacity to provide relief, and will address the current crisis that we are currently faced with as it relates to practitioners in the Commonwealth of Pennsylvania.

I personally believe that the Rendell proposal, coupled with the giant steps that we have taken in this august body, will provide the kind of expeditious relief that doctors are looking for in the Commonwealth of Pennsylvania.

The Mcare (Medical Care Availability and Reduction of Error) legislation that was passed, the big step that we took with patient safety yesterday, coupled with the proposals that the Rendell administration has made as it relates to what the Pennsylvania Supreme Court should be doing, what the Insurance Commissioner should be doing, and what we should be doing in this legislative body – those two things together can bring about the kind of expeditious relief that our doctors are looking for.

So on behalf of the people of Pennsylvania who stand in the worst situation as it relates to this crisis, I ask my colleagues from both sides of the aisle, let us do what is right, what is fair, and what is timely. Vote “no” on the Turzai amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentlelady from Montgomery, Ms. Weber.

Ms. WEBER. Thank you, Mr. Speaker.

Today I rise in support of the Turzai amendment A1268, and I would like to state that today the people of Pennsylvania are faced in fact with a crisis, and the people of Pennsylvania are in jeopardy of losing access, their access, to quality and affordable health care. But more importantly, Mr. Speaker, the people of Pennsylvania deserve to be heard on ways that we can work to protect their health care, and that is what the Turzai amendment does. It allows the people of Pennsylvania to tell us, their legislators, what they would like to see done.

I can certainly appreciate and understand the controversial nature of setting a limit on a jury award for pain and suffering. Pain and suffering, by its very nature, is something that is very difficult to put a number on. Economic damages are not. You have, very easily, ways to quantify loss of earnings, both past and future; medical health-care costs, past and future. When it comes to pain and suffering, the same is not as easy.

To put a pricetag, if you will, on the suffering of a person does seem harsh, and quite simply, it seems petty. It seems petty

because living life the way you are accustomed to is hardly something you are capable of putting a pricetag on. But we have the simple reality that that happens every day in a courtroom, after an attorney stands and argues the case to a jury or a judge, setting or requesting a certain amount to be placed on pain and suffering.

While we need to understand that that is the reality of what happens in the courtrooms, we also must understand another reality of what goes on in a courtroom. Facts are what is to drive a jury in a deliberation room, not emotion. The reality is, emotion drives much of what goes on in a deliberation room.

As a prosecutor, in some particularly emotional and volatile cases, it would have been very easy for me to manipulate and play upon the fears of jurors to ensure a conviction. Nobody wants a murderer or a rapist living next to them, but more importantly, nobody wants to think of their loved one being murdered or being raped. However, as an attorney and as a prosecutor, I was not permitted to inject emotion into the deliberation process; I was not permitted to personalize it to the jurors, because the facts are to rule the day, not emotion.

Quite simply, placing a cap on noneconomic damages will rein in the emotion that is not to rule the day, but in reality, it is. The emotion is what is fueling these multimillion-dollar awards of recent time, and these multimillion-dollar awards are what is impacting the liability crisis we now have.

The effect of not having the caps, as detailed in the Turzai amendment, is seen and felt all across Pennsylvania in very different ways. We all know of the direct ways: the doctors are leaving Pennsylvania, our young medical students are not staying in Pennsylvania, and more importantly, our patients are waiting months to even see their doctor or to have a procedure or treatment done.

But there are also indirect ways that we are feeling the impact of not having caps to rein in these multimillion-dollar awards, and that is, with the simple cost of health insurance for families and for companies. We work for the State of Pennsylvania; we work for the Commonwealth. All of us in this room have insurance-care plans. There are small companies and medium-sized companies throughout the Commonwealth that find it increasingly difficult to afford the coverage and the plans that they offer to their employees. Many employees are now contributing in large part to their own plans.

But this begs the question, what can we as the General Assembly, as the House, do, and that is, to seriously consider and to vote in favor of the Turzai amendment, because it very simply asks one question. The question you are voting on today in this amendment is very broad: Should the voters of Pennsylvania be able to decide whether caps on noneconomic damages are appropriate? The question is, should the voters be in a position to say yes or no? If they tell us yes, then it is up to us to come back and work on the details.

Do not today get lost in dollar amounts, in setting specific limits. Pay attention to the broad aspect of what this amendment is doing. We can come back if the voters tell us yes to discuss when caps are appropriate, what amount or amounts are appropriate, in what cases they are appropriate, what exemptions or exclusions should apply, and the list goes on for those details.

Today we are only addressing one of the many still-needed solutions to the liability crisis, and in fact, today with the Turzai amendment, it is only the first part of one solution to

many. This is not going to end the liability crisis but is a step in the right direction. It is a step that I think is incumbent upon us all to take, because what we are doing is simply the democratic process. Let the voters decide. That is all this amendment is doing.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentlelady.

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

Mr. LEACH. Thank you, Mr. Speaker.

I rise in opposition to the Turzai amendment but perhaps for different reasons than some other people.

However, before I get to that, I just want to make a very brief statement in response to something that was said earlier on the floor where someone referred to people who take cases of injured people as parasites, and the fact is that, first of all, I think using terminology like that to describe an entire profession is beneath the dignity of the House; it is beneath what we should be doing as Representatives of the Commonwealth, including Representatives of people who take cases as plaintiffs' attorneys.

You know, I never did medical malpractice when I was a lawyer, but I knew a lot of lawyers who did, and I can tell you that whatever your position is on this issue, the lawyers who take these cases truly believe they are doing the Lord's work. They take cases where they have no money up front from people who cannot afford to pay them. The majority of these cases, they work hundreds of hours; they spend tens of thousands if not hundreds of thousands of dollars of their own money and get none of it back. Now, they want to make a living like we all want to make a living, and there are unscrupulous people in the legal profession just like there are unscrupulous people in every profession, but to say to the entire plaintiffs' bar that you are parasites dehumanizes people and I think takes the debate off an intellectual plane onto the sort of plane that we should try to avoid as responsible legislators.

Addressing the substance of the Turzai amendment, I agree with Representative Thomas that amending the Constitution is a sacred process. I, however, am one person who believes that predictability in verdicts and awards is a legitimate component of reform of the entire malpractice system. I could, under certain circumstances, support a caps amendment. However, I cannot support a caps amendment that does not contain a specific amount of money that we are talking about.

Someone said earlier that we should let the voters decide. If you really believe we should let the voters decide, then tell the voters what we are deciding on. I have an amendment that does this, and I know there are people on the other side of the aisle who have amendments that do this, because they know that some of the numbers bandied about may be reasonable; some are clearly not. Two hundred and fifty thousand is clearly not a reasonable figure. It is based on something that was passed in California. By the time this becomes law, over 30 years ago, it has already lost three-quarters of its value. You used to be able to get a hotel room and dinner for under \$2 during the Hoover administration, but who here would be satisfied with a \$2 per diem? Inflation matters. These are things we should discuss, and these are things the voters should know.

So I think the Turzai amendment, for people who support the idea of predictability and for the doctors who are looking for us to do something about that, is very counterproductive. I have

talked to several of my colleagues who say they could vote for a certain amount but they cannot vote for another amount, and you are not allowing us to amend the bill to make it more attractive to the legislature or to make it more attractive to the general public. This has to pass a referendum. Imagine how easy it is going to be to portray these caps as unreasonable when there is no dollar figure attached to the cap in the amendment. The people who oppose them will be able to take the lowest cap that anyone in this room has ever mentioned and say, this is what they really want. Two hundred and fifty thousand dollars for a teenager who is injured and lives a full life is about \$13 a day. Now, if you are permanently paralyzed because of medical malpractice, \$13 a day seems unreasonable. Let us amend this so we can present a reasonable proposal to the voters.

Another thing is, some of us want to amend it to create exceptions. This is the all-torts bill. This is what we call the going-for-the-gusto bill. There is no environmental lawsuit crisis in Pennsylvania. There is no tobacco lawsuit crisis in Pennsylvania. I do not even know; do we even have tobacco companies in Pennsylvania? There is no car accident crisis. We dealt with that ably a few years ago.

This bill, this amendment, makes all of these other amendments out of order, and we are going to wind up passing, if anything, a bill that is unpalatable and untenable. Give us an opportunity to create a bill that is reasonable and that could withstand the scrutiny of the voters, the scrutiny of the other body, the scrutiny of us when we revisit this in 2 years if it passes and that we can be proud of, and let us conduct this debate in an intellectual, dignified manner, going forward.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Philadelphia, Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Speaker.

Mr. Speaker, today's debate focuses on one narrow part of this problem, and that is damages. We are talking about capping damages. That is only one-third of the issue. The hospitals are getting killed because of surcharges, and people are complaining about contingency fees. What we are doing here today does not address those issues at all.

I have a letter here from an outfit called Bunin Associates, who says that in California, which instituted a cap of \$250,000 back in 1975, that cap is now \$1.5 million. Conversely, if you take today's medical costs of \$250,000 and you take it back to 1975, the cost is \$40,000. That is one.

In Time magazine, in the June edition, Weiss Ratings, an independent insurance-rating agency, says that in States without caps, the insurance premium has risen 36 percent; in States with caps, the insurance premium has risen 48 percent.

Another thing that we have heard constantly – and that is also in Time magazine's article – is that 5 percent of the doctors are responsible for more than a third of the total payout in the CAT Fund (Medical Professional Liability Catastrophe Loss Fund).

What I am saying here today, Mr. Speaker, is, we can talk about these statistics until we all glaze over. What I am asking this House to consider is, what is going to help our docs immediately in Pennsylvania? What is going to help them? And it is an issue that the Governor's proposal does not substantially address. He talks about taking \$200 million a year for the next 3 years. That is \$600 million. Estimates that I have heard put the

CAT Fund debt at a whopping \$2.5 billion. So what are we resolving? How are we making medical liability insurance available in Pennsylvania? If you do not make it available, Mr. Speaker, you are not making it affordable. So how do we help solve this problem today?

I know that every time there is a debate on the floor of the House, there is always someone who stands up and makes a motion to recommit. I rarely do that, because when I come to the floor, I come prepared, and I want to debate my issue, and I feel like I am entitled to have my day.

MOTION TO RECOMMIT

Mr. O'BRIEN. Reluctantly I come to the microphone today to in fact make a motion to recommit.

I ask the members of this House to join me for this reason: I am asking that we send a symbolic message to the administration and to our leadership on both sides of the aisle here and the leadership on both sides of the aisle in the Senate to do something that we have done for roads and bridges in Pennsylvania. If roads and bridges are important to people in Pennsylvania, then so is their health care. What we need in Pennsylvania is a dedicated funding source so that we can pay off the estimated \$2.5 billion in the CAT Fund. We have to establish a repository to accept new contributions so that we have a contingency fund that takes us over the downturns in the economic cycles, similar to what we have done, Mr. Speaker, from the 1977 budget battle experience. We have created rainy day funds and sunny day funds since 1977 to take us over the downturns in the economy.

I am asking that we do two things: We find a dedicated funding source to solve the unfunded debt of the CAT Fund and create a new fund that makes insurance for medical malpractice available and affordable in Pennsylvania and takes the hospitals out from under these abhorrent surcharges.

And I am not standing here without a solution. There is a program that has been instituted in Texas; it has been instituted in New Jersey. It is called a Driver Responsibility Program that levies fines; it would levy fines on Pennsylvania's worst drivers. It would make our streets and highways safe, but more importantly, it would generate an estimated \$125 to \$175 million. I am asking that we take a portion of that money, let us enact that program, take a portion of that money, and solve this program once and for all.

Mr. Speaker, we can sit here and talk about whose fault it is that we have a medical malpractice crisis in Pennsylvania. What I am asking you is, take the bull by the horns. I know I am asking for this bill to be recommitted to Judiciary. I know that we are not going to solve the problem in Judiciary. What I am asking you to do is ask the people that have the power to solve this problem to take this recommendation and act upon it.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman has made a motion to recommit HB 1326, PN 1888, with amendments, to the Committee on Judiciary.

On the question,

Will the House agree to the motion?

PARLIAMENTARY INQUIRY

Mr. DeWEESE. Mr. Speaker, point of parliamentary inquiry.

The SPEAKER. The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. Just for the record, would the term be "commit" or "recommit," since this proposal did not come from the Judiciary Committee?

The SPEAKER. The Parliamentarian tells me—

Mr. O'BRIEN. Mr. Speaker, I would like to amend my motion to commit this bill to Judiciary. Thank you.

The SPEAKER. The Parliamentarian says that either terminology would have been correct.

On that question, the gentleman, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, we have heard a lot of confusion in the debates about the Turzai amendment, and this is only the beginning of what can be a very, very long process. I believe Mr. O'Brien is correct that we ought to deal with the problem directly. What he has cited would be a solution.

I strongly support his motion to recommit or commit, since both are appropriate, this bill to the Judiciary Committee, and let us focus on other solutions to this problem.

This is a solution that creates tremendous costs to the citizens of Pennsylvania. What Mr. O'Brien suggests is not a solution that creates the same kind of horrific costs to the people of Pennsylvania.

I strongly support Mr. O'Brien's motion.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the motion to commit or recommit this bill to Judiciary, along with its amendments.

As everybody knows, all members of this chamber, this bill did not come through the Judiciary Committee, where constitutional amendments usually go.

Furthermore, and perhaps most importantly, is that for over a year the Commonwealth of Pennsylvania has been engaged in a debate over what to do about medical malpractice insurance premiums. The majority has rode that issue and Pennsylvania's physicians for well over a year, and here we are at the finish line, and the big switch is occurring, Mr. Speaker, because what is before us is not a constitutional amendment dealing with medical malpractice; it is an amendment to a bill that, if this amendment is adopted, provides a constitutional amendment which has very little to do with neurosurgeons and baby doctors but will protect the Enrons of the world, the Arthur Andersens of the world, the toxic waste dumpers of the world, by imposing caps on the people that would be injured by all of them.

Mr. Speaker, this bill cries out for the attention that it needs in the House Judiciary Committee. I support Chairman O'Brien's motion and urge the members of this House to vote in the affirmative, send this bill back to the Judiciary Committee, along with its amendments, so that proper attention could be paid.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

I rise in opposition to this motion to commit and/or recommit.

In the first instance, the fact or the contention that this issue has not been addressed or readdressed by the members of this General Assembly is just inaccurate. In the first instance, there have been hearings held on the issue of caps and other solutions to this insurance crisis: one in the Health and Human Services Committee – I was in attendance at that – one in Professional Licensure and Insurance; four majority Policy Committee hearings; and the Senate had a hearing in the Banking and Insurance Committee.

In addition, as the gentleman, I believe, from Luzerne County intimated, we have been discussing this issue, the issue of caps in the context of this crisis, for over 2 years. People are well aware of the factors in casting a vote and are ready to proceed. We understand what amending the Constitution is about. This is nothing more, to my fellow legislators and to the people, the citizens of Pennsylvania, this motion is nothing more than a stall tactic. This has nothing to do with whether or not they want to get to the heart of the crisis in terms of insurance, civil litigation reform – too many frivolous lawsuits, causing too much risk, causing too high of premiums. More than any other reform, this gets to the heart of the matter. Not alone does it speak to the issue, but this gets to the heart of the matter.

One final point: Dr. Loren Roth, UPMC (University of Pittsburgh Medical Center) medical director, when put forth the proposal to tax somebody to handle this problem, said, at a forum that I was at, that does nothing but reify – that was his verb choice – reify the issue. We are again looking for the big pocket. That is not the answer.

Let us get to the caps debate and let people cast their votes on the record: Do you or do you not want to allow the voters of Pennsylvania the opportunity to tell us that we can come back and draft statutory language that deals with caps – the arenas, the exceptions, and the dollar amounts? That is the issue.

Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I think the previous speaker's arguments against the motion to recommit might have some merit had this simply been a constitutional amendment to limit caps in the medical malpractice area, because in fact, that issue has been thoroughly debated. But the reality is, at the eleventh hour, we have sort of been presented with a Trojan horse. We have been presented with a situation with a much broader cap, which is going to have implications in areas that previous speakers have been alluding to – products liability, the environmental areas, and others – and we really have not thought through those implications.

I think, furthermore, changing the Constitution is an extremely serious area and should not be undertaken lightly, only in emergency situations, and that emergency situation has clearly not been demonstrated in other areas.

Now, the problem with the Turzai amendment is that it essentially guts all of the other amendments, thus squelching debate and potential modifications and the ideas of other members. So essentially, if we do not recommit this,

we essentially will be presented with Hobson's choice, essentially dealing with an overbroad constitutional amendment or nothing at all, and I do not think we ought to be faced with that choice. I think we ought to listen to the chair of the Judiciary Committee; recommit it; have that Judiciary Committee, which has the most experience in this area, work on this; and then when it is ready and appropriate, bring it back for floor consideration.

So I would support the motion to recommit.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Westmoreland, Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Speaker.

I rise in support of the motion to commit this particular bill and/or amendment back to the House Judiciary Committee, and clearly, the House is not in order. We have the maker of the original bill who says it is an emergency; then he turns around and files an amendment and says it is not an emergency. And then we have all the members of the House, and we have filed dozens of amendments to the original bill.

So it is not a clear-cut, simple issue, and it is complicated. It is not a simple issue; it is a very complicated issue. And thus, as members of the House and the people's House, we need to take that particular piece of legislation and dissect it and debate it in committee and come back to the full chamber with an organized bill that is ready to be voted on so that it solves the problem that currently exists not only in the medical community but with other tort issues as well.

Again I encourage the members to vote "yes" in favor of the recommitment. We are not prepared to act on this particular bill today.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. DeWeese. The gentleman, Mr. DeWeese, yields to the gentleman, Mr. Walko.

Mr. WALKO. Thank you, Mr. Speaker.

I rise to support this motion to recommit.

I wholeheartedly agree with the speaker who noted that the hearings we did have in the House Judiciary Committee did not deal with caps on products liability cases, did not deal with caps in a myriad of other types of cases.

I also want to note that we should endeavor to solve a lot of things that simple caps and amending the Constitution will not do when it comes to the medical malpractice insurance crisis. First of all, we need to look at Medicare and Medicaid reimbursements. The Washington Republican administration and the President are killing the States, killing doctors, and killing hospitals by not making those reimbursements adequate.

The disproportionate share payment cuts have put another stress on our hospitals, further complicating the situation, and we must deal with that in addressing the medical malpractice insurance crisis. Medicine errors dealing with prescriptions in hospitals, a lot of errors, and a lot of hospitals need systems to better manage the way in which their prescription drugs are applied and managed.

Finally, we need to address the fact that our nursing staffs are overworked, undercompensated, putting in extra long hours, and that indeed contributes to the malpractice crisis.

I want to say I wholeheartedly object to the characterization of the constitutional provision that we are looking to have the voters have a say in amending as a restriction. That is a

protection; that is a protection of the people of Pennsylvania so that their rights can be enforced when they are harmed so that they can get adequate compensation for real pain and real suffering. That is not a restriction. That is a right, a protection of a right, a protection of the right to prevent us from putting caps on when the political winds blow in one direction. We do not want to limit what people can get for their injuries; we do not want to limit what people can get for their pain and suffering based on the whims and the tides and this and that of the insurance industry. The fact that the insurance industry is in a crisis should not mean that we take away the rights of our citizens.

Yes, it was noted earlier, it is not as easy to determine what amount should be given to someone for their pain and suffering. It is virtually impossible. Is it possible for us to limit that? Is it possible for us to decide the cap on the pain and suffering? It is not possible. It will never be possible. What is possible – and it is still not perfect, I admit – is to have a jury, and I personally have a faith in the jury system in this country. I believe in the jury system. I believe that they better than us can determine on a case-by-case basis what the cap in that case should be. It is not easy, it is not easy when your spouse dies at the hands of a negligent doctor. How easy is it for you to pick that cap? It is not easy for me. How easy is it for you when your child is deformed under a doctor's negligent act and will never get to go to school, never get to fall in love, never get to be cool? How easy is it? It is not easy. I prefer—

The SPEAKER. The Chair would caution the gentleman that he is off the subject of recommitment.

Mr. WALKO. I would prefer that we recommit this legislation, reevaluate, and let the people rule.

Thank you, Mr. Speaker.

The SPEAKER. The Chair reluctantly recognizes the gentleman from Philadelphia, Mr. Myers.

Mr. MYERS. Mr. Speaker, I rise to support the motion for recommitment, but I want to do a little self-disclosure with regards to why. This is very personal to me.

My wife is 49 years old. I met her when she was 19. We raised each other.

Last May, driving to work, she got a headache; called me here in Harrisburg, told me, "Baby, don't worry about it; I'm going to be okay." Of course, I jumped in the car and drove straight down to Einstein - Northern Division in Philadelphia. They kept her overnight. During the night she had a stroke, an aneurysm, and brain surgery; 3 months of rehab. She came home. Sitting on the couch she had a heart attack. Back to the hospital, another aneurysm, and brain surgery again. Now, the neurosurgeon is saying she was being given too much coumadin. The cardiologist was saying that it was not enough. The more coumadin she gets, the more her brain bleeds. So now these two doctors are at each other's throat trying to determine which one was right and which one was not.

When I go home, whenever we get there, my wife is going to say to me, I thought you were upstairs, because she forgets. When I came back from Seattle over the weekend, there was chicken in the microwave that she was trying to cook me dinner and forgot to turn it on.

My wife was productive, worked every day, took care of me. I would not even have to buy my own clothes. I mean, you know how wives do, those of you all who have wives. And you know as husbands, you know how important it is to have a

partner. Think about the dreams. I mean, my whole life and hers was wrapped. When she inhales, I exhale, and it is being suggested to me that if I find out that one of those doctors did something negligent to take my dreams away— We cannot even go on a cruise together. I cannot leave her at home by herself, and you are suggesting to me that the voters ought to resolve this for me?

Like I said, this is like personal to me. I would not wish this on my worst enemy what I have to live with as I see the woman – she and I raised each other together – not the same woman and not ever will be. Now, how much is that worth? Is that worth \$250,000 to take my whole life away from me? To take the woman, the mother, friend, and reduce her to a child, that is worth \$250,000? A veterinarian could kill a horse and the owner get paid more than that.

