

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

MONDAY, JUNE 9, 2008

SESSION OF 2008

192D OF THE GENERAL ASSEMBLY

No. 38

### HOUSE OF REPRESENTATIVES

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

#### THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

#### PRAYER

The SPEAKER. The prayer will be offered by Rev. Rudolph Bolling, the guest of Representative Scavello.

REV. RUDOLPH BOLLING, Guest Chaplain of the House of Representatives, offered the following prayer:

Let us bow our heads:

Dear gracious and loving God, we thank You for who You are and who You are within us. We come to You today asking for Your grace and mercy. We seek Your wisdom, knowledge, and understanding. We pray that as You look down upon us today, that You will search our hearts and know us.

Father, we ask that You go before these men and women who represent this State and our government as they are faced with all the difficult decisions they have to make, and as they look for guidance and direction, grant them a double portion.

We pray that as they come to perform the duties of government that they have been called to do, that You will strengthen, lead, and guide them every step of the way. We pray for peace, not only for the lives of those who represent this State but in every level of government in these United States. Bless our President, Vice President, and every member of Cabinet. Bless every Senator, Congressman and woman, every State Representative, Governor, mayor, council person, and all who hold a key position in this nation.

We pray not only for this nation and the people who dwell here but for the entire world. We ask for forgiveness for every opposition in and outside of these United States.

Bless the men and women who are serving in Iraq, and bring peace and comfort to those family and friends who have laid to rest a loved one. We ask that You provide for every need that they might have.

Father, we thank You for these United States and for the red, white, and blue which flies so freely. Protect us from any danger seen and unseen.

Grant us your favor, and, Lord, we say God bless America. Amen.

### PLEDGE OF ALLEGIANCE

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

### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Wednesday, June 4, 2008, will be postponed until printed. The Chair hears no objection.

### LEAVES OF ABSENCE

The SPEAKER. The Chair turns to requests for leaves of absence.

The Chair recognizes the majority whip, who requests that Representative PALLONE of Westmoreland County be placed on leave for today. The Chair sees no objection. That leave will be granted.

The Chair recognizes the minority whip, who requests that Representative SCHRODER of Chester County be placed on leave for the day. The Chair sees no objection. This leave will also be granted.

Members will report to the floor.

### MASTER ROLL CALL

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

The following roll call was recorded:

#### PRESENT—201

Adolph	Freeman	Mantz	Rohrer
Argall	Gabig	Markosek	Ross
Baker	Galloway	Marshall	Rubley
Barrar	Geist	Marsico	Sabatina
Bastian	George	McCall	Sainato
Bear	Gerber	McGeehan	Samuelson
Belfanti	Gergely	McI. Smith	Santoni
Benninghoff	Gibbons	McIlhattan	Saylor
Bennington	Gillespie	Melio	Scavello
Beyer	Gingrich	Mensch	Seip
Bianucci	Godshall	Metcalfe	Shapiro
Bishop	Goodman	Micozzie	Shimkus
Blackwell	Grell	Millard	Sipthroth
Boback	Grucela	Miller	Smith, K.
Boyd	Haluska	Milne	Smith, M.
Brennan	Hanna	Moul	Smith, S.
Brooks	Harhai	Moyer	Solobay
Buxton	Harhart	Mundy	Sonney

Caltagirone	Harkins	Murt	Staback
Cappelli	Harper	Mustio	Stairs
Carroll	Harris	Myers	Steil
Casorio	Helm	Nailor	Stern
Causer	Hennessey	Nickol	Stevenson
Civera	Hershey	O'Brien, M.	Sturla
Clymer	Hess	O'Neill	Surra
Cohen	Hickernell	Oliver	Swanger
Conklin	Hornaman	Parker	Tangretti
Costa	Hutchinson	Pashinski	Taylor, J.
Cox	James	Payne	Taylor, R.
Creighton	Josephs	Payton	Thomas
Cruz	Kauffman	Peifer	True
Curry	Keller, M.K.	Perry	Turzai
Cutler	Keller, W.	Perzel	Vereb
Daley	Kenney	Petrarca	Vitali
Dally	Kessler	Petri	Vulakovich
DeLuca	Killion	Petrone	Wagner
Denlinger	King	Phillips	Walko
DePasquale	Kirkland	Pickett	Wansacz
Dermody	Kortz	Preston	Waters
DeWeese	Kotik	Pyle	Watson
DiGirolo	Kula	Quigley	Wheatley
Donatucci	Leach	Quinn	White
Eachus	Lentz	Ramaley	Williams
Ellis	Levdansky	Rapp	Wojnarowski
Evans, D.	Longjetti	Raymond	Yewcic
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker
Frankel	Mann	Roebuck	

ADDITIONS—0

NOT VOTING—0

EXCUSED—2

Pallone Schroder

LEAVES ADDED—6

Eachus Harper Petri Vereb  
Gerber Micozzie

LEAVES CANCELED—3

Gerber Pallone Schroder

The SPEAKER. A quorum being present, the House will proceed to conduct business.