See, it is easy for us to sit here in these chambers and make these kinds of decisions, being divorced from it affecting us, and I know if there is anybody else in this chamber, whether Democrat, Republican, or whatever, that if you have experienced what I am sharing with you now, you would know that it does not make any sense.

Now, I do not care how we get to it. I do not care which road we take, which route we pursue down. Yes, we have got to reduce the cost for doctors, but not at the expense of our loved ones. It is not a game. This is not about trying to get your name in the newspaper or trying to support a particular industry. This is about people, and, yes, I am against frivolous lawsuits, but does anyone think that what I am self-disclosing to you all now is frivolous?

I do not know what we have got to do and I would suggest that we do it, but I would also suggest that in good conscience I cannot support any public policy that I go home and look my wife in the eye and say, baby, all your life is worth today is \$250,000. She cannot work. It is a good thing I am a State Representative, because if I were not a State Representative, the insurance I probably would have had, she would have been dead last year, because you know they roll you in today and kick you out tomorrow.

I am not quite finished, but I am finished for now, and I would ask that we recommit this so we can give it some more consideration, so that we can give it some more thought. The voters are not going away. You say it is going to take two sessions anyway. Maybe by then some of us may have come to terms with the realities of life.

And again I want to say that what I am experiencing at home I would not wish this on anybody. I do not care how much I may have disdain for a person, I would not wish this on anybody, and I certainly am not going to be down with \$250,000 if I find out that somebody but through neglect harmed my wife who, like I said, for 30 years has been in my life.

I ask for a "yes" vote on recommitment.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Centre, Mr. Benninghoff.

Mr. BENNINGHOFF. Thank you, Mr. Speaker.

I suspect all of us have had personal experiences that we would maybe not want to talk about and not have to ever go through. Unfortunately, that is the story of life and it is a tough one.

What concerns me is what happens if we choose to do nothing. The idea of recommitting this, to me, is shirking our own responsibilities. You, the 203 members of this body, are representatives of the 12 million people of Pennsylvania. People trust us to come here and make decisions, not the easy ones all the time but some of the tough ones.

I have people back home who I am not necessarily going to want to have to face because they are not going to agree with it. As I said to a gentleman last week who yelled at me for something else, I said, if I could find that person that you could agree with on every single issue, I would vote for him, but frankly, you are not going to agree with somebody on every particular issue.

More importantly, this vote to recommit stops the process. The Turzai amendment is to get the process going, whether you believe it is going to be 6 months, 2 years, 4 years, or 6 years. The bottom line is, I remember when I started the petition in January for the special session for the emergency declaration, I was told we do not need to do that. The Senate said we can do that in regular session. Well, Mr. Speaker, we are 20 days before summer recess of the regular session and it is still not done. We had 6 months. We are in a crisis.

I am not going to belabor this debate. I am going to make two comments and sit down. But there was a report released recently by the Pew Charitable Trusts of Philadelphia, and in that report spent \$3.2 million on a research project designed to help policymakers, decisionmakers like ourselves, with objective information. It distinctively said that caps were an intricate part of this debate and needed to be implied. A study went on across the country. We are not making this decision arbitrarily. We are relying on information, a \$3.2 million study.

Let us make it a little personal. Take the little county of Huntingdon, not real big, rural midstate Pennsylvania, pretty normal living, pretty stable in their workforce, primarily in the medicine field. Well, they have two general surgeons, one is leaving; three radiologists, one is leaving; two obstetricians, one is leaving next month. They have two family physicians leaving as well. This is a very small community.

As you decide whether you are going to recommit or not, I would ask you to consider those families and what is going to happen. You be that orthopedic surgeon who is the only orthopedic surgeon for a whole county, or obstetrician. You know and I know when they are on call 24 hours a day, 365 days a year, it will not be long until they will be leaving as well.

So if we choose to recommit and do nothing today, we look at the people in Huntingdon County and say, I am sorry; you will have to go to the next county or the next county or maybe all the way to Geisinger for some help. I do not want to look at those people and say that.

I do not have all the answers either, but the bottom line is the process starts today with the Turzai amendment. Should we choose to recommit, the process ends and you will have to answer those individuals. This job is not meant to be easy. We are here to make tough decisions, and I encourage you to not vote to recommit this.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

I only stood to rise after the speaker immediately prior to me made the statement that a vote to recommit HB 1326 stops this process. Nothing could be farther from the truth. This process was started 2 1/2 years ago, and we have two bills on the calendar today that are related only to the question of our medical mal liability and premium crisis in this State. This bill opened up all of Pandora's box. This was sprung on us in the eleventh hour and fifty-ninth second.

The doctors who have talked to me over the course of the past 2 weeks never mentioned this bill to me. Anybody else who has talked to me over the course of the past few weeks has not mentioned this bill to me. So for anyone to stand and say recommitting this particular bill stops the process is just not being forthright.

We have the ability immediately after this bill is recommitted to take up two other measures that deal with the medical mal constitutional question. So I rise in support of recommitting this bill. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Turzai.

Mr. TURZAI. Thank you very much, Mr. Speaker.

You know, the gentleman from Centre County I think got to the heart of the matter. All of us in our daily lives as human beings are going to encounter sad and sympathetic circumstances, and the fact of the matter is not every bad outcome means that there needs to be finger-pointing or blame.

I had an individual write me in support of amending the Constitution, because he said in our daily lives we have lost any sense of trust or community relationship with one another because every one of us in the pursuit of our lives is afraid of being sued. My goodness, I certainly feel for the personal tragedies in everyone's life, but as we endure those tragedies, should the first question be, who can I sue? How have we changed the dynamic of being a human being in Pennsylvania and in this society and are we willing to address it? Because I think, as the Representative from Monroe County said earlier, there is a body of individuals who are willing to take advantage of our sadnesses, our miseries, and turn them into profit and turn us against one another. That is what this is about.

Now, the fact of the matter is this does get to the idea of the real risk that is at hand, and I can tell you from firsthand I had a father that passed away in October of last year and he was 81, but I suffered a loss just like anybody here would suffer a loss with the loss of that parent, and you know, during those last months he had some bedsores that arose maybe from care. I do not know. Does it or does it not affect the length of his life or the quality of those last months? But the fact of the matter is he was going to pass away, and it was tough, and you do not go looking for somebody to sue in every circumstance so that you can get a buck.

The tort system is about truly negligent acts – one, element; two, causation that in fact cause real injuries and damages, and the fact of the matter is that we have gotten far astray from what the tort system was designed to do. Number one, that is the first point.

The second point is this: With all due respect to my colleague from Philadelphia County, that speech may be a very appropriate speech in the year 2005. If somebody introduces a statute after the voters in this State have said that it is okay to

remove that restriction and we are discussing the details of legislation that is before everybody in this body, you will have that opportunity to discuss that fact pattern given the specifics of the legislation that is introduced.

Three things that we can ultimately all discuss at that day and at that time, which is not today: one, you can talk about the various fact patterns – the frivolous suits on the one hand of the timeline and the real tragedies on the other hand of the timeline – and you can come up with a response, a legislative response, like they have in 34 other States to address those different fact patterns. You can address exceptions, whether or not intentional behavior should be excluded like we did in joint and several liability, and you can finally address amounts. Not one single person here today mentioned \$250,000. That may or may not come up in 2005, and the fact of the matter is this amendment in HB 1326 makes no reference nor should it make any reference in amending our Constitution, which is our threshold question.

I ask my colleague from Philadelphia County if and when a bill is introduced in 2005, should the people of Pennsylvania approve the amendment process and somebody introduces that bill, to come up and eloquently state his case on that day. Some of us may or may not be here. I suspect he will be here and he will have that opportunity.

This is, Mr. Speaker, this is a motion to stop ultimately putting your vote out there for the public to see. Are you giving them ultimately the opportunity to remove this restriction in the Constitution or not? I submit to every one of you here, here is your opportunity to stand up and be counted. Vote “no” on this motion, and then you will have an opportunity to vote “yes” or “no” on the amendment and you can tell everybody where you stand. If you are like my colleague from Philadelphia County, then you can resoundingly put up a “no” vote on that floor when we address this amendment, and you have the opportunity to do so by first rejecting this motion.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

But the debate is getting far afield of the O’Brien motion to recommit to Judiciary. So we will have to limit the debate to that point.

With that being said, the Chair recognizes the gentleman from Venango, Mr. Hutchinson.

Mr. HUTCHINSON. Thank you, Mr. Speaker.

I rise against the motion to recommit this.

Mr. Speaker, we have a crisis in Pennsylvania, and we must move forward with this process. I know there is a lot of talk about crises and the effect that this may or may not have on individuals’ cases, but let us think today about the women of Pennsylvania in many communities, many of the small communities and even some larger communities, who will be unable to have their children delivered in a hospital near their home because there are no OB-GYN (obstetrics-gynecology) doctors nearby. If we do not move forward with this process, we will not be able to stop the outflow of doctors from Pennsylvania.

Let us think of another example. It was talked earlier about accidents and traumas that occur in Pennsylvania. What are we going to do when there are no trauma centers available without hours and hours of travel because they have all closed in Pennsylvania because medical malpractice insurance is not available? These are examples of the ways that the people of

Pennsylvania are being hurt by us delaying moving the process forward.

To commit this bill back to committee is to tell the women of Pennsylvania that we do not care if you can have your baby close to home; it is to tell the people of Pennsylvania we hope you do not have an accident in Pennsylvania because your care is going to be hours away.

Mr. Speaker, I urge that we defeat this move to recommit. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Indiana, Mr. Reed.

Mr. REED. Mr. Speaker, I rise today in opposition of the motion to recommit HB 1326.

The time has come, make no mistake about it, for this body, for the representative body of the people of Pennsylvania, to act to curb the ever-escalating crisis we find ourselves in in Pennsylvania as a result of the escalating and skyrocketing medical malpractice rates. The time has come for us to act and to act immediately, not to put off for another day what can be done today to save the quality of health care here in the Commonwealth of Pennsylvania.

Now, personally, I, like many of you, probably believe that this action does not belong at the State level. Perhaps it should be done at the Federal level. Perhaps the Federal government should take the lead. After all, do we really want Pennsylvania competing with California for top-quality doctors? Do we really want Maryland competing with Ohio or Delaware with New York? Do we really want our States competing for top-quality doctors and top-quality health care? The answer of course is no. Ideally, in a Utopia, in the ideal world, this would be done at the Federal level, this would be taken care of, and all across our great nation would have top access to top-notch doctors and top-quality health care. But unfortunately, unfortunately, the lack of action on the part of our Federal officials over the years has brought this issue back into our own hands. The problem is ours, and we must deal with it.

Pennsylvania, this body, on behalf of the patients, not just the voters but the patients that each and every one of you represent, has a duty, and that duty has become abundantly clear over the last couple of years. An issue, an issue this important, an issue that will have such a dramatic impact on the future of health care, on the future of health care that your children, your grandchildren, your great-grandchildren have in their lifetimes is so important, so important because today we get a chance to decide whether our grandchildren and great-grandchildren will either have to suffer through subquality health care or whether they will be able to thrive in an atmosphere that provides health care that all are able to have access to.

On this issue we must also recognize our own shortcomings. We must realize that this is not a problem that happened overnight. Much of the reason we now find ourselves within a crisis is because of a lack of action on our own parts. Thus we, the elected Representatives, the elected Representatives of the people of Pennsylvania, must have the courage. We must have the courage to check our egos at the door. We must have the courage to put our pride aside for this one time. We must have the courage, the courage to return the power, the power entrusted in each and every one of us by the voters that we represent, to return that power to the people, to return that power to the people that we represent, the patients that stand to suffer the most by a lack of action by this body today.

Today, make no mistake about it, is not about whether you support or oppose caps. I certainly would support such measures, but today is about trust; today is about faith. Do you, the men and women of the Commonwealth of Pennsylvania, the men and women of this elected body, the men and women who just a few months ago asked your voters to have faith and trust in your own abilities, do you have that same faith, that same trust in the voters that you represent? Do you have that faith? Do you believe in the power of the people? Do you believe in them? Because if you do, you have the chance to give the power back to the people. You have the chance to give the people's government back to the people of Pennsylvania. That I ask in opposition to the motion to recommit.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I oppose the motion to recommit, and by analogy it has been said Pennsylvania is in a state of crisis. We have one of the world's best health-care systems right here in our own State, and we are watching as it deteriorates, as one by one some of the very best leave our State.

Collectively I think it is akin to the losses we have suffered in the past. In the west we lost the steel industry, and when we lost it, it was not coming back. If we lose this economic engine, if we lose the quality-of-life advantage that Pennsylvania offers because of the great health care, it is not coming back. In fact, the health-care system is in a state of emergency. We today are the emergency room. The motion to recommit is akin to telling a dire, dire patient to go back to the waiting room; we are not going to look at you just now. That would be malpractice. Now, of course, as legislators we are immune from being sued for that malpractice.

Now, I suggest to you that this proposal is simple. Those who say we should recommit because it is confusing are confused. The proposal is simple. It is one sentence. What would be before the voters is one sentence. I have faith in the intelligence of the voters. I hope you do, too. They sent you here. I would hope that you would regard that as some measure of voters having the capability to sort out whether they agree or disagree with a single sentence.

A lot of the issues that have been raised in this discussion about the motion to recommit are confusing, because while they are important questions, and every one of these questions merits our attention, but we cannot address those questions that were discussed today without the permission of the people in the form of a constitutional amendment.

So if you really care about those questions and if you really are interested in the solutions to those questions that you are raising, the only course at this point is to trust the people, ask the people for permission so that we can treat this direly ill patient.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. Very quickly, Mr. Speaker. I was not going to get up a second time until the gentleman from Allegheny County, who was the maker of the previous amendment, got up and suggested that recommitting this would stop the process,

because the reality is, by him at the last minute introducing this amendment which expanded the issue exponentially and added great controversy to the issue, he has slowed this process and has risked slowing this process down.

I think the reality is, by moving it back to the Judiciary, we can take some of the controversy out of it and ultimately get to a solution quicker. By moving, by running with a more controversial amendment, we risk jeopardizing the solution in two ways. The first way is, because it is overly broad, it is more likely to be rejected by the voters. So when we get to 2005 and the voters realize how broad this is, they are more likely to say no, and where does that leave the doctors in 2005?

The second way this controversial amendment slows down the process is, even if we pass it this term, we get to next term and again we are faced with controversy. So the legislature itself is more likely to reject it next term. So by adding this controversy, on two separate counts we are more likely to slow down the process.

The reality is, by simply moving it back to the Judiciary Committee to clean it up, we are not losing any time, because as long as we pass it this session for the first time, be it passing it in June or September or October, we can still get our first time in and we are not delaying its ultimate passage one single day. In fact, if you believe in a solution to this, you really maximize the chances that we will be getting a good solution as early as possible.

So for those reasons I would ask that this be recommitted, and I would ask for a "yes" vote on this motion.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lackawanna, Mr. Cawley.

Mr. CAWLEY. Thank you, Mr. Speaker.

Mr. Speaker, at the end of last session I introduced a bill which would have asked the public to give us permission to change the Constitution regarding medical malpractice awards. I felt that that was necessary then; I believe it is necessary now. And I would like the people that I represent, before this vote is to be taken, I want them to know that I will vote on a medical malpractice referendum; I will vote on an emergency for it. I will vote on it even if it is every two sessions what this proposal is going to do.

This is where the crisis has been in Pennsylvania for the past 3 or 4 years – medical malpractice. We have this bill that is loaded up, as was mentioned before, very controversial. We have no ramifications as to what will happen with all of those other tort companies across Pennsylvania.

Someone mentioned pollution. I know I have 500,000 tons of battery casings buried up in Throop, Pennsylvania, which we cannot get taken care of.

I want the doctors to know – I just told a doctor out back – I support a referendum on medical malpractice awards and I support us getting the permission to limit the awards on noneconomic damages, but I will not support something like this which was just thrown together by some people who are greedy out in Pennsylvania and given to the legislature to add all of those people on this bill. And I know of no insurance companies in Pennsylvania that have liability policies that are in trouble. The only people that are in trouble in Pennsylvania are the insurance people who are carrying liability on medical malpractice. We all know this is what the issue is – medical malpractice.

And I want the doctors to know – and I do not support this if this comes to a vote – I want them to know I was not giving them a lame excuse. I will support putting a cap on medical malpractice awards, but I will not be part of this. We have no idea where this bill is going to bring us.

I ask everyone to please vote to commit this and bring out the medical malpractice bills that we have on the calendar.

Thank you.

The SPEAKER. We are far afield of the motion to recommit.

The Chair recognizes the gentlelady from Montgomery, Ms. Bard.

Ms. BARD. Thank you, Mr. Speaker.

The motion to recommit is a motion to recommit emergency provisions of the Constitution to address the medical liability issue. HB 1326 provides for an emergency amendment to the Constitution dealing with medical liability. The amendment that was being debated at the time the motion to recommit was made was an amendment which expanded the provisions of that constitutional amendment.

Mr. Speaker, if we recommit HB 1326, we will have lost an extremely valuable opportunity, an opportunity that could eventually ultimately save lives by addressing this issue, by keeping doctors in Pennsylvania, by bringing new doctors potentially into Pennsylvania, and most importantly, by allowing the patients of Pennsylvania to have the opportunity to have a quality health-care system.

There are 46 States which do not have the constitutional prohibition that we have here in Pennsylvania. Only four States prohibit caps. Pennsylvania is one of those four States. This is a serious impediment to dealing with our medical liability crisis.

It has often been said that there is no one solution, no silver bullet to defend our medical system, our health-care services; no silver bullet for that defense. This, however, is part of that defense. The voters of Pennsylvania must be given an opportunity to amend the Constitution. They must be given the opportunity to have the choice that has been made in 34 other States to have some form of caps. If we stop that process now, we are not doing justice to the health-care system of Pennsylvania. We must not recommit. This is a critical issue for the State of Pennsylvania. We must deal with it. We must vote on the Turzai amendment perhaps. Perhaps that will be defeated; that is a different matter. The motion to recommit is a motion to turn our backs on the crisis that we should be dealing with in Pennsylvania.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentlelady.

It has been brought to the attention of the Chair that visual aids are not a fair way to represent what is going on here in the House, but that being said, the Chair recognizes the gentleman from Lawrence, Mr. LaGrotta.

Mr. LaGROTTA. Thank you, Mr. Speaker.

I needed, Mr. Speaker, just as an aside, to point out that I actually had to turn this inside out in order to get up and speak, because the other side has a couple of advertisements for attorneys back in my district – 1-800.

Mr. Speaker, I would like to take your admonition very seriously and adhere to the motion to recommit and talk about the argument against the motion to recommit that many have made here today when in fact they have stuck to the subject matter, and that is that voting for this motion would delay the recovery that we are seeking for our physicians.

Mr. Speaker, as the gentleman, Mr. Vitali, pointed out, if we pass the Turzai amendment today or we pass it at midnight on November 30, 2004, we have not moved towards a solution for our physicians one second quicker. The truth of the matter is that anyone who is in favor of solving this problem quickly would vote to recommit or to commit this bill, and then, Mr. Speaker, we can turn to the next page on the calendar and immediately consider HB 1446, which is an emergency legislative initiative to solve the doctors' problems and the doctors' problems alone.

Mr. Speaker, like every other member of this General Assembly, I receive phone calls every day from constituents worried about doctors, not worried about drill companies; worried about obstetricians, not worried about people who manufacture stepladders.

Mr. Speaker, to take what has been characterized as an immediate crisis for our physicians and suddenly inject product liability as a blanket amendment was more than just an eleventh-hour end run; it was absolutely downright wrong.

We have a problem, Mr. Speaker. We need to solve it. We need not delay by considering a blanket product amendment. We need to move quickly, recommit this, move on to HB 1446, and really get to the heart of the matter that Pennsylvanians are concerned about, and that is solving the problem of high medical malpractice insurance premiums.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. SCHRODER. Thank you, Mr. Speaker.

You know, Mr. Speaker, I can hardly believe what I am hearing from some of the speakers here this afternoon on this motion to recommit. You know, some seem to be suggesting that they would support this if it was limited to med mal only but somehow cannot because it might include other cause of actions. Well, Mr. Speaker, I recall many of these same people being against the original version of HB 1802, which later became the Mcare Act, both speaking against it and voting against it because it contained caps last year. Mr. Speaker, it seems that we have a lot of people who somehow want to have it both ways in this General Assembly. Well, they were against caps then, and now all of a sudden, because we are really doing something about it today with a constitutional amendment, well, now all of a sudden they are for it if only we, you know, vote to recommit and dress it up a little bit and, you know, do a few things and send it out again a little later on this year. So, Mr. Speaker, let us not be fooled by this, what I see as ostensibly a subterfuge. We need to get going with this.

Now, there were a couple other comments made that I would like to comment on. I think we have been presented really with a false choice. There are people who suggested that because the Governor made some recommendations yesterday and there are some other ideas out there, that we should not go any further on this today. Well, Mr. Speaker, there is no reason why we should not take this much-needed, very long term systemic change, take this step, and we can still review all of the Governor's suggestions and recommendations yesterday as well as any others that are out there for both short-term and long-term solutions to this problem. So we are not talking about two mutually exclusive proposals or concepts here by any means.

Now, Mr. Speaker, you know, in a very emotional speech someone asked, you know, how much is it worth? And, Mr. Speaker, I do not know if anyone can really answer that question with any accuracy, but I would like to pose, you know, how much is it worth to repair and save our health-care system? You know, Mr. Speaker, for every person that is affected by the medical malpractice situation, there are many, many, many thousands of others who receive vital and life-saving medical care. Mr. Speaker, we need, for the benefit of our citizens, our loved ones, and the people that we represent, we need to make sure that that system is there for them, that the neurosurgeons are there for those who are seriously injured, that the OB-GYNs are there for those who are having their babies.

Mr. Speaker, make no mistake about it, voting to recommit this bill is a step in the wrong direction. It will stop the process that Representative Turzai has started here today. So I would urge a “no” vote on recommitment.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the minority leader, Representative DeWeese.

Mr. DeWEESE. The gentleman is wrong; the gentleman is wrong, incontrovertibly off target in his argument. It will not stop the process. A recommitment will get the process going.

The gentleman embraces the idea proffered by the young man from Allegheny County, the prime sponsor of the measure. We have heard all kinds of ululations in the past series of weeks about the desperate case of Pennsylvania’s malpractice circumstance, and yet the language that has been engendered in this proposal would not allow the mechanisms of State government to engender a response until 2005 at the earliest. It would take until 2006 for the statutory language to be developed and probably, in all realistic appraisals, until 2007 before doctors, neurosurgeons, and OB-GYNs, et al, were allowed any relief.

The gentleman from Allegheny County said at the beginning of this debate on recommitment that Chairman O’Brien’s request that this very arcane measure go to the Judiciary Committee was a stall tactic. I would countercomment that his bill is a stall tactic for doctors. If he wants to do something about doctors, as has been said again and again by Mr. Vitali and Mr. LaGrotta, all he has to do is go to page 4 of today’s calendar and let us vote on HB 1446. Now, I will not vote in favor of that measure, but nevertheless, it will be a fair appraisal of what the mood of the General Assembly on the House side is.

You, sir, from Allegheny County are using doctors, you are using doctors to get at your ultimate goal, and your ultimate goal is a general sweeping tort change in the State of Pennsylvania, and as has been mentioned by some of my friends on this side of the aisle, that would deal with all kinds of mischief being perpetrated in nursing homes. It would have a deleterious effect on all kinds of toxic waste sites in Pennsylvania. It would allow for a diminished return to people who were aggrieved by the Enrons and the Arthur Andersens of the world. It is a very, very cosmic change that you are asking for, and you are asking for a slow freight to Armageddon, Mr. Speaker, because it will take at least 3 or 4 years before you realize any savings for doctors.

There is a countervailing effort; it is on page 4. I think it is full of odium and villainy, but I will at least like to see you men and women of the General Assembly vote on 1446 – it is

medical malpractice reform, in your own vocabulary, medical malpractice reform – 1446, up or down. We can do it with an emergency that you have all talked about in your innumerable press releases, or you can dither – hither, thither, and yon – with this kind of thing. We do not sacrifice our momentum and the efficacy of our arguments if we indeed recommit this to Judiciary. It should be recommitted, and I would ask for an affirmative vote.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware, Mr. Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

The Democrat leader is off target; he is wrong. He is wrong and he is off target.

Every doctor in Pennsylvania knows that this is not going to change or lower their medical malpractice insurance premiums overnight. This is about predictability. Just as predictable as you are wrong on issues, the insurance industry, especially the medical malpractice insurance carriers, need predictability. That is what the cap issue is all about.

I have a son who is going to be operated on Monday. I had to beg, borrow, and steal to keep that neurosurgeon to operate on my son on Monday. He is leaving the Philadelphia area soon after that operation. That is the crisis.

We have done these issues one at a time. This is not the end of the issue. We need to do more. Okay? But you are wrong. It is a delaying tactic, and we need to move on.

Thank you very much, and I ask my colleagues to vote “no” on the recommitment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the majority leader, Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

You know, listening to the debate not only on the amendment but on the motion to recommit, it seems that people are kind of all over the board. Some are saying hurry up; this amendment will take too long and it will not have an effect. Some are saying slow down; we need to think about it more; we need to recommit the bill to committee.

If this amendment and this bill, if it is too broad as a constitutional amendment, if that is the question, I have got to answer that a little bit even though it maybe gets outside the realm of whether to recommit or not. The fact is, the amendment before that you are asking to be recommitted with the bill in fact is as simple as it gets. When you do a constitutional amendment, the one thing we know for sure is that we are not going to get away with asking multiple questions. So there is a reason to look at this from a very simple perspective in terms of the way that amendment is actually drafted to the bill.

Does this solve the problem in and of itself? No, it is not the single solution to this problem. None of us have ever held out that putting some type of cap on noneconomic damages was going to solve the problem in and of itself. We have passed other legislation; we will continue to look at other legislation that is going to address this.

No matter what we do here today, the fact is, we still have a crisis, as the gentleman from Delaware County just mentioned; we still have a crisis that is facing us right now. The Governor spoke about it yesterday at his press conference, but from what

I can tell, he did not really give us the solution either. The solution to the immediate short-term crisis may be that we have to figure out a way to fund the unfunded liability or to stem the cost of the surcharge that the doctors are being hit with. That is what the gentleman that made the motion to recommit was saying. We must do something about the short-term problem, but if we are going to fight over the short-term problem, we cannot throw out long-term solutions to the problem either. This is part of a long-term solution.

Someone earlier said we need to send a message. I love the old “send a message”: send a message to the Senate, send a message to the Governor, send a message to the people of Pennsylvania. Well, I am afraid that if we recommit this bill and this amendment today, the message we will be sending is one to the medical community, the medical providers in Pennsylvania. The message will be, we do not care about you; go ahead and leave; we are not going to continue to work on your problem. That is the message that you are sending if you vote to recommit this bill today, if you vote to recommit it along with this amendment. That is the message we are sending.

Remember, even if you do not like the amendment, the underlying bill that you are sending back that many of you said we need to address – I think the minority leader just said it almost; he might have confused me a little bit – the underlying bill deals directly with the medical malpractice issue. If you do not like the amendment, then why are you sending the whole bill back? It makes no sense to me. The message you are sending today, if you vote to recommit this bill, is, goodbye, doctor.

I got to tell you, I am one of the luckiest people in the world. I have a healthy family – my wife, two kids. I am so lucky because I do not have some of the problems that other people have faced when it comes to medical issues, and I thank God every day for that blessing. And there are some bad stories out there; there are some very personal, emotional stories that can drive around this whole issue of medical malpractice insurance and good doctors and bad doctors. There are some dramatic stories; there is no question about it, and we need to think about those stories, but we cannot be driven totally by the emotion of those issues. We have to look beyond that emotion. As was said before, the debate about what is or what is not capped and under what circumstances and to what amount, that is not even under discussion today.

This bill and this amendment need to move forward. We need to vote against the motion to recommit, because that is a long and arduous process. Once we get through that, we will get into that emotional stuff if we have to, but we have to look beyond the emotion and look at the facts of the situation. The facts are, if you vote to recommit this bill today, you are voting to say goodbye to the doctors in Pennsylvania.

I urge a “no” vote on the motion to recommit.

The SPEAKER. The Chair recognizes the gentleman from Greene, Mr. DeWeese.

Mr. DeWEESE. Calmly, almost sedately, I want to countervail the comments I just monitored from my good friend and worthy opponent from Jefferson County. I would politely remind my own colleagues on the Democratic side and really everyone in the chamber that if we vote to recommit this, we are not sending a bad message to the doctors. Quite the contrary, I think we are sending a favorable message to the doctors, at

least people like Mr. Cawley, the gentleman from Lackawanna, and others on my side of the aisle who identify favorably with Mr. Turzai’s issue.

There is no shortcutting of any process or no elongating of any process that cannot be met immediately and effectively by my honorable colleague. If we are successful in this recommittal motion, the long arm of the majority leader could reach into the process and pull up HB 1446 for an immediate vote. He has that authorization. 1446 deals uniquely, singularly with medical malpractice. The debate would roll forward. Pennsylvania’s medical community would be the beneficiary and hopefully the constituents of our districts would be the beneficiary of a farflung commentary or series of commentaries here today on the floor.

He is inaccurately assessing the situation when he says if we vote to recommit, that we have to go back and tell our doctors that our behavior was reprehensible and wrongheaded and shortsighted. No, no, no, no. All we do if this is recommitted to Judiciary, since it deals with potential toxic waste sites, it deals with potential defective lawnmowers, it deals with all kinds of mischief that might go on in a nursing home, this cosmic bill that we want to recommit to Mr. O’Brien’s, my Republican colleague from the Judiciary chairmanship, we want to recommit it to his committee, then my honorable colleague, the majority leader of this House, the new, young majority leader from Jefferson County, can say, Mr. Speaker, I call for an immediate vote, 1446. He has that within his power. To suggest anything other is disingenuous.

The SPEAKER. The Chair thanks the gentleman.

The motion before the body made by Representative O’Brien is to recommit HB 1326, PN 1888, along with amendments, to the Judiciary Committee.

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

The following roll call was recorded:

YEAS—94

Bebko-Jones	Evans, J.	Lederer	Santoni
Belardi	Fabrizio	Lescovitz	Scrimenti
Belfanti	Frankel	Levdansky	Solobay
Biancucci	Freeman	Manderino	Staback
Bishop	Gannon	McGeehan	Stairs
Blaum	George	McNaughton	Stetler
Butkovitz	Gergely	Melio	Sturla
Buxton	Goodman	Micozzie	Tangretti
Caltagirone	Gordner	Mundy	Thomas
Casorio	Grucela	Myers	Tigue
Cawley	Haluska	O’Brien	Travaglio
Cohen	Hanna	Oliver	Veon
Corrigan	Harhai	Pallone	Vitali
Costa	Harper	Petrarca	Walko
Cruz	Hennessey	Pistella	Wansacz
Curry	Horsey	Preston	Washington
Daley	James	Rieger	Waters
DeLuca	Josephs	Roberts	Wheatley
Dermody	Keller	Roebuck	Williams
DeWeese	Kirkland	Rooney	Wojnaroski
Diven	Kotik	Ruffing	Yewcic
Donatucci	LaGrotta	Sainato	Youngblood
Eachus	Laughlin	Samuelson	Yudichak
Evans, D.	Leach		

NAYS—97

Adolph	DiGirolamo	Mackereth	Rubley
Allen	Fairchild	Maher	Sather
Argall	Feese	Maitland	Saylor
Armstrong	Fichter	Major	Scavello
Baker	Fleagle	Mann	Schroder
Baldwin	Flick	Markosek	Semmel
Bard	Forcier	Marsico	Shaner
Barrar	Gabig	McGill	Smith, B.
Bastian	Geist	McIlhattan	Smith, S. H.
Benninghoff	Gillespie	McIlhinney	Steil
Birmelin	Gingrich	Metcalfe	Stern
Boyd	Godshall	Miller, R.	Stevenson, R.
Browne	Habay	Miller, S.	Taylor, E. Z.
Bunt	Harhart	Nailor	True
Cappelli	Harris	Nickol	Turzai
Causar	Hasay	O'Neill	Vance
Civera	Herman	Petri	Watson
Clymer	Hershey	Phillips	Weber
Coleman	Hess	Pickett	Wilt
Cornell	Hickernell	Raymond	Wright
Coy	Hutchinson	Readshaw	Zug
Crahalla	Kenney	Reed	
Dailey	Leh	Reichley	
Dally	Lewis	Rohrer	Perzel,
Denlinger	Lynch	Ross	Speaker

NOT VOTING—8

Creighton	McCall	Petrone	Surra
Egolf	Payne	Stevenson, T.	Taylor, J.

EXCUSED—1

Gruitza

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

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

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Montgomery, Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

Mr. Speaker, we have heard a lot about the California system and what the California system is or is not. I did a little digging into the California system. I talked to the people in California pertaining to what and why they have the system that they have. The California system was put together because of a crisis in California similar to what we have here in Pennsylvania.

Data gathered at that time showed that at the end of 1972, malpractice insurance carriers had loss ratios of 150 percent. In other words, they were paying claims in excess of \$150 for each \$100 collected in premiums. When operating costs were added, the loss ratio rose to approximately \$180 out of every \$100 premium collected. The result was the destabilization of the medical liability insurance market. Then two of the three insurance companies pulled out, another one raised rates 380 percent to recoup these losses. This is why MICRA (Medical Injury Compensation Reform Act) came into place.

Also, it is very interesting, Mr. Speaker, according to Time magazine last week, the second leading insurance medical malpractice insurance carrier in California decided to go outside of the State. The company's name is

SCPIE Holdings, Incorporated. They went into two other States, and they started to insure high-risk doctors and also insuring dentists. After 2 years their loss ratios were going through the roof, according to Time magazine. Even though they increased their rates substantially, in 2 years the firm had posted \$96 million in losses over those 2 years – \$96 million in the two States outside of California. That was enough for the company to change direction and move back into California. As the owner of the company said, he is not going to go outside of California to any State that does not put tort reform and caps in place, which he credits for a stable market in the State of California.

Last spring, spring a year ago, we met with 10 companies in Philadelphia, approximately 10 companies, asking them what it would take to come back into this State. Number one was predictability, predictability with caps on noneconomic damages. This is what they told us was necessary to come into the State of Pennsylvania.

Just today I got a letter from Eagleville Hospital in Montgomery County, which is calling for a meeting among the legislators down there. Eagleville Hospital has experienced an 874-percent increase in insurance costs since the year 2000, in the last 2 years. This is what our hospitals and our doctors are going through on a daily basis.

We do have a crisis in Pennsylvania. It is a serious crisis in Pennsylvania. It is a crisis that is portrayed on all of our citizens in southeastern Pennsylvania and across the State of Pennsylvania. It is access to medicine; it is access to quality medicine. We have very few if any doctors, any residents, that are coming and staying in Pennsylvania even though they are taught here. If we do not do something now and do it quickly, we will be the losers, our constituents will be the losers, and the State of Pennsylvania will be the loser.

I just wanted to clarify one other thing that was brought up also about the number of doctors that are causing the loss of funds or a high percentage of the funds coming out of the CAT Fund in awards. I have a letter here from the Medical CAT Fund, and I asked specifically that question, and I just have a couple of paragraphs here I would like to read:

“During the life of the Fund...41,664 catastrophic physician claims were reported against 18,380 individual physicians. Clearly, a substantial proportion of the permanent physician population has been the subject of major claims. Fortunately, of those reported physician claims, only 6,933 have thus far resulted in Fund payment on behalf of 5,107 individual physicians. Nearly 80% of those physicians have only one paid claim at the Fund level. However, included among the ranks of the physicians having more than one paid claim are some of the recognized ‘stars’ of the medical profession.”

And this is really important. It is in the last paragraph:

“Set forth below is a breakout of the number of claims settled per physician and the associated proportion of total number of claims and cost. You will note that nearly 90% of the money is for physicians having 3 or fewer claims, with nearly 60% of the total money spent on behalf of physicians with only 1 claim.”

So the facts and figures that have been thrown around and have been in print, you know, are just plain not so, at least according to the records of the Medical CAT Fund people in Pennsylvania.

I think it is time to act and it is time to act now, and I am most hopeful and I know there are a lot of doctors in Pennsylvania that are most hopeful that we will go forward with this amendment today.

Thank you.

THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Elk County, Mr. Surra, on the amendment.

Mr. SURRA. Thank you, Madam Speaker.

Madam Speaker, I rise to speak against the Turzai amendment, and I think it is important that we are all here and we all want to do something about medical malpractice. It is very unfortunate that we finally get a bill before the House, and now we are dealing with amendments that do full tort reform.

We are going to ask the people of Pennsylvania, instead of dealing with the medical malpractice issue, which we have all been talking about for the last year or so, now we are going to start protecting sludge dumpers, chemical waste people, like Representative Blaum mentioned, Enron, walt.coms. This does not have to be this way, Madam Speaker.

The bill as it currently stands, before this amendment had been offered, basically deals with medical malpractice and putting that on the ballot this fall. This would at least deal with doctors and their problem and deal with it in a timely manner. This amendment is full-blown tort reform, will take many years. In fact, the soonest it can be put on the ballot is in 2005, and then the General Assembly will be authorized to enact the enabling legislation. It could be a decade before this does any relief for our doctors.

So that is why I am a little bit confused at the Turzai amendment and I ask that we vote "no," for those reasons, because it is full tort reform. Obviously it is not an emergency anymore, because now we can take a number of years to deal with this problem. This will not help our doctors. You talk about the doctors that are leaving? They are still going to leave. They are not going to wait around 4, 5, 6, 7 years for us to come up with a solution.

The Turzai amendment goes the opposite direction, and everybody that stands up and talks about it acts like this is the solution. Well, naturally we are walking away from the solution. So I would ask that my colleagues vote "no" on this amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Venango County, Mr. Hutchinson, on the amendment. The gentleman, Mr. Hutchinson, waives off.

GERMANENESS QUESTIONED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Beaver County, Mr. Veon, on the amendment.

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, I rise to make a motion.

The SPEAKER pro tempore. The gentleman will state his motion.

Mr. VEON. I would like to move that the Turzai amendment is not germane.

The SPEAKER pro tempore. The gentleman from Beaver County, Mr. Veon, has raised the question of whether amendment No. 1268 is germane. Under House rule 27, questions involving whether an amendment is germane to the subject shall be decided by the House.

On the question,

Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Veon.

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, I will be brief in making these points, recognizing the challenge that I have in this motion passing here today.

Madam Speaker, it is important for me to make this motion, because there is no doubt in my mind that if this bill were to pass here today and to become law, that there would in fact be another challenge in Pennsylvania State court on the constitutionality of the process that the Republicans continue to use in this legislature to pass bills into law.

Madam Speaker, it is not germane, because this is the same process that the Republicans in this House used against the Democrats when they passed into law changes to the joint and several liability law in this Commonwealth. Some members in this chamber may be aware that Bill DeWeese and I challenged the constitutionality of that law that was passed, and in fact, in round one in court, we won our case, that that law was unconstitutionally passed by the House of Representatives. Madam Speaker, I understand this is a rather complicated, complex, esoteric, somewhat arcane point that I am making here today, but I do want to make the case that we will be in court again if the Republicans continue to use this arrogant process to pass bills through the legislature.

Make no mistake about it, the reason that this process is used and, therefore, this amendment is not germane is to cut off any opportunity for Democrats to offer any amendments, and, Madam Speaker, it has already been stated on the floor of the House here today that if the Turzai amendment passes, all other Democratic amendments, all other amendments filed to this bill, will be ruled out of order by the Speaker and the Parliamentarian. Madam Speaker, that is an abuse of the rules of the House; it is an abuse of the Constitution of the State of Pennsylvania. It is the grounds on which Bill DeWeese and I filed a lawsuit in State court, to make the case that in this Constitution there is a reason that when you change the original purpose of the bill, that you have to take that bill back to committee. It has to come out of committee and be considered on three readings on the floor of this House, and there is a reason that is in the Constitution – to give the ability of members of this House, particularly members in the minority party, the chance to be heard, the chance to reasonably have their amendments offered on the floor of the House and voted on. Vote against them if you want, but you cannot continue to use an unconstitutional process, including making amendments that are not germane to the content of the bill, to get your way in this House, and if you do, and make no mistake about it, we will be in court again on the same grounds. If you want to do it fair and square and you want to give us a chance to offer our

amendments and you want to defeat those amendments on the floor of the House, you have every right to do so. The majority in this chamber can, should, and shall rule, but you do not have a right to use an unconstitutional process to shut out our ability to even offer our amendments to issues as important as medical malpractice and tort reform.

Madam Speaker, for those and so many other reasons, this amendment is not germane, and I would ask for an affirmative vote on my motion.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair returns to leaves of absence. The Democrat whip requests the gentleman from Philadelphia, Mr. WATERS, be placed on leave for the remainder of the day. The Chair hears no objections.

CONSIDERATION OF HB 1326 CONTINUED

POINT OF ORDER

The SPEAKER pro tempore. On the question of germaneness, the Chair recognizes the gentleman from Allegheny County, Mr. Turzai.

Mr. TURZAI. Madam Speaker, I might have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. TURZAI. If we could get a clarification. The motion with respect to germaneness, a “yes” vote – I am not sure of this, and it is a question – does a “yes” vote mean that the amendment is germane to the underlying bill?

The SPEAKER pro tempore. That is correct. A “yes” vote means the amendment is germane.

Mr. TURZAI. Okay. I would rise in support of this body to vote “yes” with respect to the motion on germaneness. Clearly we are dealing with a joint resolution to amend the Constitution to remove a restriction on caps. There are subtle differences, but they are in fact designed to do the same thing. The arguments raised by my colleague, by my respected colleague from Beaver County, with respect to constitutionality are, with all due respect, irrelevant to a motion on germaneness. I think this one is just clearly germane, and it really begs the question.

I would ask everybody to vote “yes” that the amendment is germane to the bill.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Luzerne County, Mr. Blaum, on the issue of germaneness.

Mr. BLAUM. Thank you, Madam Speaker.

The previous speaker just said that this motion has nothing to do with germaneness, that the amendment before us is certainly germane. Madam Speaker, if this ever passes the House of Representatives and the Pennsylvania Senate, it will end up in court, and those words will be thrown back at the previous speaker. If the courts have taught us anything, it is that when we are dealing with the Pennsylvania Constitution, we have to draw our constitutional amendments narrowly, that there has to be input, that there has to be an opportunity to offer amendments,

that it has to be carefully considered by the body. Just because this bill, 1326, deals with caps as does the amendment, the amendment is so broad, so all-consuming, that it has little to do, little to do with the medical malpractice issue contained in the body of the bill itself.

This amendment is not germane to the issue contained in this bill and will not be accepted by the courts. So we will go through this exercise, and a lot of people and now businesses in Pennsylvania will be fooled, thinking that something is waiting at the end of the rainbow for them.

This is not germane. It should be so voted by the members of this House, especially by those who are interested in the adoption of this constitutional amendment that will harm so many Pennsylvanians. You will not accomplish that goal, because this amendment is not germane to the intent of the bill, which has been before this body, an issue which has been before this body for a long time, and that is the medical malpractice issue. When this amendment is offered expanding protection to all kinds of business and all kinds of products that may in fact do serious harm to the people of this Commonwealth, that is no longer germane to the medical issue currently in front of Pennsylvania.

Madam Speaker, I ask for a negative vote on germaneness.

The SPEAKER pro tempore. The Chair thanks the gentleman.

LEAVE OF ABSENCE CANCELED

The SPEAKER pro tempore. The Democrat whip asks that the name of Mr. Waters be placed back on the voting list. The Chair hears no objection.

CONSIDERATION OF HB 1326 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Butler County, Mr. Metcalfe, on the issue of germaneness.

Mr. METCALFE. Thank you, Madam Speaker.

Madam Speaker, I think that today the comments that we have heard today most recently from our minority whip and from our minority chairman actually speak to the heart of this amendment, speak to the heart of its germaneness, and speak to the heart of the problem that we have in health care, and that is the lack of people, the minority of people – the minority – to assume responsibility for their own actions and for whatever might be dished out that becomes a part of life. But as we hear today, threats of lawsuits, lawsuits being threatened based on legislation we are trying to advance to stop frivolous lawsuits.

So I would leave you with that thought, that even here in the midst of those threats by our minority whip of another lawsuit, that is what we are trying to get at the heart of, and that proves the point of the germaneness of this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Lycoming County, Mr. Feese.

Mr. FEESE. Thank you, Madam Speaker.

Madam Speaker, I know I am going to confuse this debate with what the rules say, because we should always look at what the rules say, and the rules very simply say, Madam Speaker, section 402, to be germane, the amendment is required only to relate to the subject matter. Certainly the gentleman,

Mr. Turzai’s amendment relates to the subject matter of the original bill, an amendment to the Constitution to cap damages, and it can, according to the rules, because that is what the rules say, relate to an entirely new proposal.

Now, I do not want to confuse the debate, Madam Speaker, with the rules, but that is what the rules say. The amendment is germane, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Beaver County, Mr. Veon, on the issue of germaneness.

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, the gentleman is right, we could stand here all day and debate what the words in those rules mean, but let me assure the gentleman, my colleague, that it is not only a threat, it is a promise that we will be in court. We have an obligation in this General Assembly to abide by the Constitution, and the fact is, in my judgment, Madam Speaker, that this Republican Party has overreached tremendously time after time after time. Because they have the votes in this chamber, they are going to make it clear to us that they are going to have not just their say but their way, and that is fine. When you have the votes, you ought to have your way. But in the process, you ought to give the minority the opportunity to be heard and reasonably offer amendments to the process. We are not going to stand by idly and have our ability as Democrats, fully elected members of the General Assembly, continually shut off from debate and discussion on amendments on bill after bill after bill with an arrogant misuse of the process. We are just not going to stand by and allow that to happen.

Now, you may pass that bill today, you may defeat my motion on germaneness, and you did so on joint and several liability. There is not a law in effect in Pennsylvania today on joint and several liability because of the process the Republicans used to pass that bill, and, Madam Speaker, we are not going to stand by and allow it to happen idly, and for that reason I would ask for the proper vote on germaneness, that this amendment is not germane.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Those who believe the amendment is germane will vote “aye”; those who believe the amendment is not germane will vote “nay.”

On the question recurring,
Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

YEAS—109

Adolph	Egolf	Lynch	Rubley
Allen	Evans, J.	Mackereth	Samuelson
Argall	Fairchild	Maher	Sather
Armstrong	Feese	Maitland	Saylor
Baker	Fichter	Major	Scavello
Baldwin	Fleagle	Mann	Schroder
Bard	Flick	Markosek	Semmel
Barrar	Forcier	Marsico	Smith, B.
Bastian	Gabig	McGill	Smith, S. H.
Benninghoff	Geist	McIlhattan	Stairs
Birmelin	Gillespie	McIlhinney	Steil
Boyd	Gingrich	McNaughton	Stern

Browne	Godshall	Metcalfe	Stevenson, R.
Bunt	Gordner	Micozzie	Stevenson, T.
Cappelli	Habay	Miller, R.	Taylor, E. Z.
Causar	Harhart	Miller, S.	Taylor, J.
Civera	Harper	Nailor	Tigue
Clymer	Harris	Nickol	Turzai
Coleman	Hasay	O’Neill	Vance
Cornell	Hennessey	Payne	Watson
Corrigan	Herman	Petri	Weber
Crahalla	Hershey	Phillips	Wilt
Creighton	Hess	Pickett	Wright
Dailey	Hickernell	Raymond	Zug
Daley	Hutchinson	Reed	
Dally	Kenney	Reichley	
Denlinger	Leh	Rohrer	Perzel,
DiGirolamo	Lewis	Ross	Speaker

NAYS—87

Bebko-Jones	Fabrizio	Levdansky	Shaner
Belardi	Frankel	Manderino	Solobay
Belfanti	Freeman	McCall	Staback
Biancucci	Gannon	McGeehan	Stetler
Bishop	George	Melio	Sturla
Blaum	Gergely	Mundy	Surra
Butkovitz	Goodman	Myers	Tangretti
Buxton	Grucela	O’Brien	Thomas
Caltagirone	Haluska	Oliver	Travaglio
Casorio	Hanna	Pallone	Veon
Cawley	Harhai	Petrarca	Vitali
Costa	Horsey	Petrone	Walko
Coy	James	Pistella	Wansacz
Cruz	Josephs	Preston	Washington
Curry	Keller	Readshaw	Waters
DeLuca	Kirkland	Rieger	Wheatley
Dermody	Kotik	Roberts	Williams
DeWeese	LaGrotta	Roebuck	Wojnaroski
Diven	Laughlin	Rooney	Yewcic
Donatucci	Leach	Ruffing	Youngblood
Eachus	Lederer	Sainato	Yudichak
Evans, D.	Lescovitz	Santoni	

NOT VOTING—3

Cohen	Scrimenti	True
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EXCUSED—1

Gruitza

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was declared germane.

GUEST INTRODUCED

The SPEAKER pro tempore. The Chair is pleased to welcome to the hall of the House, as the guest of the Chair, Steven Pecht, who is a sixth grade student from the Harrisburg Academy and is serving today as a guest page. Would the gentleman please rise. He is walking up the center aisle.

CONSIDERATION OF HB 1326 CONTINUED

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

The SPEAKER pro tempore. Returning to the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen, on the amendment.

Mr. COHEN. Thank you, Madam Speaker.
Madam Speaker, can we suspend for a minute?

MOTION TO RECOMMIT

The SPEAKER pro tempore. The gentleman, Mr. Cohen, is recognized.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, a few minutes ago we had a vote on the recommittal or committal of this bill to the House Judiciary Committee. At the time, because of the extended debate, several members were out of their seat and thus lost their opportunity to participate. Mr. O'Brien's motion makes a lot of sense to many members of the House who did not have the opportunity to vote the last time that motion was considered. We have had intervening business since then, and therefore, I would move, as Mr. O'Brien did a short time ago, that this bill be committed to the House Judiciary Committee with all its amendments.

The SPEAKER pro tempore. The motion is in order.

The gentleman has moved that HB 1326 be recommitted to the Judiciary Committee.

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

The SPEAKER pro tempore. On the motion to recommit, the Chair recognizes the gentleman from Beaver County, Mr. Veon.

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, I know there has been significant debate and members have been paying attention to this issue, but I also know that as debate rolls on, at times it is easy to get distracted. So I just want to be clear that this is the motion to recommit that we just tried 20 minutes ago, and we are making that motion again after the intervening business that we had. So the motion is in order, of course, and this is a motion to recommit the bill to committee, and I would ask for an affirmative vote.

Thank you, Madam Speaker.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. On the motion to recommit, the Chair recognizes the gentleman from Delaware County, Mr. Vitali.

Mr. VITALI. I am just a little confused. Are we doing a motion to recommit right now or a motion to reconsider?

The SPEAKER pro tempore. A motion to recommit to the Judiciary Committee.

The Chair recognizes the gentleman, Mr. Smith, on the motion to recommit.

Mr. S. SMITH. Thank you, Madam Speaker.

I think the debate on the motion to recommit has been fully aired out. I would just like to remind the members that this is the bill, this is the opportunity, to deal with this issue. We have already fought through it once. I urge the members to vote against the motion to recommit, and let us move forward with the legislation at hand.

Thank you, Madam Speaker.

The SPEAKER pro tempore. On the motion to recommit, the Chair recognizes the gentleman from Luzerne County, Mr. Blaum.

Mr. BLAUM. Thank you, Madam Speaker.

Madam Speaker, I rise in support of the motion to commit this bill with its amendments to the House Judiciary Committee. We had extensive debate on that question earlier and I will not belabor the point here today except to say that the previous motion was defeated by a vote of 94 to 97, that that vote is recorded for all time here in the House, and I think we all believe that somehow, in some way, perhaps the board stopped functioning a bit too early as members who were pushing their button were not recorded.

So with those additions, those members now ready to cast their vote on this issue, this motion should be adopted, and as Chairman O'Brien has asked, and I do now, that this entire question be committed to the House Judiciary Committee where it can be given the attention that it deserves from the bill, HB 1326, which deals with the medical malpractice issue, which has been in front of this General Assembly for well over a year, that it should not be amended by the Turzai amendment at this time, which calls for a very broad constitutional amendment dealing with all sorts of liability issues in Pennsylvania, and if people in Pennsylvania are indeed hurt and injured by these companies, that they, too, would be protected with a cap on damages. Madam Speaker, we believe that that is a dramatic change from the debate that has been before us for over a year and that this matter deserves the careful consideration that it will receive in the Judiciary Committee.

I ask the members for an affirmative vote to recommit.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Northumberland, Mr. Belfanti, on the motion to recommit.

Mr. BELFANTI. Thank you, Madam Speaker.

Madam Speaker, I rise again because the House majority leader, the Republican leader, once again just stated that this is our opportunity, this is our only opportunity, and that is simply not so. This is his call. It is his call whether we vote on 1326 or vote on 1446. HB 1446 is the measure that I have talked to doctors about for the past 3 or 4 weeks, also to patients, also to injured victims. That is legislation specifically designed to tackle the issue of medical mal reform, period, not this bathtub full of all kinds of little toys.

I also told my doctors last week and the week before that if the bill was amended in Rules or in any way changed or played with or tinkered with, which the Turzai amendment epitomizes profoundly, that I would not commit to a "yes" vote on a constitutional amendment being placed on the ballot. That is where I find myself today. I did not put myself in this position. The majority leader and Mr. Turzai have us in this position. Those members that want to vote on medical mal and tackle that issue amendment by amendment and then decide whether or not to put it on the ballot have been precluded from doing so by parliamentary tactics and skulduggery on the part of the other side.

I am very sorry, Madam Speaker, but I believe the only way to remedy this is to recommit HB 1326 and move on to the issue we all came down here to vote on, HB 1446. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Turzai, on the motion to recommit.

Mr. TURZAI. I would just ask the body to please vote “no.” Thank you.

The SPEAKER pro tempore. Those voting to recommit will vote “aye”; those voting who do not wish to recommit will vote “nay.”

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

The following roll call was recorded:

YEAS—96

Bebko-Jones	Evans, J.	Lederer	Santoni
Belardi	Fabrizio	Lescovitz	Scrimenti
Belfanti	Frankel	Levdansky	Shaner
Biancucci	Freeman	Manderino	Solobay
Bishop	Gannon	McCall	Staback
Blaum	George	McGeehan	Stairs
Butkovitz	Gergely	McNaughton	Stetler
Buxton	Goodman	Melio	Sturla
Caltagirone	Gordner	Mundy	Surra
Casorio	Grucela	Myers	Tangretti
Cawley	Haluska	O'Brien	Thomas
Cohen	Hanna	Pallone	Tigue
Costa	Harhai	Petrarca	Travaglio
Coy	Harper	Petrone	Veon
Cruz	Hennessey	Pistella	Vitali
Curry	Horsey	Preston	Walko
Daley	James	Readshaw	Wansacz
DeLuca	Josephs	Rieger	Washington
Dermody	Keller	Roberts	Wheatley
DeWeese	Kirkland	Roebuck	Williams
Diven	Kotik	Rooney	Wojnaroski
Donatucci	LaGrotta	Ruffing	Yewcic
Eachus	Laughlin	Sainato	Youngblood
Evans, D.	Leach	Samuelson	Yudichak

NAYS—100

Adolph	DiGirolamo	Mackereth	Ross
Allen	Egolf	Maher	Rubley
Argall	Fairchild	Maitland	Sather
Armstrong	Feese	Major	Scavello
Baker	Fichter	Mann	Schroder
Baldwin	Fleagle	Markosek	Semmel
Bard	Flick	Marsico	Smith, B.
Barrar	Forcier	McGill	Smith, S. H.
Bastian	Gabig	McIlhattan	Steil
Benninghoff	Geist	McIlhinney	Stern
Birmelin	Gillespie	Metcalfe	Stevenson, R.
Boyd	Gingrich	Micozzie	Stevenson, T.
Browne	Godshall	Miller, R.	Taylor, E. Z.
Bunt	Habay	Miller, S.	Taylor, J.
Cappelli	Harhart	Nailor	True
Causser	Harris	Nickol	Turzai
Civera	Hasay	O'Neill	Vance
Clymer	Herman	Payne	Watson
Coleman	Hershey	Petri	Weber
Cornell	Hess	Phillips	Wilt
Corrigan	Hickernell	Pickett	Wright
Crahalla	Hutchinson	Raymond	Zug
Creighton	Kenney	Reed	
Dailey	Leh	Reichley	
Dally	Lewis	Rohrer	Perzel,
Denlinger	Lynch		Speaker

NOT VOTING—3

Oliver	Saylor	Waters
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EXCUSED—1

Gruitza

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

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

The SPEAKER pro tempore. Returning to the amendment, the Chair recognizes the lady from Montgomery County, Ms. Bard.

Ms. BARD. Thank you, Madam Speaker.

We have the opportunity today with this legislation to address the medical liability crisis which is endangering the health and welfare of all Pennsylvanians.

It often has been said that there is no one solution. This legislation is part of the arsenal that is needed to control the medical liability crisis. In conjunction with additional legislative proposals to provide immediate Mcare relief and combined with other tort reform measures passed during the previous session, we in the General Assembly can provide a real resolution. But each day that we wait to implement these solutions, more of our health-care system erodes.

I represent two very fine hospitals. Abington Memorial Hospital has been besieged by the medical liability crisis. At the end of last year, the hospital's trauma center, the only one in Montgomery County, was closed for 13 days. Trauma center patients' lives were potentially jeopardized while precious minutes were wasted in transportation rather than treatment. Fifteen minutes after the trauma center reopened, two teens, teenagers that could have been mine or yours, could have been our family members, were hit by a drunk driver, and they were given lifesaving care because the trauma center had reopened. All Pennsylvania citizens are at risk when medical services are not available on an as-needed basis.

And, of course, we all know health-care services are affected not only in the southeast. Statewide, according to the Hospital Association of Pennsylvania, one-third of all Pennsylvania hospitals have reported closing, temporarily closing, or otherwise limiting services. One-third of hospitals have reported that due to physician loss and rising liability premiums, there has been a cutback in services. HAP reports that of the 72 hospital services that have been discontinued, specialty services such as obstetrics, orthopedics, general and neurosurgery are the most severely impacted.

Servicing the two hospitals that I represent as well as Einstein and Frankford in the southeast is a cardiology group, the Pennsylvania Heart and Vascular Group. A year and a half ago the group had 25 doctors. Over the past 18 months, 9 cardiologists have left, leaving 16 doctors in the group now. The average age of the doctors remaining is over 50 years. With regard to attracting replacements to serve the patient load, the pool is limited. Where 6 to 7 years ago their journal advertisements for openings averaged 50 to 60 responses, recently they get about 10 responses and only from those with pressing family ties in the area. Thus, the patient load is being serviced by fewer doctors.

According to the Federation of State Medical Boards 2003 Annual Summary of Board Actions, the number of licensed physicians in Pennsylvania dropped while the number of physicians in neighboring States such as Maryland and New Jersey increased. At a recent majority Policy Committee hearing at Holy Redeemer Hospital in my district, a professional recruiter testified that recruitment patterns have changed in recent years and that he is getting a lot of business from doctors leaving Pennsylvania and virtually no business from placements into Pennsylvania.

About a month ago, 25 doctors at Abington Hospital were notified that their liability insurer, MedPro, was canceling their policies as of July 1 of this year. Included were doctors providing basic hospital services, without whom the hospital could not function: 10 pulmonary critical-care doctors, 9 cardiologists, 3 internists, 3 infectious-disease specialists. Fortunately, our Pennsylvania Insurance Commissioner found that the notification by MedPro violated guidelines and was illegal.

More recently, however, 15—

The SPEAKER pro tempore. Would the lady cease one moment.

POINT OF ORDER

The SPEAKER pro tempore. The gentleman, Mr. Cohen, on a point of order.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, this amendment does not deal with medical malpractice; the bill deals with medical malpractice. The amendment takes away the language that deals with medical malpractice. Ms. Bard's speech is out of order. Her speech is relevant to the bill; it is not relevant to this amendment. This amendment is not about medical malpractice, and it is time to stop pretending that this amendment is about medical malpractice.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The lady, Ms. Bard, will confine her remarks to the amendment. You may proceed. The lady may proceed.

Ms. BARD. Thank you, Madam Speaker.

The amendment itself does deal with medical malpractice, which is relevant to the fact that 15 doctors just received cancellation notification. These are gastroenterologists. They received cancellation notifications from First Professional Insurance of Florida. The notices said that First Professional Insurance of Florida is leaving the State of Pennsylvania now. In supplying that notice, they are required to hand over those policies, to refer those policies, to another company. Clarendon Insurance is offering to insure those doctors but at twice the cost. This is a constant stress to the system; it is a constant stress to the economy; it is a constant stress to the patients of Pennsylvania.

Consider that it has been documented that only two — let me repeat — only two orthopedic surgeons in the entire State—

The SPEAKER pro tempore. Could we have quiet in the hall. We cannot hear if your point of order is valid if we cannot even hear her. Could we please have order.

POINT OF ORDER

The SPEAKER pro tempore. For what reason does the gentleman, Mr. Pallone, rise?

Mr. PALLONE. On a point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. PALLONE. Yes. Madam Speaker, again, in concurrence with the remarks of Representative Cohen, the amendment does not deal with medical malpractice and we continue to debate medical malpractice. I think the distinguished speaker should be admonished to limit her remarks to the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

We have been trying very desperately to hear what she is saying, but because of all the noise, we cannot.

Mr. PALLONE. Thank you.

The SPEAKER pro tempore. If we could have quiet, we will determine if your point of order is valid. Thank you.

Mr. PALLONE. Thank you, Madam Speaker.

POINT OF ORDER

Ms. BARD. Being that the amendment—

The SPEAKER pro tempore. Now for what purpose does the gentleman, Mr. Cohen, rise?

Mr. COHEN. A second point of order, Madam Speaker.

The SPEAKER pro tempore. State your point of order, please.

Mr. COHEN. Madam Speaker, the main bill, HB 1326, contains language that does not allow caps for willful and wanton misconduct by a physician, and this amendment, by taking out the entire section, takes out the ban on caps for wanton and willful misconduct. If the lady, Ms. Bard, wants to discuss this amendment and assert that this amendment is relevant to the bill, her remarks ought to focus on why it is important to doctors in Abington Township and throughout the State that there be no provision barring caps for wanton and willful misconduct. That is the narrow, limited issue that she should be addressing herself to.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The lady, Ms. Bard, will please proceed on the amendment.

Ms. BARD. Given that this is a broad-based amendment, certainly businesses having to do with health care are covered. I am talking about the need for this amendment to include health-care businesses as well as other businesses that are covered by the Commonwealth and doing business in the Commonwealth, covered by the Constitution of the Commonwealth.

Now, at this point in time it has been documented that there are only two orthopedic surgeons under the age of 35 in the entire State. This is a simply chilling statistic. Who will be treating us and our loved ones 10 years from now?

At the University of Pittsburgh Medical Center, the residency program for orthopedic graduates graduates 10 orthopedic residents a year. For the last two graduating classes, none of the students took positions in Pittsburgh.

Nationally, over the past 11 years Pennsylvania has gone from 12th to 41st in the proportion of physicians who are under the age of 35. In 1989, 12.4 percent of Pennsylvania physicians

were under 35 whereas the comparable number in 2000 was 4.7 percent.

The legislative chair of the Pennsylvania Medical Society, Donna Rovito, has documented that as a result of the medical liability crisis, Pennsylvania has lost—

POINT OF ORDER

Mr. BLAUM. Madam Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Blaum.

Mr. BLAUM. Madam Speaker, I raise the same issue. The bill, 1326, calls for an emergency constitutional amendment to be voted November 4 to place a cap on medical malpractice rates. Now, the lady argues that that will keep doctors in Pennsylvania, and she may be right. The amendment eliminates that. There will be no November 4 vote for doctors. There will be no emergency constitutional amendment to cap medical malpractice rates this year. This amendment, which she is favoring, guts what she espouses will control medical malpractice insurance rates. She is not speaking on the amendment. The amendment sticks it to physicians in Pennsylvania.

The SPEAKER pro tempore. The Chair thanks the gentleman.

But in fairness, let us go back and think about the speakers that spoke prior to this time on the amendment. We had somebody talk about a tragic situation with their wife, we had a lot of other speakers that strayed far from the amendment, and I find it difficult to wonder why you want to choose.

Mr. DeWEESE. Madam Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman.

Mr. DeWEESE. With all due respect, those kinds of admonitions from the Chair would be better held at sidebar. That is the institutional tradition that I am aware of.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. BLAUM. Madam Speaker, I am not finished.

The amendment guts the very thing that the lady is discussing. She is not talking about the amendment—

Mr. S. SMITH. Madam Speaker?

Mr. BLAUM. —which needs to pass—

Mr. S. SMITH. Madam Speaker?

Mr. BLAUM. —which needs to pass the General Assembly in two separate sessions.

Now, this is the 2000—

Mr. S. SMITH. Madam Speaker, is the man making a point of order?

The SPEAKER pro tempore. Would the gentleman cease, please.

The Chair recognizes the gentleman, Mr. Smith.

Mr. S. SMITH. Was the gentleman recognized to raise a point of order, or was he recognized to make a speech?

The SPEAKER pro tempore. He was recognized to make a point of order, and he did make that point.

Mr. S. SMITH. Would he state his point of order.

Mr. BLAUM. I am making a point of order that the lady is not confining her remarks to the amendment before this chamber. She is speaking—

The SPEAKER pro tempore. Would the gentlemen please approach the podium.

(Conference held at Speaker's podium.)

The SPEAKER pro tempore. The lady, Ms. Bard, is recognized again on the amendment.

Ms. BARD. Thank you, Madam Speaker.

General hospital employment is affected as well. Due to the skyrocketing medical liability costs, 150 employees were terminated from Jefferson University Hospital. Statewide the Rovito report documents nearly 2,500 health service jobs lost due to this crisis. These are jobs that affect all parts of the economy, and these jobs are only those that were reported in the press.

But, Madam Speaker, nothing is more frightening than the recent statement by a doctor who said, "No way will I go with JUA and a claims made policy if my insurance is cancelled. I'm getting my ducks in order to leave at the end of the year if nothing happens. But, in the final analysis, I'm not leaving for financial reasons, I'm afraid for my family's well-being. If my child is hurt, I don't want her medivac'd around everywhere." — "If my child is hurt, I don't want her medivac'd around everywhere."

This is an amendment which is sorely needed for the Constitution of Pennsylvania. Under the medical emergency provisions, a two-thirds vote is required. Under the normal constitutional provisions of this amendment, a majority vote is required.

We must begin the process immediately. It is a very lengthy process. It will take a long time. We must move forward. We cannot jeopardize this process by pursuing unattainable goals. This is the reason that it is necessary to move forward according to the regular constitutional process.

There can be no doubt about the seriousness of the crisis we face. There is doubt, however, that the General Assembly will provide the tools to address the crisis. Today we do have the opportunity to move forward.

Thank you very much, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

The Chair recognizes the gentleman from Delaware County, Mr. Vitali, on the amendment.

Mr. VITALI. Thank you, Madam Speaker.

I think, as discussed previously, the chief problem with this amendment is, one, its overbreadth, and two, I think the fact that it has cut out the possibility of other members, through their amendments, participating in the process.

MOTION TO PLACE BILL ON THIRD CONSIDERATION POSTPONED CALENDAR

Mr. VITALI. For those two reasons, I would like to move to postpone consideration of HB 1326 until Monday, June 16, at 1 p.m., so that at that time we can correct the problems with this amendment and allow the rest of the House members to participate. So I so move.

The SPEAKER pro tempore. The gentleman, Mr. Vitali, moves that the bill be postponed until Monday, June 16, at 1 p.m.

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

The SPEAKER pro tempore. The gentleman, Mr. Vitali, is recognized on postponement.

Mr. VITALI. I would just like to appeal to those people on the other side of the aisle who are really genuinely concerned and want this issue focused on the medical malpractice issue and to view this as an opportunity, by postponing it until next week, to be able to so tailor this bill so that we can just focus on why we are really here.

So very briefly, by postponing it for a week, we are not prejudicing the issue in any way; we are not slowing down the process by one single day; we are increasing the chances of its ultimate passage by reducing the controversy.

And it is fairer; frankly, it is fairer. We are all in the course of this amendment process. We all get to participate in the legislative process, and a gutting amendment, by closing out members and their rights, there is something inherently unfair about that.

So I would ask you to support postponing this for what basically is going to amount to 2 session days, so thank you.

The SPEAKER pro tempore. On the motion to postpone, the Chair recognizes the gentleman, Mr. Smith.

Mr. S. SMITH. Thank you, Madam Speaker.

Basically, the issue at hand is not that complex. It is clear what we have been discussing all afternoon. The motion to postpone is truly that; it is simply an effort to put the issue off. It is time that we continue with it tonight, this afternoon, this evening, whatever time of day it is; it is time that we continue, and I would urge the members to vote against the motion to postpone.

The SPEAKER pro tempore. On the motion to postpone, those wishing to postpone until Monday will vote “aye”; those wishing to not postpone will vote “nay.”

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

The following roll call was recorded:

YEAS-91

Bebko-Jones	Eachus	Lescovitz	Shaner
Belardi	Evans, D.	Levdansky	Solobay
Belfanti	Fabrizio	Manderino	Staback
Biancucci	Frankel	McCall	Stairs
Bishop	Freeman	McGeehan	Stetler
Blaum	Gannon	Melio	Sturla
Butkovitz	George	Myers	Surra
Buxton	Gergely	O'Brien	Tangretti
Caltagirone	Goodman	Oliver	Thomas
Casorio	Grucela	Pallone	Tigue
Cawley	Haluska	Petrarca	Travaglio
Cohen	Hanna	Petrone	Veon
Corrigan	Harhai	Pistella	Vitali
Costa	Horsey	Preston	Walko
Coy	James	Rieger	Wansacz
Cruz	Josephs	Roberts	Washington
Curry	Keller	Roebuck	Wheatley
Daley	Kirkland	Rooney	Williams
DeLuca	Kotik	Ruffing	Wojnaroski
Dermody	LaGrotta	Sainato	Yewcic
DeWeese	Laughlin	Samuelson	Youngblood
Diven	Leach	Santoni	Yudichak
Donatucci	Lederer	Scrimenti	

NAYS-106

Adolph	Evans, J.	Mackereth	Rohrer
Allen	Fairchild	Maher	Ross
Argall	Feese	Maitland	Rubley
Armstrong	Fichter	Major	Sather
Baker	Fleagle	Mann	Saylor
Baldwin	Flick	Markosek	Scavello
Bard	Forcier	Marsico	Schroder
Barrar	Gabig	McGill	Semmel
Bastian	Geist	McIlhattan	Smith, B.
Benninghoff	Gillespie	McIlhinney	Smith, S. H.
Birmelin	Gingrich	McNaughton	Steil
Boyd	Godshall	Metcalfe	Stern
Browne	Gordner	Micozzie	Stevenson, R.
Bunt	Habay	Miller, R.	Stevenson, T.
Cappelli	Harhart	Miller, S.	Taylor, E. Z.
Causar	Harper	Mundy	Taylor, J.
Civera	Harris	Nailor	True
Clymer	Hasay	Nickol	Turzai
Coleman	Hennessey	O'Neill	Vance
Cornell	Herman	Payne	Watson
Crahalla	Hess	Petri	Weber
Creighton	Hickernell	Phillips	Wilt
Dailey	Hutchinson	Pickett	Wright
Dally	Kenney	Raymond	Zug
Denlinger	Leh	Readshaw	
DiGirolamo	Lewis	Reed	Perzel,
Egolf	Lynch	Reichley	Speaker

NOT VOTING-2

Hershey	Waters
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EXCUSED-1

Gruitza

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

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

The SPEAKER pro tempore. Continuing on the amendment, the Chair recognizes the gentleman from Centre County, Mr. Benninghoff. The Chair recognizes the gentleman, Mr. Benninghoff, on the amendment.

Mr. BENNINGHOFF. Thank you, Madam Speaker.

I will keep my comments very brief.

As we know, this issue is about trying to keep medicine here, trying to retain doctors, but one of the previous speakers said earlier in the debate – and I think we need to remind them – it is about recruiting, keeping physicians here in Pennsylvania, so that we can have good health care.

I had a physician who wrote to me and said that the hospital's malpractice, if they were to get the 20 percent proposed reduction, alone it would allow them to hire 35 nurses in our area. Hershey Medical Center could probably hire up to 100 new nurses.

This is about job retention, about job growth. It is about the economy.

I find the stall tactics today to be a complete irony to a Commonwealth who prides itself in trying to be attractive to business, a new administration who is coming in and trying to make Pennsylvania attractive to business. Who wants to locate a

business in a State when the health-care costs are skyrocketing, a State who already has some tax policies that are egregious to business, with high corporate net income taxes, the capital stock and franchise taxes, high property taxes?

If you have a business that is high risk – maybe molten glass or sharp instruments, something that may have high risk for injuries – would you not want to have good health-care facilities around you to provide the services should one of your employees get injured? I would think so.

This is not just about doctors and lawyers. This is about building and keeping a strong economy. It is about retaining jobs in the Commonwealth. It is about making Pennsylvania attractive and competitive. We cannot do that without a health-care system that is strong and vibrant.

If we want to make Pennsylvania competitive amongst other States, then we need to have a quality health-care system. It is about quality of life. And our decisions that we make here today, whether it is on this amendment or the entire bill, are about what kind of health-care system you want to preserve in your local neighborhoods and what type you want to guarantee to be there in the future, not just for yourselves but for your constituents.

It is not easy for physicians to be down here lobbying. They are busy taking care of patients, busy trying to keep those friends and families of ours alive when they are injured.

One of the things that I would caution is, physicians, especially those in trauma and emergency situations, are expected to make life-and-death situations in a crisis, and they do not always have time to be second-guessing what they are doing; they do not always get that second chance. I believe the majority of physicians and health-care facilities around here are trying to provide good health care, but again, as it was said yesterday in one of our conversations, health care and medicine is not an exact science. We should not expect that. These are people trying to do the best that they can under the best conditions possible. Let us not make those conditions worse.

I ask the members to please stand by your constituents, vote for quality health care, vote to keep the physicians in your neighborhoods.

The exodus that you have seen down in the southeast is not limited to that. I gave you a scenario of what is going on in Huntingdon County. It is happening throughout the midstate. As this snowball rolls down the hill and physicians leave, hospitals close, medical centers reduce the type of services they provide, we are not going to pull that ball back up the hill. That ball will gain momentum faster than you can believe, and the long-term impact of that will affect our communities in this Commonwealth for many years to come.

I ask for an affirmative vote on the Turzai amendment, and let us get moving in this process much faster. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the lady from Philadelphia, Ms. Josephs, on the amendment.

Ms. JOSEPHS. Thank you, Madam Speaker.

Before I get started, I very much would appreciate some order here, Madam Speaker.

The SPEAKER pro tempore. The lady is correct. She deserves to be heard. It has been a long day, but could we have some quiet in the hall of the House, please.

Ms. JOSEPHS. Thank you.

I rise to ask everybody to oppose this amendment.

I want to draw attention in the course of this speech to the statements that were made by many of those in support of this amendment that we should have faith in the public, that we should allow the public to vote on this constitutional amendment, of which this amendment is proposed to be part, and that the people of Pennsylvania will make the choice and the choice will be the correct one.

Now, some of those statements were made, for instance, the lady from Montgomery, the gentleman from Indiana, they might both be excused because they are freshmen and they are not used to our procedure, but if I were to ask anybody in the public here or on the floor of this House what input the public had in evaluating and discussing this amendment and the underlying bill, the answer, if it is an honest answer— I would like to have everybody's attention, please.

The SPEAKER pro tempore. Will the lady continue, please.

Ms. JOSEPHS. That the answer is, there has been virtually no public input.

The way this amendment and this joint resolution came to us is a parody; it is a farce; it was a mockery of the process. The public was shut out. The door was slammed in their face, the window was clanged down on their fingertips, as they tried to find out what was going on. As has been mentioned here before, the majority has taken extraordinary measures to make sure that the public was not heard, did not even know about this joint resolution or the amendment to it.

I shudder to think what might happen if this same process is followed after we wipe away the constitutional protections and start to do legislation, bit by bit, against tobacco companies, for instance. We know that lawsuits reveal to us how they lied to the public, to their own customers, to the health community, and would we have discovered that without use of the legal system, and how are we going to handle legislation that might have to do with protecting children from tobacco with this process, with a process that shuts out the public the way the public was shut out of this joint resolution and the amendment that is now proposed to change it in ways that have never been discussed, never discussed?

I speak as the minority chair of the State Government Committee, where, for some reason I still do not understand, we got the underlying joint resolution, House resolution 1326. State Government. Come on, Madam Speaker, we deal with land conveyances; we deal with elections; we deal with campaign finance. We do not deal with constitutional amendments having to do with torts.

Somebody on the other side talked about invoking the rules. How about the commonsense rule of sending this kind of legislation to the committee that has at least a little bit— Excuse me, Madam Speaker. I would like some order here, please.

The SPEAKER pro tempore. We have attempted to get order in the House. It is getting very late. Could we please have quiet. We have many more speakers.

Ms. JOSEPHS. Madam Speaker, I do not speak all that often, but when I do, I really would like folks to listen; please.

Why State Government Committee got that, I have no notion, but did we have a process where the public could participate? No. What do I hear from the other side? Very selective venues for the public to participate, right? Right? How about hearings in State Government Committee where we had this bill? We did not have any. We had no expert opinion.

We did not have time. We had no workshops. We had no press conferences. We had no opportunity for public input, and that is because the people on the other side who are crying and wringing their hands about how important it is for the public to vote on this did not want any.

Downstairs, a couple of hours ago, we had Mothers Against Drunk Driving; we had the AFL-CIO; we had SmokeFree Pennsylvania; we had PennFuture, an environmental group – all of them against this amendment. That is what the public thinks. They oppose this amendment. They were downstairs saying they oppose this amendment. That is what we ought to be listening to.

And yes, it is true that the Health and Human Services Committee had some public discussion of this; that the Insurance Committee might have had some discussion; the Judiciary Committee might have built up some expertise. I just cannot believe that over on the other side, in the majority, somebody stands up and says, we were educated because we had Republican Policy Committee hearings on this. Well, Madam Speaker, those guests, those witnesses, were invited by the people in the majority policy who wanted an outcome, and that is why they held that hearing. That is not a hearing where you learn anything. That is the kind of hearing where you reinforce your own prejudices and your own shortsightedness. That is not the way this House ought to proceed.

We are besmirching the dignity of this House, we are failing our constituents, we are throwing our rules in the garbage, and yet the majority keeps saying, oh, let us have faith in the public. Yeah, right. This is a joke, the way we do these things. If it were not so serious, I would be laughing instead of feeling like crying.

This is not why I was elected, to stand up on a floor where all of my amendments, where all the amendments of the minority party are cut out, are not allowed to be offered, because the majority controls the rules. That is not a way to allow for public participation. I am angered, very angered, to hear those arguments, let us have the public participate. Well, Madam Speaker, one of the big ways you allow the public to participate in a representational democracy is by allowing the opposition to have its say. You guys cannot even stand to do that, and then you talk to us about public participation.

I think it takes a nerve beyond anything that I have ever managed to conceptualize in my worst dreams.

I would like to have some order here, please.

The SPEAKER pro tempore. The lady, Ms. Josephs, does deserve order. I would remind you again, there are 10 more speakers and it is getting late.

Ms. JOSEPHS. Somebody on the other side – I do not even remember who it was anymore – even had the nerve to tell one of my colleagues, a gentleman from Philadelphia, when he ought to be speaking; oh, no, this is not the right time; you tell your personal story some other time. Oh, that is colossal; that is really colossal.

So now we are going to let off tobacco companies; we are going to help the sludge dumpers.

My other colleague from Philadelphia wanted to know, are we going to cap the awards that come from terrorists, suits brought from Flight 93? Is there any guarantee if the other side is still running this chamber that a bill that would do that would ever see the light of day before it gets voted on?

How about products that hurt people, blow up in their faces? How about the Enron situation? How about cars? Remember those cars. Remember, you used to get in a car and there was no guarantee that it was safe to transport you from the place you were to the place you were going, and how did that happen? Very largely through lawsuits and intentional and nonintentional tort lawsuits.

Moving things through court is one of the ways that we shape policy and make progress in this country, in this State, in this society, and I am ashamed, I am ashamed to be a member of a body that moves public policy in the way that this was moved, without any input from the people who pay our salaries – none, zero, zilch, stop. It was moved through without any input from the public.

And I certainly hope that at least a few people in the majority will be a little bit embarrassed, a little bit embarrassed to stand up after this and say, oh, yeah, let us move this to the people; let us have the people vote for this. Well, Madam Speaker, let us have the people in this process now, right now. You would not even let us postpone this enough so that we could vote on amendments. That is shameful. That is shameful. That is shameful.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman from Butler County, Mr. Metcalfe, on the amendment.

Mr. METCALFE. Thank you, Madam Speaker.

Madam Speaker, I would like to commend Representative Turzai for this amendment, and I stand up to encourage everyone to vote for this amendment.

I think that it is a great step forward to give the voters a chance to consider a change to our Constitution that is restrictive in a way that is allowing frivolous lawsuits to be advanced in this Commonwealth; a change that other States have made and are attempting to make and one that I commend Representative Turzai for his leadership in helping us to try and advance today. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Clearfield County, Mr. George, on the amendment.

Mr. GEORGE. Madam Speaker, thank you very much.

I am not going to put you to the task, Madam Speaker. It appears, Madam Speaker, that my voice no longer thrills you.

The SPEAKER pro tempore. The gentleman, Mr. George, does deserve to be heard. Could we please have some quiet in the hall of the House. Would members please take their seats.

Mr. GEORGE. And, Madam Speaker, because I am a fair man, I would ask you to tell these unruly Democrats over here to sit down and listen for their own good, because, Madam Speaker, nobody is going to shut me up today, because I am going to tell it just like it is – oh, yeah – and if you do not listen, I hope some of the doctors back home are watching, especially the 18 that came down to my office the week before last and told me about the situation that we are involved in, similar to the gentleman that talked about the fine county of Huntingdon and that there is only one surgeon remaining and that they had two and the other one has gone in the last 2 months, and I am very hopeful that now that it is going to take an extra year – not just 1 year, an extra year – if that doctor can hold out for that extra year before he leaves Huntingdon.

Now, I am not going to tell you that I know any more than anybody else, because, Madam Speaker, there is a lot of brilliance here in this body, both Republican and Democrat, but there is darn little logic on a day like this, because we are not just telling it like it is, because tell those doctors, the ones that I said I will support you, not because I have doctors in my family but because this State of Pennsylvania needs these doctors. I said to Speaker Perzel, who evidently has come from the same background that I have, that when I was a kid, we did not have money to pay a doctor; we gave them canned goods and preserves and things of that nature. Luckily for Mr. Perzel, he was bright enough to achieve what he has achieved. I am sitting here as a rank and file who probably does not know as much as some of you who have such brilliance of mind and so much dedication and heart, because if you want to help these doctors and you do not want them to be harmed more so and the doctors talk about more reimbursement, more medical payment, more of this, we put an amendment in the bill that will drastically harm their income level, because there will not be any insurance companies covering all of these malpractice in the other industries.

I do not think there is a bad man and woman in here, but I think we take sides for those that push the hardest, and you know, the people that should be pushing the hardest are the people who make up a majority in your districts, the ordinary men and women that you talk to each election and all through the year and send hundreds of thousands of particular editorials out and do things for them, and let me say this to you: I think the people in Pennsylvania are going to be very disappointed, because you know, we are thought highly of. They think we are bright. They think that every once in a while we lose our partisanship. They think that it does not make any difference if you are a Republican or Democrat when you wake up in the morning and your wife is sick, and it does not make any difference if you are a Democrat or Republican if you are told by the boss, there is no more work.

Now, the Governor said in a very purposeful manner, these doctors are having it difficult, but are we going to put the emphasis and the burden on that one constituent that could be harmed beyond belief and attempt that an individual and all individuals ought to be governed by the \$250,000 cap?

The lady before me said there were amendments. I had one that I thought was brilliant in mind and honest in conviction, which was a pretrial screening, so that if that board said there should not be any case, there will not be any, and if they proceed, they go at their own peril, because if they lose the case, the plaintiff and the attorney pay the cost. I was not trying to protect the attorneys. I am trying to protect that constituent of mine that might be harmed, the same as yours that might be harmed.

And the Governor said I recognize, I recognize that we need to take that costly matter of JUA, and I will do that. Governor Rendell said we should eliminate the cost of that coverage for those doctors in the echelon where the number of cases are not as definite and as numerous, and for those, as the gentleman from Delaware tried to help yesterday, for those that are involved in those big cases, to pay a half of their coverage.

It seems, Madam Speaker, that we are not able to deal with controversy anymore, and I do not want the minority to blame the majority for being inconsiderate, uncaring, uncompassionate, lack understanding; I do not want that. I want

to go home and tell those 20 or 30 doctors that are going to be at my house on Saturday, I would have voted for a normal bill; you had me talked into it, because there was no other mechanism that the majority party could come forth with.

I did not stand up and try to recommit it; I voted, I voted so we could get a bill, and even though it was going to take a year, maybe from that time, the Governor and Mr. Perzel and the minority leader and the majority leader would find a way to lessen the cost of that insurance. Oh, but, you know, I think the people would like to lessen the cost of their automobile insurance. My brother would like to lessen the cost of their compensation at the Ford garage. There are a lot of things we would like, but they are not important. But they are important.

So what we should do is we deliberate, and what I say here is not going to change one mind or one vote. What I am going to say here is that there were definitely some amendments that would have lessened the trauma, lessened the conditioning of what we could do as a group, and so, Madam Speaker, this is not the end, and this is not the beginning of the end, because the end is not near, and the problem will not be resolved, and they certainly will not be resolved in the coming months, unless our leaders on both sides go over to Governor Rendell and ask that gentleman to put forth a program where the Commissioner on Insurance will have the authority, will have the authority, not at this time where if in fact the judgment is over \$25,000, that she can work with it, or to give these judges the opportunity that where a decision or an award has been made, that it can be reduced if it is excessive and silly. We are not talking about you and me; we are talking about you and me and our families and our communities and our doctors.

Now, if you think attorneys are only the worst guys in the world, you ought to hear back home and around what they think about legislators. You know, sometimes they think we are a little screwy. You know, sometimes I think we are, and I am not being mean. I am just saying to you that I am going to go home tonight and I am going to be a little bit disappointed, because you are a better lot than this; you are a much better lot.

There are some things I think one of the speakers today said that, you know, some things are tough and some things are not so tough and we have got to put up the courage; then why are we going with a 2-year deal where it has to come to both Houses in two successive legislative sessions? If in fact we have the courage, then let us do it tomorrow. Let us do it, and let us do it right.

There are three people involved that are similarly important, which are the doctors and the insurance industry and the attorneys. Now, you want to throw them together; that is fine, but the only people that will lose will be the people that sent you and me down here.

And I could have said this this morning, and it would not have made any difference, but I am going to say this to you now.

I am going on my 30th year, and I have been privileged to come out here at an older age. I was not 24 or 25; I was 45. And if I can list some of the things that have been great to me, besides my wife and my family, this has been the greatest thing that ever happened to me, and some will tell you who I am and what I am worth. What I am worth, I am worth to the people I represent, and I think that is what you are, too. So I know you are going to vote, and I am not going to vote, because you people forced me to rethink this, and that is a sad commentary.

So please tell your doctors the truth. You were not willing to give them what you promised them. You wanted to go to that old routine of the trickle down, where if you feed a cow more than he should eat, the birds are going to get a heck of a lot more food, and that is not what it is all about.

Thank you very much, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Philadelphia, Mr. Cohen, on the amendment.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, I would like to read to you the one sentence in this bill that the Turzai amendment leaves in. The one sentence in HB 1326 that the Turzai amendment leaves in reads as follows: "The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:" That is it. Everything else is deleted.

Going down, page 1; I will read very quickly: "...Access to quality health care is of the utmost importance to the safety and welfare of our Commonwealth's more than 12 million citizens." Deleted.

"The health and welfare of our residents is in serious jeopardy because many physicians faced with excessive medical malpractice premiums can no longer afford to deliver quality health care in this Commonwealth." Paragraph deleted.

"Several factors, including excessive jury awards, have facilitated the sudden exodus of many of the medical malpractice insurance providers in this Commonwealth." Paragraph deleted.

"This diminished market has placed severe restrictions on the physician's ability to secure, afford and maintain reasonable liability insurance." Paragraph deleted.

"In the absence of affordable insurance coverage, many physicians are in the untenable position of being forced to reduce services, moving to other states or leaving the medical profession altogether." Paragraph deleted.

"The departure of our Commonwealth's physicians, combined with costly insurance premiums, has resulted in the reduction of other...hospital services." Paragraph deleted.

"The ultimate result of this reduction in services is restricted access to health care for the citizens of this Commonwealth." Paragraph deleted.

"This Commonwealth is clearly in the midst of an escalating liability emergency." Paragraph deleted.

"This Commonwealth has long been recognized as a leader in medical research and medical services, supporting some of the best medical institutions in the world." Paragraph deleted.

"It is imperative that the citizens of this Commonwealth continue to have access to the best physicians, the safest medical institutions and a fair and just legal system." Paragraph deleted.

"Access to quality health care must not come at the expense of those injured by the WILLFUL OR WANTON ACTIONS OF practitioners." Paragraph deleted.

"The Commonwealth must balance the right of its citizens to quality health care against the rights of professionals who cause injury to its citizens." Paragraph deleted.

"The General Assembly desires to alleviate the medical emergency that has evolved from unreasonable jury awards, unaffordable insurance premiums and reduced reimbursements, but is limited in its efforts by rigid restrictions in the Constitution of Pennsylvania." Paragraph deleted.

"The safety and welfare of this Commonwealth requires prompt amendment to the Constitution of Pennsylvania." Paragraph deleted.

Madam Speaker, the fundamental purpose of HB 1326 originally was to deal with the medical malpractice crisis. Now it is radically changed to provide across-the-board, global tort reform. I am sure when the Supreme Court of Pennsylvania looks at this amendment, they are going to conclude that we have fundamentally changed the purpose of this amendment and that therefore we have created an unconstitutional constitutional amendment.

I urge the defeat of this amendment in order that we can deal with something that is constitutional.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. Dermody, on the amendment.

Mr. DERMODY. Thank you, Madam Speaker.

I was wondering if the maker of the amendment would stand for a brief interrogation.

The SPEAKER pro tempore. The gentleman, Mr. Turzai, agrees. You may proceed.

Mr. DERMODY. Thank you.

Before we vote, I would just like to verify and make sure of the types of actions, the types of causes of action, this amendment would apply to.

There was a recent car accident right here in Dauphin County where three people were killed. If a lawsuit arises out of that cause of action, this amendment would apply to that cause of action. Is that correct?

Mr. TURZAI. No. There is no legislation before us that addresses any specifics about any caps bills. To amend the Constitution is to remove the restriction in the Constitution on limitation on noneconomic damages. The fact of the matter is, there is not before this body and there will not be before this body any proposed legislation dealing with any enactment of caps unless and until the people of Pennsylvania vote in the majority to amend the Constitution.

Mr. DERMODY. Well, then let me put it this way: If this passes, future bodies, future sessions of this legislature, could then place caps on the type of damages awarded in that type of an accident, or an environmental lawsuit, for instance. Let us say, like an Erin Brockovich-type situation, there would be allowed to be caps put on those types of cases. Is that correct?

Mr. TURZAI. First of all, I do not know, because the fact of the matter is, this is amending the Constitution, and unless and until a specific bill is introduced into this General Assembly, at the earliest 2005, should the voters of Pennsylvania agree to amend the Constitution, it is completely, completely speculation as to what anybody here will introduce.

Nobody today, not a single person here, can introduce any legislation with respect to any caps in any arena, with any exceptions, with any dollar amounts, unless and until we make a change to the Constitution.

Mr. DERMODY. My question was—

Mr. TURZAI. And the fact of the matter is, with all due respect, the fact of the matter is, if you believed, if anybody here believed that they could in fact introduce such proposed legislation, then, by goodness, they would have done so by now, but the recognition is that the Constitution has to be amended first.

Mr. DERMODY. My question was that if this amendment passes, future legislatures could then place caps on those types of lawsuits involving environmental hazards, Erin Brockovich-type cases, a Firestone tire case? That is the question.

Mr. TURZAI. I do not know, Mr. Dermody; I do not know. Do you intend to introduce such legislation? The fact of the matter is – and I apologize; I should not have referred to you – Madam Speaker—

Mr. DERMODY. Thank you.

Mr. TURZAI. —the fact of the matter is, no legislation is before us; it is speculation; we are talking about an amendment to the Constitution.

Mr. DERMODY. Madam Speaker, I will just speak. I am finished with my interrogation. I would like to speak on the amendment briefly.

The SPEAKER pro tempore. You may proceed.

Mr. DERMODY. If this amendment does not apply to product liability cases or environmental hazard cases like the Erin Brockovich case or the Firestone tire case or the injury, the car accident that just happened here, then how does it apply to medical malpractice cases? If it does not apply to there, why does it apply to most anything?

It is clear that this amendment is much more than dealing with malpractice, on any type of a fair reading. It has nothing to do with medical malpractice, and we should vote against this amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Tigie.

Mr. TIGUE. Thank you, Madam Speaker.

Madam Speaker, yesterday a wonderful, young orthopedic surgeon by the name of Tom Allardyce operated on my mother. I have supported the doctors in the medical profession in this battle that has raged on for the last number of years. I want everyone in our area to have the opportunity, if they need it, to have people like Dr. Allardyce perform his magic on them.

If you look at HB 1326, my name is on it as a cosponsor. If you look at 1466, I believe it is, on the calendar, I support that. What I do not support is this amendment. This amendment is not about medical malpractice. This is not about medical malpractice, this amendment. Medical malpractice probably makes up somewhere, the estimates are, and depending on to whom you speak, I guess, of 2 to 3 percent of the tort system. This is about the other 98 or 97 percent.

A few years ago, we had people talk to us about product liability and tort reform, and I have supported that. Nowhere, at no time during that debate, did someone talk about changing the Constitution, under product liability or tort reform.

I believe we have a medical emergency in Pennsylvania. That is why I cosponsored 1326. If you vote for this amendment, you do not think that there is a medical emergency in Pennsylvania, because you are delaying for a couple of years the placement of this question on the ballot. So do not say, do not please say and insult anyone by saying you are for a quick solution to medical malpractice if you support this amendment. If you are for a quick solution to medical malpractice and you believe, like I do, that we can move this forward by voting for 1326, vote against the amendment and vote for HB 1326. That is what I would like to do.

There is no reason, there is no emergency, that we are here today to hurry up and vote on 97 percent of product liability, which, by the way, which, by the way, in case you do not know it, has little to do with medical malpractice from a standpoint of realism.

I agree with what was said earlier today by some of the proponents of this amendment as well as medical malpractice. Surgeons, doctors, medical professionals, to me, are some of the most important people we have in our society. They are not gods. They do not do things intentionally. They try to help people. They try to save people's lives. Sometimes they are not successful, and as someone said earlier, accidents do happen.

I think that the court system is out of control with some of this stuff, and I think that we can bring it to a further boil and bring it to a conclusion and at least come to a legitimate solution, which we have to address, the medical profession as well as the court system and the insurance industry. But if you vote for this amendment, what you are doing is, you are delaying the chance for us to do medical malpractice.

And I do not have a crystal ball that is any more clear than anyone else, but I would be willing to tell you or say at least, this is not going to pass the Senate, because they are not going to get involved in product liability and tort reform by doing this. So what are we doing? What are we doing?

If you are for medical malpractice – and I know some people are not for caps, period; I am; I am for 1326 – I would ask each and every one of you, if you are for medical malpractice and you want to do it now, vote “no” on this amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. Turzai, for the second time.

Mr. TURZAI. My esteemed colleague makes reference to his orthoped. The Orthopaedic Society yesterday issued a letter indicating support for the removal of the restriction from the Constitution as is set forth in this amendment. The Medical Society has also indicated support for this approach. The fact of the matter is, it is a subset with respect to this issue, and it is the primary reason for change.

HB 1326 originally was set up as an emergency. Many individuals on that side of the aisle in committee hearings have specifically indicated that they were arguing against the use of an emergency provision in amending the Constitution. The fact of the matter is, individuals are looking for any excuse to vote “no.” Give the voters a chance, vote “yes,” and put yourself on the record to that effect. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—106

Adolph	DiGirolamo	Lewis	Rohrer
Allen	Egolf	Lynch	Ross
Argall	Evans, J.	Mackereth	Rubley
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Bard	Fleagle	Mann	Semmel

Barrar	Flick	Markosek	Smith, B.
Bastian	Forcier	Marsico	Smith, S. H.
Benninghoff	Gabig	McCall	Stairs
Birmelin	Geist	McGill	Steil
Boyd	Gillespie	McIlhattan	Stern
Browne	Gingrich	McIlhinney	Stevenson, R.
Bunt	Godshall	McNaughton	Stevenson, T.
Cappelli	Habay	Metcalfe	Taylor, E. Z.
Causar	Harhart	Miller, R.	True
Civera	Harper	Miller, S.	Turzai
Clymer	Harris	Nailor	Vance
Coleman	Hasay	Nickol	Watson
Cornell	Herman	O'Neill	Weber
Corrigan	Hershey	Payne	Wilt
Coy	Hess	Petri	Wright
Crahalla	Hickernell	Phillips	Youngblood
Creighton	Hutchinson	Pickett	Zug
Cruz	Keller	Raymond	
Dally	Lederer	Reed	Perzel,
Denlinger	Leh	Reichley	Speaker

NAYS—85

Bebko-Jones	Fabrizio	Lescovitz	Scrimenti
Belardi	Frankel	Levdansky	Shaner
Belfanti	Freeman	Manderino	Solobay
Biancucci	Gannon	McGeehan	Staback
Bishop	George	Melio	Stetler
Blaum	Gergely	Mundy	Surra
Butkovitz	Goodman	Myers	Tangretti
Buxton	Gordner	O'Brien	Taylor, J.
Caltagirone	Grucela	Oliver	Thomas
Casorio	Haluska	Pallone	Tigue
Cawley	Hanna	Petrarca	Travaglio
Cohen	Harhai	Petrone	Veon
Costa	Hennessey	Pistella	Vitali
Curry	Horsey	Preston	Walko
Daley	James	Readshaw	Wansacz
DeLuca	Josephs	Roberts	Washington
Dermody	Kirkland	Rooney	Wheatley
DeWeese	Kotik	Ruffing	Williams
Diven	LaGrotta	Sainato	Wojnaroski
Donatucci	Laughlin	Samuelson	Yewcic
Eachus	Leach	Santoni	Yudichak
Evans, D.			

NOT VOTING—8

Dailey	Micozzie	Roebuck	Sturla
Kenney	Rieger	Saylor	Waters

EXCUSED—1

Gruitza

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

On the question,

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

MOTION TO SUSPEND RULES

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Madam Speaker.

I rise to move to suspend the rules for the purpose of introducing an amendment.

The SPEAKER pro tempore. The gentleman, Mr. Vitali, moves that the rules of the House be suspended in order to offer amendment what?

Mr. VITALI. This would be amendment 1547, which would give the voters of Pennsylvania the opportunity to change the Constitution to allow lobbying reform in Pennsylvania. As you are aware, the court struck down last year lobbying legislation we passed in 1998. This State is bereft of any lobbying regulation, and as a result, the trial lawyers and the Medical Society and the insurance industry, all the groups, ironically, that have really—

The SPEAKER pro tempore. The gentleman, Mr. Vitali, just needs to give us a brief description of the amendment in order for people to decide if they want to suspend. You could speak on the amendment later if your motion is successful.

Mr. VITALI. Okay. Thank you.

But just sort of in summary, what this does is corrects the constitutional problem the court cited in throwing out the law we passed and makes it clear that the legislature has the authority to regulate lobbying and the attorneys, in particular attorneys who act as lobbyists.

So I would ask for a rules suspension to let the voters decide. What could be better than that?

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question,

Will the House agree to the motion?

The SPEAKER pro tempore. On the motion to suspend, the Chair recognizes the gentleman, Mr. Smith.

Mr. S. SMITH. Thank you, Madam Speaker.

Madam Speaker, I would urge the members to oppose the suspension of the rules.

Clearly with issues relative to amending the Constitution, it is best to keep it as simple and straightforward as we can. The language and the questions have to be straightforward; it cannot be compound, and I would have a concern that if you started adding multiple issues to the same resolution that seeks to amend the Constitution, that it would complicate things even further, and I would urge the members to vote against the suspension.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—86

Bebko-Jones	Eachus	Markosek	Shaner
Belardi	Evans, D.	McCall	Solobay
Belfanti	Fabrizio	McGeehan	Staback
Biancucci	Frankel	Melio	Stetler
Bishop	Freeman	Mundy	Sturla
Blaum	Gergely	Myers	Surra
Butkovitz	Grucela	Oliver	Tangretti
Buxton	Haluska	Pallone	Thomas
Caltagirone	Harhai	Petrarca	Tigue
Casorio	Horsey	Petrone	Travaglio
Cawley	James	Pistella	Veon
Cohen	Josephs	Preston	Vitali
Corrigan	Keller	Readshaw	Walko
Costa	Kirkland	Rieger	Wansacz
Coy	LaGrotta	Roberts	Washington

Cruz	Laughlin	Rooney	Wheatley
Curry	Leach	Ruffing	Williams
DeLuca	Lederer	Sainato	Wojnaroski
Dermody	Lescovitz	Samuelson	Yewcic
DeWeese	Levdansky	Santoni	Youngblood
Diven	Manderino	Scrimenti	Yudichak
Donatucci	Mann		

NAYS—110

Adolph	Evans, J.	Kenney	Rohrer
Allen	Fairchild	Kotik	Ross
Argall	Feese	Leh	Rubley
Armstrong	Fichter	Lynch	Sather
Baker	Fleagle	Mackereth	Saylor
Baldwin	Flick	Maher	Scavello
Bard	Forcier	Maitland	Schroder
Barrar	Gabig	Major	Semmel
Bastian	Gannon	Marsico	Smith, B.
Benninghoff	Geist	McGill	Smith, S. H.
Birmelin	George	McIlhattan	Stairs
Boyd	Gillespie	McIlhinney	Steil
Browne	Gingrich	McNaughton	Stern
Bunt	Godshall	Metcalfe	Stevenson, R.
Cappelli	Goodman	Micozzie	Stevenson, T.
Causer	Gordner	Miller, R.	Taylor, E. Z.
Civera	Habay	Miller, S.	Taylor, J.
Clymer	Hanna	Nailor	True
Coleman	Harhart	Nickol	Turzai
Cornell	Harper	O'Brien	Vance
Crahalla	Harris	O'Neill	Watson
Creighton	Hasay	Payne	Weber
Dailey	Hennessey	Petri	Wilt
Daley	Herman	Phillips	Wright
Dally	Hershey	Pickett	Zug
Denlinger	Hess	Raymond	
DiGirolamo	Hickernell	Reed	Perzel,
Egolf	Hutchinson	Reichley	Speaker

NOT VOTING—3

Lewis	Roebuck	Waters
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EXCUSED—1

Gruitza

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House agree to the bill 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?

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

The following roll call was recorded:

YEAS—119

Adolph	Fairchild	Mackereth	Rohrer
Allen	Feese	Maher	Ross
Argall	Fichter	Maitland	Rubley
Armstrong	Fleagle	Major	Sather
Baker	Flick	Mann	Saylor
Baldwin	Forcier	Markosek	Scavello
Bard	Frankel	Marsico	Schroder
Barrar	Gabig	McCall	Semmel
Bastian	Geist	McGill	Shaner
Belfanti	Gillespie	McIlhattan	Smith, B.
Benninghoff	Gingrich	McIlhinney	Smith, S. H.
Birmelin	Godshall	McNaughton	Stairs
Boyd	Habay	Metcalfe	Steil
Browne	Haluska	Micozzie	Stern
Bunt	Hanna	Miller, R.	Stetler
Cappelli	Harhart	Miller, S.	Stevenson, R.
Causer	Harper	Nailor	Stevenson, T.
Civera	Harris	Nickol	Taylor, E. Z.
Clymer	Hasay	O'Neill	True
Coleman	Hennessey	Payne	Turzai
Cornell	Herman	Petrarca	Vance
Corrigan	Hershey	Petri	Watson
Coy	Hess	Petrone	Weber
Crahalla	Hickernell	Phillips	Wilt
Creighton	Hutchinson	Pickett	Wright
Dailey	Keller	Raymond	Yewcic
Dally	Lederer	Readshaw	Zug
Denlinger	Leh	Reed	
DiGirolamo	Lewis	Reichley	Perzel,
Egolf	Lynch	Roberts	Speaker
Evans, J.			

NAYS—76

Bebko-Jones	Donatucci	Leach	Scrimenti
Belardi	Eachus	Lescovitz	Solobay
Bianucci	Evans, D.	Levdansky	Staback
Bishop	Fabrizio	Manderino	Sturla
Blaum	Freeman	McGeehan	Surra
Butkovitz	Gannon	Melio	Tangretti
Buxton	George	Mundy	Taylor, J.
Caltagirone	Gergely	Myers	Thomas
Casorio	Goodman	O'Brien	Tigue
Cawley	Gordner	Oliver	Travaglio
Cohen	Grucela	Pallone	Veon
Costa	Harhai	Pistella	Vitali
Cruz	Horsey	Preston	Walko
Curry	James	Rieger	Wansacz
Daley	Josephs	Rooney	Washington
DeLuca	Kirkland	Ruffing	Williams
Dermody	Kotik	Sainato	Wojnaroski
DeWeese	LaGrotta	Samuelson	Youngblood
Diven	Laughlin	Santoni	Yudichak

NOT VOTING—4

Kenney	Roebuck	Waters	Wheatley
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EXCUSED—1

Gruitza

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.

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**THE SPEAKER (JOHN M. PERZEL)
PRESIDING**

The House proceeded to third consideration of **HB 1446, PN 1793**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation laws allowed to General Assembly relating to medical professional liability actions.

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

Mr. **TURZAI** offered the following amendment No. **A1112**:

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

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation laws allowed to General Assembly relating to medical professional liability actions.

Amend Bill, page 1, lines 7 through 18; pages 2 and 3, lines 1 through 30; page 4, lines 1 through 10, by striking out all of said lines on said pages and inserting

Section 1. Access to quality health care is of the utmost importance to the safety and welfare of our Commonwealth's more than 12 million citizens.

The health and welfare of our residents is in serious jeopardy because many physicians faced with excessive medical malpractice premiums can no longer afford to deliver quality health care in this Commonwealth.

Several factors, including excessive jury awards, have facilitated the sudden exodus of many of the medical malpractice insurance providers in this Commonwealth.

This diminished market has placed severe restrictions on the physician's ability to secure, afford and maintain reasonable liability insurance.

In the absence of affordable insurance coverage, many physicians are in the untenable position of being forced to reduce services, move to other states or leave the medical profession altogether.

The departure of our Commonwealth's physicians, combined with costly insurance premiums, has resulted in the reduction of other essential hospital services.

The ultimate result of this reduction in services is restricted access to health care for the citizens of this Commonwealth.

This Commonwealth is clearly in the midst of an escalating liability emergency.

This Commonwealth has long been recognized as a leader in medical research and medical services, supporting some of the best medical institutions in the world.

It is imperative that the citizens of this Commonwealth continue to have access to the best physicians, the safest medical institutions and a fair and just legal system.

Access to quality health care must not come at the expense of those injured by the willful or wanton actions of practitioners.

The Commonwealth must balance the right of its citizens to quality health care against the rights of professionals who cause injury to its citizens.

The General Assembly desires to alleviate the medical emergency that has evolved from unreasonable jury awards, unaffordable insurance premiums and reduced reimbursements, but is limited in its efforts by rigid restrictions in the Constitution of Pennsylvania.

The safety and welfare of this Commonwealth requires prompt amendment to the Constitution of Pennsylvania.

Section 2. The following amendment to the Constitution of Pennsylvania is proposed in accordance with section 1(a) and (b) of Article XI:

That section 18 of Article III be amended to read:
§ 18. Compensation laws allowed to General Assembly.

(a) The General Assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall]. Except as otherwise provided for in this section, the General Assembly shall not limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.

(b) Subject to the provisions of subsection (c), the General Assembly may enact laws limiting the amount of recovery for noneconomic and punitive damages in any medical professional liability action.

(c) The provisions of subsection (b) shall not apply to noneconomic and punitive damages in any medical professional liability action if the act or omission amounts to willful or wanton misconduct.

Section 3. This proposed amendment shall be submitted by the Secretary of the Commonwealth to the qualified electors of the State at an election to be held at least one month after the amendment is agreed to by the Senate and the House of Representatives and after the advertising requirements of section 1(a) of Article XI of the Constitution of Pennsylvania have been satisfied.

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

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

Mr. **TURZAI**. Mr. Speaker, during the course of the debate, my esteemed colleagues said that they did not believe that the Senate would ultimately pass HB 1326 as amended. Let us give the Senate an opportunity to see exactly what they will do.

The amendment to HB 1446 allows an emergency vote limited to medical malpractice. The contention has been that it is a procedural perspective since an argument, we believe, can be made under the emergency amendment with respect to the medical malpractice arena. It is not inconsistent with the vote that we just took, which is a larger perspective and will not happen until 2005. The fact of the matter is, the Senate can have both options, and in fact, the Senate can pass both and the people of the State of Pennsylvania can pass both.

At this point in time the amendment 1112 to HB 1446 merely changes the voting date with respect to HB 1446, and everybody here who believes that they can make an argument just on the medical malpractice arena but are not willing to address it, if they think that that is in fact being disingenuous, they have an opportunity to cast that vote right now. Thank you.

The SPEAKER. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. I just want to be clear. Maybe this is directed at the Chair. There are numerous amendments filed to HB 1446. Will this knock those out?

The SPEAKER. Yes.

Mr. VITALI. Okay. Thank you.

The SPEAKER. The Chair thanks the gentleman.

For the information of the members, we allowed both sides to go far afield in the last debate. The Parliamentarian will be listening, along with myself, and we will not allow that to go on any longer.

The Chair recognizes the gentleman, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

I just ask for a brief description of the amendment.

The SPEAKER. The gentleman, Mr. Turzai, is recognized for a brief explanation of the amendment.

Mr. TURZAI. Yes, sir, Mr. Speaker.

HB 1446 calls for an emergency use of the Pennsylvania Constitution under Article III, section 18, and under that particular provision, it is required to have two-thirds vote of this Assembly and of the Senate but it only requires one session.

The change between HB 1446 and this amendment is that 1446 calls for the vote in a referendum to take place in April 2004 and it is changed so that it is at least 1 month after the vote. The reason being is that we are not sure if the Senate would take this up prior to summer recess and really have until the end of this legislative session to take it up, which would mean to the end of 2004. To make sure that should they vote on this subsequent to April 2004 but to still get it on the ballot, we are changing it to have the more flexible language of at least 1 month after the vote, and that is the difference between the two, sir.

The SPEAKER. The Chair thanks the gentleman.

LEAVE OF ABSENCE

The SPEAKER. The Chair returns to leaves of absence and recognizes the majority whip, who asks for a leave of absence for the gentleman from Philadelphia, Mr. KENNEY. Without objection, the leave will be granted.

VOTE CORRECTION

The SPEAKER. The gentleman, Mr. Sturla, from Lancaster County is recognized.

Mr. STURLA. Thank you, Mr. Speaker.

On amendment A1268 for HB 1326, I was not recorded. My switch malfunctioned. I would like to be recorded as a negative.

The SPEAKER. The Chair thanks the gentleman.

CONSIDERATION OF HB 1446 CONTINUED

Mr. VEON. Mr. Speaker?

The SPEAKER. The Chair recognizes the gentleman, Mr. Veon.

Mr. VEON. For comments on the amendment, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, may I suspend for one minute?

VOTE CORRECTIONS

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

Mr. GODSHALL. Thank you, Mr. Speaker.

While we are under suspension, I was wondering if I could— On HB 158 yesterday I was voted in the affirmative. I would like to be recorded in the negative.

The SPEAKER. The Chair thanks the gentleman. The gentleman's remarks will be spread across the record.

The Chair recognizes the gentleman, Mr. Saylor.

Mr. SAYLOR. Mr. Speaker, I would like to correct the record.

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

Mr. SAYLOR. On the vote on the House amendment to HB 1326, amendment A1268, my button malfunctioned. I would like to be recorded in the "yea" column.

The SPEAKER. The Chair thanks the gentleman, and the gentleman's remarks will be spread across the record.

We will be with you in one moment, Mr. Roebuck. I just have one more correction of the record.

The Chair recognizes the gentleman, Mr. Egolf.

Mr. PAYNE. Thank you, Mr. Speaker.

Would you please let the record show that on HB 1326, the motion to rescind or receive, my switch did not work at all, and I am a "no" vote.

The SPEAKER. The Chair thanks the gentleman.

Mr. PAYNE. Thank you, Mr. Speaker.

The SPEAKER. We recognized the gentleman, Mr. Egolf. So, Mr. Egolf, go ahead.

Mr. EGOLF. Thank you, Mr. Speaker.

And that is on the same bill, HB 1326, the motion to recommit, the first motion. My switch also was not working, and I would like to be recorded in the negative.

The SPEAKER. The Chair thanks the gentleman.

I had thought that it was only going to be a few changes on the record. In all due fairness, Representative Roebuck was up prior. So at this time I would like to recognize the gentleman from Philadelphia, Mr. Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

To correct the record.

On HB 1326 I am recorded as not voting. I wish to be recorded in the negative.

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

I apologize, Mr. Roebuck. I did not realize that is what you wanted to do, too.

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

Mr. COHEN. Thank you, Mr. Speaker.

It is the same as all the other recent statements.

On the Veon motion on germaneness, my switch was jammed, and I wish to be recorded in the negative.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Stevenson.

Mr. T. STEVENSON. Thank you, Mr. Speaker.

My switch malfunctioned. I would like to be recorded in the negative on HB 1326 on the motion to recommit.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentlelady from Montgomery, Mrs. Dailey.

Mrs. DAILEY. Thank you, Mr. Speaker.

My switch did not work on HB 1326, amendment 1268. I would like to be in the affirmative, please.

The SPEAKER. The Chair thanks the gentlelady.

The Chair recognizes the gentleman, Mr. Roberts.

Mr. ROBERTS. Correction of the record.

The SPEAKER. The gentleman is in order.

Mr. ROBERTS. I am shown as voting in the affirmative for final passage of HB 1326, and I would like to be shown as voting in the negative.

The SPEAKER. The Chair thanks the gentleman. The gentleman's remarks will be spread across the record.

CONSIDERATION OF HB 1446 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, on the amendment.

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

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the Turzai amendment, and I wonder if the gentleman would stand for a brief interrogation.

The SPEAKER. The gentleman indicates that he will.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I noticed, as I read the amendment, how the amendment was drafted in a way that it essentially gutted the bill and replaced it with basically the same language. Mr. Speaker, is it fair to assume that that legislative maneuver was done in order to make all of the Democratic amendments no longer in order?

Mr. TURZAI. No.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the Turzai amendment, and I am well aware that there are members on the Democratic side who do believe that this issue rises to the level of being an emergency and that we are in fact talking about an emergency amendment to the Pennsylvania State Constitution to deal with the medical malpractice insurance problem in the State of Pennsylvania. Mr. Speaker, I rise to strongly oppose that effort. Yes, we have a problem with medical malpractice insurance rates in this State, but it in no way, shape, or form, in my judgment, rises to the level that we are going to rush through a constitutional amendment to deal with that problem.

Mr. Speaker, I have to say that it does bother me that the Republican Party can bring to the floor of this House an amendment to the Pennsylvania Constitution, one of the most serious changes we can or should make in law, when we are talking about medical malpractice insurance rates for doctors. If you want to talk about an emergency in the State of Pennsylvania, we have 1 million people with no health insurance whatsoever. Mr. Speaker, I would submit that that is an emergency, but we cannot get the Republican Party to bring a bill to the floor to say that is an emergency that we ought to deal with in this legislature and solve.

Mr. Speaker, I have in western Pennsylvania 15,000 LTV retirees who, because that company went bankrupt, had their contractual health-care benefits stolen away from them. They do not have health care today despite getting those benefits at the bargaining table, and, Mr. Speaker, I would suggest to this legislature that that is an emergency, and I have legislation introduced to solve that problem in Pennsylvania, but I cannot get the Republican Party to bring that emergency to the House floor today.

Mr. Speaker, we know we have thousands of senior citizens who have real emergencies and cannot pay for Medicare, cannot pay for their medicine, cannot pay for their prescriptions, and that is an emergency, and we cannot get that emergency addressed on the House floor today or any day for that matter, but this issue of insurance rates for doctors rises to the level of an emergency that requires a constitutional amendment.

Mr. Speaker, our priorities are mixed up, our priorities are backwards. To make this an emergency to pass as a constitutional amendment and not be able to address other real health-care emergencies in this State is a travesty.

Mr. Speaker, for that and many other reasons, I rise to strongly oppose the Turzai amendment which does in fact, by virtue of the way he has crafted this language, cut off every effort and every attempt by the Democrats to offer even reasonable and rational amendments to this bill; once again, in a very arrogant fashion by the Republican Party to cut off our ability to even offer amendments. Mr. Speaker, I strongly oppose the Turzai amendment and ask for a negative vote.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Will the gentleman, Mr. Turzai, stand for interrogation?

The SPEAKER. The gentleman indicates that he will.

Mr. BLAUM. My question, in the bill the election where a referendum would be held, if the Senate took this up, and of course, none of us think they will—

Mr. TURZAI. I am sorry, Mr. Speaker; I apologize.

Mr. BLAUM. That is okay.

In the bill as it stands now there is a date in there of April, and I understand that. In your amendment it changes the date not to a specific day of the calendar, a month and a day, but as I read it, the date would be, "This proposed amendment shall be submitted by the Secretary of the Commonwealth to the qualified electors of the State at an election to be held at least one month after the amendment is agreed to by the Senate and the House of Representatives and after the advertising requirements of section 1(a) of Article XI of the Constitution of Pennsylvania have been satisfied."

As I read that, an election will be held at least 1 month afterward, which could be 2 months afterward, which could be 2 years afterward, which could be 3 years afterward. It could be not a primary or general election as we are used to and accustomed to, but I am concerned that the wording here could mean a special election, and I believe that is a serious flaw in the amendment, if I am reading it correctly, and I would ask you to speak to that, please.

Mr. TURZAI. Mr. Speaker, the provisions with respect to amending the Constitution are found in Article XI, section 1. However, as noted in a 1993 law review article in a Widener Law Journal by a Mr. Witte, it is clear that certain

court decisions, enunciated primarily by the Supreme Court of this State, have affected the ability of the Secretary of the Commonwealth to ultimately effect the submission of such an amendment to the voters. The constitutional provision providing for amendment and the relevant Supreme Court cases—

Mr. BLAUM. Mr. Speaker?

Mr. TURZAI. —make it clear—

Mr. BLAUM. Mr. Speaker, I just ask that the gentleman get some quiet, please.

The SPEAKER. The gentleman has a right to be heard.

Mr. TURZAI. —make it clear—

The SPEAKER. Please keep the noise level down.

Mr. TURZAI. —that such an amendment, once passed by the House and the Senate by two-thirds votes, would be submitted to the next available election 1 month after both Houses pass it with two-thirds votes. The fact of the matter is that the Senate would have until the end of this session, which is in 2004, to pass this emergency amendment. We cannot, other than through the political persuasion, dictate to them exactly when that vote will be, if at all. However, should this body pass it with two-thirds vote, as I certainly expect that we will do, I believe that the hue and outcry of the citizenry and of the members in this body will motivate the Senate to take this up as expeditiously as possible.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes Representative Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

I do not believe the gentleman answered the question. The fact still remains that it does not set a specific election or time for this to be considered by the voters, and I think the amendment is seriously flawed because of that.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentlelady from Philadelphia, Ms. Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, I just want to put on record for this debate – it is apropos to both the amendment because the amendment invokes an emergency procedure and it is apropos to the bill in chief because the bill in chief invokes an emergency procedure – and I just want it to be in the record on the debate today what an emergency procedure is and why I think we should not be invoking this.

The Pennsylvania Constitution is our most sacred document that governs our Commonwealth and it was designed to be difficult to change, and that is why under the normal course of business, in order to change the Constitution as compared to just to change a law, there are a lot more steps that you have to go through and a lot more time that has to be allotted.

Now, the makers of our Constitution did have the foresight to recognize that on occasion, on a rare occasion, there may be a need to shortcut that procedure. As best as I could determine, that has only been shortcutted in Pennsylvania for the whole length of the years of our Constitution two or three times, and I believe I am correct in saying that in all of the instances over the years when this was invoked, the last my recollection is had to do with the time of the Johnstown flood. The reason that it was invoked was because we needed to make a change in order to be eligible for Federal dollars coming into our Commonwealth, the dollars of which would not be there if we

went through the two-consecutive-session requirement, and I think that is a very important safeguard, but I do not think it is the kind of safeguard that should be invoked with every statutory change, with every cyclical change of something that happens in the normal course of business.

I think it is a mistake to invoke an emergency procedure of our Constitution. I know that many people believe this is a very serious situation, and I do, too, even though I do not believe that caps are the solution, but regardless of whether you think that caps are the solution or not, I think to look at solving a particular issue of the day by invoking extraordinary protections or overriding the extraordinary protections provided in our Constitution is a bit shortsighted. I just want that on the record to say that we are shortcutting our Pennsylvania constitutional regular requirements for something that I do not believe that the makers of the Constitution would have considered an emergency or at least I guess it is fair to say that I do not think rises to the level of a constitutional emergency, and so I ask for a negative vote.

Thank you.

The SPEAKER. The Chair thanks the gentlelady.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—122

Adolph	Egolf	Lewis	Rubley
Allen	Fairchild	Lynch	Sainato
Argall	Feese	Mackereth	Sather
Armstrong	Fichter	Maher	Saylor
Baker	Fleagle	Maitland	Scavello
Baldwin	Flick	Major	Schroder
Bard	Forcier	Mann	Semmel
Barrar	Gabig	Markosek	Shaner
Bastian	Geist	Marsico	Smith, B.
Belardi	George	McCall	Smith, S. H.
Benninghoff	Gillespie	McGill	Stairs
Birmelin	Gingrich	McIlhattan	Steil
Boyd	Godshall	McIlhinney	Stern
Bunt	Grucela	Metcalfe	Stevenson, R.
Capelli	Habay	Micozzie	Stevenson, T.
Casorio	Haluska	Miller, R.	Surra
Causar	Hanna	Miller, S.	Taylor, E. Z.
Cawley	Harhart	Nailor	Tighe
Civera	Harris	Nickol	True
Clymer	Hasay	O'Neill	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Watson
Corrigan	Hershey	Phillips	Weber
Coy	Hess	Pickett	Wilt
Crahalla	Hickernell	Raymond	Wojnaroski
Creighton	Hutchinson	Readshaw	Wright
Dailey	Keller	Reed	Yewcic
Daley	LaGrotta	Reichley	Yudichak
Dally	Lederer	Roberts	
Denlinger	Leh	Rohrer	Perzel,
DiGirolamo	Lescovitz	Ross	Speaker

NAYS—73

Bebko-Jones	Evans, D.	Levdansky	Santoni
Belfanti	Evans, J.	Manderino	Solobay
Bianucci	Fabrizio	McGeehan	Staback
Bishop	Frankel	McNaughton	Stetler
Blaum	Freeman	Melio	Sturla
Browne	Gannon	Mundy	Tangretti

Butkovitz	Gergely	Myers	Taylor, J.
Buxton	Goodman	O'Brien	Thomas
Caltagirone	Gordner	Oliver	Travaglio
Cohen	Harhai	Pallone	Veon
Costa	Harper	Petrone	Vitali
Cruz	Horse	Pistella	Walko
Curry	James	Preston	Wansacz
DeLuca	Josephs	Rieger	Washington
Dermody	Kirkland	Roebuck	Wheatley
DeWeese	Kotik	Rooney	Williams
Diven	Laughlin	Ruffing	Youngblood
Donatucci	Leach	Samuelson	Zug
Eachus			

NOT VOTING—3

Petri	Scrimenti	Waters
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EXCUSED—2

Gruitza	Kenney
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

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

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage. The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Beaver, Mr. Veon. Mr. VEON. Thank you, Mr. Speaker. Mr. Speaker, I rise to offer an amendment.

DECISION OF CHAIR RESCINDED

The SPEAKER. Without objection, the Chair rescinds its announcement that the bill has been agreed to for the third time as amended.

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

The SPEAKER. The Chair recognizes the gentleman, Mr. Veon, for a suspension of the rules.

Mr. VEON. I am sorry, Mr. Speaker; I rose to offer my amendment.

The SPEAKER. We recognize you for the purpose of offering an amendment.

Mr. VEON. For the purposes of offering an amendment. Is my amendment A0875 in order?

The SPEAKER. The section that the gentleman wanted to amend is no longer there. Therefore, the amendment is out of order.

Does the gentleman have any further amendments that he wishes to call up?

Mr. VEON. Mr. Speaker, I would like to be recognized on the bill for a moment.

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

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage. The question is, shall the bill pass finally?

The gentleman is in order and may proceed. Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I would make the case again that the gentleman, the maker of the amendment, used legislative tactics here today to make sure that the Democrats did not have any opportunity to offer amendments to this bill, and, Mr. Speaker, one of the reasons that I so strongly oppose placing caps on noneconomic damages, damages that juries would award in the State of Pennsylvania, is because it does take away the ability of that jury to look at the facts in the case and make an informed and intelligent decision rather than this legislature by law telling that jury what the extent of the noneconomic damages can be, despite or regardless the facts of the case, egregious facts or not.

For example, if this bill were to become law and this constitutional amendment were in place, even despite the fact that a doctor would be drunk while performing surgery or on drugs while performing surgery, the fact is that the damages for that patient treated by a drunk doctor, noneconomic damages, would in fact be capped rather than a jury being allowed to look at the facts in the case and make a decision based on those egregious facts in the case.

MOTION TO SUSPEND RULES

Mr. VEON. And for that reason, Mr. Speaker, I would like to move to suspend the rules for the purposes of offering my amendment, which would make it very clear that there would be no cap in Pennsylvania if a doctor were to perform some medical act while in fact drunk or on drugs, and I would like to make a motion to suspend the rules for the purposes of offering that amendment.

The SPEAKER. Could we get the amendment number, Mr. Veon.

Mr. VEON. Oh, I am sorry, Mr. Speaker. That would be amendment A0875.

The SPEAKER. The Chair thanks the gentleman. Would the gentleman please come to the podium.

(Conference held at Speaker's podium.)

MOTION RULED OUT OF ORDER

The SPEAKER. The gentleman's motion for a suspension of the rules is out of order.

The Chair recognizes the gentleman from Beaver, Mr. Veon. The gentleman is in order.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I heard the ruling of the Chair and, obviously, will accept that ruling from the Chair that even – even – my motion to suspend the rules for the purposes of offering an amendment to say that caps should not be allowed on noneconomic damages in the State of Pennsylvania if a doctor is

drunk while performing surgery, even that amendment is being ruled out of order today by the Speaker because of the way the Republican Party has shut out our ability to offer any amendments, any amendments, even one as egregious as that, Mr. Speaker, the one you do not allow me to offer and ruled is out of order, which would simply say if a doctor is drunk, there shall be no caps, and as you can imagine, I have a long list of exceptions here – if a doctor is on drugs, there shall be no caps – and a long list, but even those amendments, even an effort to suspend the rules is being ruled out of order here today, Mr. Speaker.

I think, personally, it is outrageous that we could pass a bill that would allow caps in this State even for a drunk doctor performing surgery. I think that is outrageous.

Mr. Speaker, I strongly oppose final passage of this bill for that reason and many others on this long list of exceptions that I would like to offer as amendments to this bill.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I rise for the purpose of offering amendment 1461, which would amend the Constitution to make it clear that attorneys can be regulated by the legislature for the purpose of lobbying.

The SPEAKER. On the motion to suspend the rules, the Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. VITALI. Mr. Speaker, I am not asking for a rules suspension, to be clear.

This amendment deals with an entirely different section of the Constitution than did the bill in chief and the Turzai amendment. This deals with a section dealing with the legislature, and I do not believe— I would ask the Parliamentarian and the Speaker to take a look at this amendment, and I am hoping what you will see is that Turzai's language just deals with an entirely different section and this is not affected, so there is no reason why this should not be considered. It was timely filed, and I do not think it necessitates a rules suspension.

The SPEAKER. We already have looked at it, and it is out of order, Mr. Vitali.

Mr. VITALI. May I ask what is the problematic lines in question, because I do not see that.

The SPEAKER. Would the gentleman please come up to the podium.

(Conference held at Speaker's podium.)

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, are we on final passage? Thank you.

Mr. Speaker, could I make a parliamentary inquiry briefly?

The SPEAKER. The gentleman will state his point.

Mr. SCHRODER. Is it possible to incorporate into this record portions of my remarks from the previous debate on the last bill?

The SPEAKER. If you would like to do that, you should submit those remarks in writing and they will go on the record.

Mr. SCHRODER. I may do that, Mr. Speaker, and I thank you for that answer.

Let me just make a couple comments here.

Mr. Speaker, unlike the last speaker or two who spoke, I truly do believe that we have a bona fide emergency with regards to health care here in the State of Pennsylvania. I believe that, and I believe that literally thousands of people who have called me, who have e-mailed me, who have written to me, both from my district and without in the State of Pennsylvania, they also believe that, and they know it because they are losing their access to health care, and it is quickly slipping away and we must act.

Mr. Speaker, we heard a lot of debate during the last bill that we should be limiting this to medical malpractice and doing it as an emergency basis. Well, here it is.

Mr. Speaker, according to recently published statistics, Pennsylvania has lost over 1100 physicians over the past year alone. Mr. Speaker, since 1997 alone, Pennsylvania's malpractice premiums rose 500 percent, and it goes up to 1400 percent in growth if you go back to 1976. Pennsylvania's premiums are the highest of any State in the country, and they are 49 percent higher than the State of New York. In 1998 Philadelphia paid out more in medical malpractice than the entire State of California, and medical malpractice premiums in Los Angeles, California, are about half the same that a high-risk specialist pays in Philadelphia.

Mr. Speaker, a recent study done by Milliman USA states that large States without caps have the highest medical malpractice costs, and they also found that Pennsylvania is 171 percent—

The SPEAKER. The gentleman will suspend.

Mr. SCHRODER. —above the national average, according to the Milliman study.

The SPEAKER. Would the gentleman please keep to the final passage of the bill.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I believe the issue of whether or not an emergency is justified here has been put into play by members of the other caucus, and, Mr. Speaker, I think it is incumbent upon me to refute the claims that it is not, and that is what the basis of my remarks have been upon.

Mr. Speaker, the recently released report of the Governor's task force stated that the loss ratio for Pennsylvania medical liability insurers—

The SPEAKER. Mr. Schroder—

Mr. SCHRODER. —increased to 67 percent in 1996.

The SPEAKER. Would the gentleman suspend.

Please stay to the final passage of the bill.

Mr. SCHRODER. Mr. Speaker, could I approach the dais?

The SPEAKER. Of course you can.

(Conference held at Speaker's podium.)

The SPEAKER. Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I believe that, as I said, we are in an emergency with regards to medical malpractice. We certainly need caps on noneconomic damages. When you look at the average jury award in Pennsylvania being \$402,000 in the year 2000, that is a 93-percent increase from what it was in 1991. Caps on noneconomic damages would certainly help this situation.

When you look at the number of million-dollar verdicts in Pennsylvania, which increased from only 2 in the year 2000 to 15 in the year 2002, once again caps on noneconomic damages would be vital in holding down this trend and this increase.

Jury Verdict Research recently reported that Pennsylvania has one of the highest percentages of jury awards of over \$1 million of any State in the country. Once again, caps on noneconomic damages would go a long way towards resolving this problem and reversing this unfortunate trend.

Mr. Speaker, for all these reasons I think we all know what the right thing is to do here tonight. We need to support HB 1446 on final passage so we can use the emergency procedure to amend the Constitution to allow caps on noneconomic damages to deal with the health-care emergency that we now have in this Commonwealth.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Philadelphia, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I would like to do two things very quickly. One, I would like for the record to reflect that I had several amendments to HB 1326 and HB 1446, amendments that reflect the interests of not just only the people that I represent in the 181 but also people in Philadelphia County and throughout the Commonwealth of Pennsylvania. As a result of the Turzai amendment, those amendments were then ruled out of order. So I just wanted the record to reflect that I was ready to go.

Secondly, Mr. Speaker, I would like to rise in opposition to HB 1446 for the following reasons: Number one, Mr. Speaker, HB 1446 will not, will not, n-o-t, provide the relief that practitioners need in the Commonwealth of Pennsylvania. There has been several reliance on what happened in California. It was a proposition in California that really brought about a reduction in premiums and medical malpractice in California.

Number two, HB 1446, rather than protecting rights, represents an assault on rights, the rights of those who are unable to defend themselves, and, Mr. Speaker, I am talking about children; I am talking about the elderly; I am talking about people who are not able to secure the kind of crafty legal assistance that you and I might be able to secure.

And number three, Mr. Speaker, this has been declared an emergency. While I agree that there is a problem that the General Assembly needs to address with respect to medical malpractice premiums, I think that the Honorable Edward G. Rendell has put forth very credible proposals that would bring about expedient, expeditious relief to practitioners in Pennsylvania, and I support that proposal.

But, Mr. Speaker, to declare this an emergency without declaring an emergency for the million-plus people in Pennsylvania who are without health insurance, to declare this an emergency without declaring an emergency that Pennsylvania is 46th in job growth and development, in light of the growing number of people who are unemployed and not declare that an emergency, to declare this an emergency in the absence of declaring the disparity which exists in educational funding throughout Pennsylvania which directly affects our children and children all across the State, to declare this an emergency without declaring a similar emergency in those other areas that I mentioned, Mr. Speaker, represents a sad day,

and so I urge my colleagues on both sides of the aisle to vote “no” on HB 1446.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Huntingdon, Mr. Sather.

Mr. SATHER. Thank you, Mr. Speaker.

I will be very brief.

To say that an emergency does not exist – others have used the name of Huntingdon County; I have said it several times in caucus – you would be hardpressed to tell those people in Huntingdon County who are losing their physicians and specialists that an emergency does not exist.

My fear is this: 2 years ago I think I had one of the first hospitals who had a nonrenewal by PHICO Insurance. That was a real emergency. Those people are still hanging by a thread because of the high cost of the premium that they are paying. I know this does not go to that issue, not immediately it does not, but I will tell you, if we do not address this issue of emergency problems, the loss of the physicians and surgeons that we have in our communities, it will spread to an economic development crisis because we cannot attract good, solid corporate citizens to come into our area, because one of the first things they ask is about your educational system, and one of the other questions that typically is asked is, what type of acute-care facility do you have in Huntingdon County or central PA?

I would ask for support on this bill. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, very quickly, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. VEON. Just so we are all clear, this is an emergency amendment to the Constitution and, as such, would take a two-thirds vote to pass?

The SPEAKER. Yes, Mr. Veon; that is correct. It would take 134 votes.

Mr. VEON. I am sorry, Mr. Speaker; I could not hear that.

The SPEAKER. It would take 134 votes.

Mr. VEON. Okay. Thank you, Mr. Speaker. 134?

The SPEAKER. Yes.

Mr. VEON. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lycoming, Mr. Feese.

Mr. FEESE. Thank you, Mr. Speaker.

Mr. Speaker, today I read a press release from the Pennsylvania Democratic Party which said, “The House Republican Caucus has dropped plans to vote on a constitutional amendment limiting non-economic damage awards in medical malpractice cases....” The release goes on to say, “...House Republicans are less interested in helping doctors...,” and it goes on to say that the GOP needs to join together with the other side of the aisle to find an honest solution which is right for doctors and patients.

Mr. Speaker, I also heard during the debate of HB 1326 that this was an emergency and we should not be voting HB 1326; that it was an emergency and we needed to help our doctors. I also heard individuals from the other side of the aisle saying, where is HB 1446? That will protect doctors in this time of emergency and this time of crisis.

Well, here it is. This is the vote. This is the one your patients will watch. This is the one that doctors will watch. This is the one the editorial boards in all of our districts will watch that supported a constitutional amendment to cap damages in medical malpractice actions.

Mr. Speaker, if you are going to talk the talk, then walk the walk. Vote for HB 1446.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lawrence, Mr. LaGrotta.

Mr. LaGROTTA. Thank you, Mr. Speaker.

Mr. Speaker, I agree with the previous speaker. I think walking the walk would be very important for every member of this General Assembly, and that is why I want to make a few observations and why I want to make a few points so that the members of the other side of the aisle who are supporting capping noneconomic losses can understand what is really happening here.

Mr. Speaker, this was supposed to be the day where we saved medicine in Pennsylvania. When you go to the back of the House, Mr. Speaker – and all of us that have been here longer than 12 hours know who congregates in the back of the House – what you do not find are any doctors, because this day is not really about helping doctors, Mr. Speaker. This bill is not really about helping doctors, Mr. Speaker, because anyone who really wants to help doctors would be looking at the transcripts of the Professional Licensure-Insurance joint hearing from 2 weeks ago and realizing that we cannot get malpractice insurance premiums under control until we get insurance companies under control, until we investigate their investment practices, until we look at the fact that the reason— Mr. Speaker, just a little order, please. I am having a little difficulty getting my wind.

The SPEAKER. The gentleman is correct.

Would the members please keep the noise levels down.

Mr. LaGROTTA. I do not want to get all choked up here, Mr. Speaker.

Mr. Speaker, the reason malpractice insurance premiums have escalated in the last 24 months is because the insurance companies did the same things our pension fund did, Mr. Speaker. They invested premium dollars in the Enrons and the WorldComs— Mr. Speaker, just a little bit of order, please.

The SPEAKER. The gentleman is correct. He deserves to be heard. Please keep the noise levels down.

Mr. LaGROTTA. They invested their premiums unwisely, Mr. Speaker, as we all did, and they lost money, as we all did, in the markets. Unfortunately for the physicians, the companies that should never have been licensed to write malpractice insurance in any State went under and the companies that lost those imprudent premium investments just raised the premiums for physicians.

Mr. Speaker, the previous speaker talked about walking the walk, and I am going to join him, Mr. Speaker, in issuing that same challenge. I will vote for this emergency constitutional amendment, Mr. Speaker, provided the majority party in this

General Assembly agrees that we have to begin regulating premiums, that we have to do precisely what California did, since everyone wants to rely on California as an example, and call for an immediate 20-percent rollback in premiums, and that we have to take every bit of Governor Rendell's proposal to substantively solve this problem under consideration, because the only people that benefit from caps, Mr. Speaker, are the insurance companies. California's caps took effect, and for the first 24 months, premiums went up almost 20 percent. It was not until the Proposition 103 was enacted that premiums actually went down. If you want to walk the walk, Mr. Speaker, you have got to do more than just make the rich insurance companies richer.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lackawanna, Mr. Cawley.

Mr. CAWLEY. Thank you, Mr. Speaker.

Mr. Speaker, I am asking my colleagues to support this. We know this is exactly what the medical profession – constituents of ours have been calling – the hospitals have been asking for. I am asking us to support it.

I would like to take one minute also, Mr. Speaker. I have to do this because this has been sent out to constituents that I am hedging on this vote to help the medical malpractice. I think this is, like Nick Micozzie said on several occasions, unwarranted, and I am going to let the people know that I represent that I am going to walk the walk along with talking the talk, and I am supporting HB 1446 to help with medical malpractice.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

For remarks for the record, the desk will be kept open after the vote for the remarks to be put into the record.

On the question recurring,

Shall the bill pass finally?

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

The following roll call was recorded:

YEAS—130

Adolph	Fairchild	Lewis	Ross
Allen	Feese	Lynch	Rubley
Argall	Fichter	Mackereth	Sainato
Armstrong	Fleagle	Maher	Sather
Baker	Flick	Maitland	Saylor
Baldwin	Forcier	Major	Scavello
Bard	Frankel	Mann	Schroder
Barrar	Gabig	Markosek	Semmel
Bastian	Geist	Marsico	Shaner
Belardi	George	McCall	Smith, B.
Belfanti	Gillespie	McGill	Smith, S. H.
Benninghoff	Gingrich	McIlhattan	Stairs
Birmelin	Godshall	McIlhinney	Steil
Boyd	Grucela	McNaughton	Stern
Browne	Habay	Metcalfe	Stevenson, R.
Bunt	Haluska	Micozzie	Stevenson, T.
Cappelli	Hanna	Miller, R.	Surra
Casorio	Harhart	Miller, S.	Taylor, E. Z.
Causer	Harper	Nailor	Tigue
Cawley	Harris	Nickol	True
Civera	Hasay	O'Neill	Turzai
Clymer	Hennessey	Payne	Vance
Coleman	Herman	Petrarca	Watson

Cornell	Hershey	Petri	Weber
Corrigan	Hess	Petrone	Wilt
Coy	Hickernell	Phillips	Wojnaroski
Crahalla	Hutchinson	Pickett	Wright
Creighton	Keller	Raymond	Yewcic
Dailey	LaGrotta	Readshaw	Yudichak
Dally	Laughlin	Reed	Zug
Denlinger	Lederer	Reichley	
DiGirolamo	Leh	Roberts	Perzel,
Egolf	Lescovitz	Rohrer	Speaker

NAYS—66

Bebko-Jones	Eachus	Manderino	Scrimenti
Biancucci	Evans, D.	McGeehan	Solobay
Bishop	Evans, J.	Melio	Staback
Blaum	Fabrizio	Mundy	Stetler
Butkovitz	Freeman	Myers	Sturla
Buxton	Gannon	O'Brien	Tangretti
Caltagirone	Gergely	Oliver	Taylor, J.
Cohen	Goodman	Pallone	Thomas
Costa	Gordner	Pistella	Travaglio
Cruz	Harhai	Preston	Veon
Curry	Horsey	Rieger	Vitali
Daley	James	Roebuck	Walko
DeLuca	Josephs	Rooney	Wansacz
Dermody	Kirkland	Ruffing	Washington
DeWeese	Kotik	Samuelson	Williams
Diven	Leach	Santoni	Youngblood
Donatucci	Levdansky		

NOT VOTING—2

Waters	Wheatley
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EXCUSED—2

Gruitza	Kenney
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Less than the majority required by the Constitution having voted in the affirmative, the question was determined in the negative and the bill fell.

The SPEAKER. There will be informal discussions in rooms 140 and 418 for the members, and for the staff, staff is in 114 North Office Building.

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. There have been requests for remarks for the record for Representative Adolph and Representative Bard.

The Chair recognizes the gentleman, Representative Adolph. The Chair thanks the gentleman.

Mr. ADOLPH submitted the following remarks for the Legislative Journal:

If you are not already worried about your future ability to get needed medical care in the Philadelphia region, you should be.

Our health-care system – universally recognized as one of the finest anywhere – is facing a crisis, not in the operating room but in the courtroom. The problem is rapidly spiraling out of control.

In the past few years the cost of legal fees and awards in medical litigation in Pennsylvania has skyrocketed. According to the Philadelphia Inquirer, more money is awarded just in the five counties of southeastern Pennsylvania than in the entire State of California. (Less than half of this money actually ends up in patients' hands;

the rest is consumed in legal fees and administrative costs.) One recent judgment in Philadelphia, currently under appeal, broke the \$100 million mark – five times more than any amount ever before awarded in the Commonwealth.

Unfortunately, this region is now as much a center for medical litigation as it has always been a center of medical care, research, and education. Many people might say, “So what? It’s only the insurance company’s money.” And in some ways that is true. But it is also true that insurance companies are not in business to lose money. So they pass these costs on to all doctors in the form of increasingly higher premiums.

As a result, insurance rates for specialties like OB-GYN, orthopedics, general surgery, and neurosurgery in the Philadelphia area are as much as 250 percent higher than just across the river in New Jersey and in Delaware.

What does this mean to you?

As Delaware Valley residents, we have always enjoyed having many of America’s finest medical facilities close to home. When we need care, we have access to skilled physicians, second to none.

But that is changing. Many doctors, facing yearly insurance premiums of \$70,000 to over \$100,000 a year, are no longer performing surgery – or delivering babies. Others are moving to places where the cost of practicing medicine is not so prohibitively high.

If this trend continues, the Philadelphia region’s position as a center of world-class health care could vanish, and you may find it harder to get the care you want when you need it.

No one is saying that people who have suffered from medical mistakes should not be compensated. It is only fair. But when doctors feel they are no longer able to practice without the threat of ruinous litigation, it is obvious that the system now in place is not working.

Most other States have already enacted caps on noneconomic damages – measures that prevent abuse of the legal system.

I urge my colleagues to vote “yes” on amendment A1112 to HB 1446.

* * *

Ms. BARD submitted the following remarks for the Legislative Journal:

Mr. Speaker, we have the opportunity today with this legislation to help address the medical liability crisis which is endangering the health and welfare of all Pennsylvanians. It often has been said that there is no one solution, no silver bullet, to fully defend the Commonwealth’s health-care infrastructure.

This legislation is one part of the arsenal needed to control the medical liability crisis. In conjunction with additional legislative proposals to provide immediate Mcare relief and combined with other tort reform measures passed during the last session, we in the General Assembly can provide a real resolution of the crisis.

But each day we wait to implement these solutions, more of our health-care system erodes.

I represent two fine hospitals. Abington Memorial Hospital has been besieged by the medical liability crisis. At the end of last year, the hospital’s trauma center, the only one in Montgomery County, was closed for 13 days. Trauma center patients’ lives were potentially jeopardized while precious minutes were wasted in transportation rather than treatment.

Fifteen minutes after the trauma center reopened, two teens, hit by a drunk driver, were given lifesaving care. These could have been the children or loved ones of any of us. All Pennsylvania citizens are at risk when medical services are not available on an as-needed basis.

Health-care services are affected by the medical liability crisis not only in southeastern PA. Statewide, according to the Hospital Association of Pennsylvania, one-third of all Pennsylvania hospitals reported closing, temporarily closing, or otherwise limiting services due to physician loss and rising liability premiums. HAP reports that of the 72 hospital services that have been discontinued over the past

12 months, specialty services such as obstetrics, orthopedics, general and neurosurgery are the most severely impacted.

Servicing the two hospitals that I represent as well as Einstein and Frankford in the southeast is a cardiology group, the Pennsylvania Heart and Vascular Group, which had 25 doctors 1 1/2 years ago. Over the past 18 months, 9 cardiologists have left, leaving 16 doctors in the group. The average age of the doctors remaining in the practice is over 50 years. With regard to attracting replacements to serve the patient load, the pool is limited. Whereas 6 to 7 years ago their journal advertisements for openings averaged 50 to 60 responses, recently they get about 10 responses and only from those with pressing family ties to the area. Thus, the patient load is being serviced by fewer doctors.

According to the Federation of State Medical Boards 2003 Annual Summary of Board Actions, the number of licensed physicians practicing in PA dropped while the number of physicians in neighboring States such as Maryland and New Jersey increased.

At a recent majority Policy Committee hearing at Holy Redeemer Hospital in my district, a professional recruiter testified that recruitment patterns have changed in recent years and that he is getting a lot of business from doctors leaving Pennsylvania and virtually no business from placements into Pennsylvania.

About a month ago, 25 doctors at Abington Hospital were notified that their liability insurer, MedPro, was canceling their policies as of July 1. Included were doctors providing basic hospital services, without whom the hospital could not function: 10 pulmonary critical-care doctors, 9 cardiologists, 3 internists, and 3 infectious-disease specialists. Fortunately, the Pennsylvania Insurance Commissioner ruled that the notification by MedPro violated guidelines and was illegal.

More recently, however, approximately 15 GI (gastrointestinal) specialists received cancellation notices from First Professional Insurance of Florida, the notices saying that the company would no longer be writing policies in Pennsylvania and transferring the coverage to Clarendon, which is offering to renew the policies – at over twice the price!

The constant stress to the system due to the spiraling costs, cancellations, closures, and loss of staff has clearly reached crisis proportions.

Consider that it has been documented that only two – let me repeat – only two orthopedic surgeons in the entire State are under the age of 35. This is a chilling statistic. Who will be treating us and our loved ones 10 years from now?

The recruitment problem is becoming especially critical, and it is a statewide problem. The University of Pittsburgh Medical Center residency program for orthopedics graduates 10 orthopedic residents a year. For the last two graduating classes, none of the students took positions in Pittsburgh.

Nationally, over the past 11 years Pennsylvania has gone from 12th to 41st in the proportion of physicians who are under the age of 35. In 1989, 12.4 percent of Pennsylvania physicians were under 35, whereas the comparable number in 2000 was 4.7 percent, according to the Area Resource File from the American Medical Association Physician Masterfile.

Donna Rovito, legislative chair of the Pennsylvania Medical Society Alliance, has documented that as a result of the medical liability crisis in Pennsylvania through April 2003, 588 Pennsylvania physicians have relocated to other States, 110 retired early, 88 were forced to close their practices, and 259 curtailed services, for example, by eliminating obstetrics or surgery.

Between 1997 and 2002, the number of obstetricians in Philadelphia and nearby counties decreased by 18 percent. The American College of Obstetricians and Gynecologists notes that last year alone, over 110 experienced Pennsylvania obstetricians either stopped practicing obstetrics or left the State.

General hospital employment is severely affected as well. Due to skyrocketing medical liability costs, 150 employees were laid off at Jefferson University Hospital last year. Statewide, the Rovito report

documents, nearly 2,500 health services jobs were lost due to the crisis – and that figure only includes job losses reported in the press.

But, Mr. Speaker, nothing is more frightening about this crisis than a statement made recently by an Upper Dublin doctor. He said, “No way will I go with JUA and a claims made policy if my insurance is cancelled. I’m getting my ducks in order to leave at the end of the year if nothing happens. But, in the final analysis, I’m not leaving for financial reasons, I’m afraid for my family’s well-being. If my child is hurt, I don’t want her medivac’d around everywhere.”

There can be no doubt about the emergency nature of the crisis we face. There is doubt, however, that the General Assembly will provide the tools to address the crisis in a timely manner.

Today, we have the opportunity to move forward in the process of defending our health-care system. We have the opportunity with this legislation to offer the people of Pennsylvania a remedy to safeguard health-care services for the future.

Pennsylvania is one of only four States with a Constitution which prohibits caps on noneconomic and punitive damages. With this legislation creating an emergency amendment to the Constitution, Pennsylvania’s citizens can choose to join 46 other States without constitutional prohibitions. It is time for Pennsylvania citizens to have the opportunity to join the 34 other States that have passed caps in one form or another; with caps, many of these States have clearly and successfully protected their health-care systems.

This is clearly an emergency, Mr. Speaker, which endangers the health and welfare of our citizenry. We must act as soon as possible to enable an amendment to the State Constitution. We need every possible mechanism to defend our health-care system and to resolve the medical liability crisis which is threatening the well-being of all Commonwealth residents.

I ask for the members’ support. Thank you, Mr. Speaker.

VOTE CORRECTION

The SPEAKER. The Chair recognizes the gentleman, Mr. Petri.

Mr. PETRI. Thank you, Mr. Speaker.

On amendment 1112 my button malfunctioned. I would like my vote to be recorded as a “yes”; that would be a “yea.” Thank you.

The SPEAKER. The Chair thanks the gentleman.

There will be a short voting session tomorrow; it will be a token on Thursday.

VOTE CORRECTIONS

The SPEAKER. The Chair recognizes the gentleman, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

On final passage of HB 1326, I was recorded in the affirmative. I wish to have my vote recorded in the negative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread across the record.

The gentleman from Carbon, Mr. McCall.

Mr. MCCALL. Thank you, Mr. Speaker.

To correct the record.

On the first motion to recommit HB 1326, I was not recorded. I would like the record to reflect I would have voted in the affirmative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread across the record.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. The Chair recognizes the gentlelady from Montgomery, Mrs. Crahalla, for the purpose of an adjournment motion.

Mrs. CRAHALLA. Mr. Speaker, I move that this House do now adjourn until Wednesday, June 11, 2003, 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 6:36 p.m., e.d.t., the House adjourned.