**AZIAH BOLLING PRESENTED**

The SPEAKER. The Chair recognizes Representative Scavello for an introduction.

Mr. SCAVELLO. Thank you, Mr. Speaker.

The daughter of our Guest Chaplain, Aziah Bolling, is here with us today. Representative Staback and I would like to welcome Aziah as one of the only four vocalists selected from the United States and the only vocalist from Pennsylvania to reach the finals in the "Voice of McDonalds II," a global singing contest.

She will be singing the national anthem during today's session and in commemoration of the anniversary of D-day on June 6 and in celebration of Flag Day this Saturday. You will

soon see why she was the top Pennsylvanian in the contest and one of 14 finalists in the world.

I would like everyone to give Aziah Bolling our usual warm welcome and listen to a truly remarkable voice sing our national anthem.

("The Star-Spangled Banner" was sung by Aziah Bolling.)

**BILL REREPORTED FROM COMMITTEE**

**HB 211, PN 244**

By Rep. D. EVANS

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for exemptions and special provisions relating to taxation.

APPROPRIATIONS.

The SPEAKER. The bill will be placed on the active calendar.

**HOUSE RESOLUTION  
INTRODUCED AND REFERRED**

**No. 777** By Representatives JOSEPHS, BEYER, CALTAGIRONE, COHEN, CONKLIN, FRANKEL, GALLOWAY, GEORGE, HARHART, HENNESSEY, JAMES, KORTZ, MAHONEY, MANDERINO, MANN, MURT, PALLONE, PAYTON, RAMALEY, RAPP, READSHAW, SAYLOR, SIPTROTH, K. SMITH, THOMAS, J. WHITE, YOUNGBLOOD and ROEBUCK

A Resolution remembering Mildred Jeter Loving of Central Point, Virginia, whose personal quest for legal recognition of her interracial marriage secured marriage rights for all Americans regardless of race.

Referred to Committee on STATE GOVERNMENT, June 6, 2008.

**HOUSE BILLS  
INTRODUCED AND REFERRED**

**No. 2589** By Representative NICKOL

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

Referred to Committee on TRANSPORTATION, June 6, 2008.

**No. 2591** By Representative PALLONE

An Act making an appropriation to the Westmoreland Museum of American Art in Greensburg, Pennsylvania, for operating expenses.

Referred to Committee on APPROPRIATIONS, June 6, 2008.

**No. 2592** By Representatives McCALL, YUDICHAK, PASHINSKI, SHIMKUS, CARROLL, K. SMITH, STABACK, MUNDY, EACHUS, WANSACZ, SIPTROTH, GOODMAN, MANN, BRENNAN, GRUCELA, GERBER, CALTAGIRONE and BELFANTI

An Act making an appropriation to the Commonwealth Medical College, Scranton.

Referred to Committee on APPROPRIATIONS, June 6, 2008.

**No. 2593** By Representatives CAPPELLI and D. EVANS

An Act amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for public-private transportation projects for the development, operation and financing of all or part of the Pennsylvania Turnpike; establishing commission powers and duties; providing for additional electronic toll collection methods and certain rights of a private entity; providing for promulgation of regulations related to public-private transportation projects; establishing a public-private transportation fund for the deposit of funds from Pennsylvania Turnpike facility projects; providing for the governance of the commission and a limited exemption from sovereign immunity; further providing for the exemption of private entity parties from fees and certain rights of such parties under regulation of traffic rules; repealing provisions related to the governance of the commission, the conversion of Interstate 80 to a toll road, the lease of Interstate 80 and related payments; further providing for limitation on issuance of bonds backed by Motor License Fund; and making related repeals.

Referred to Committee on TRANSPORTATION, June 5, 2008.

**SENATE BILLS FOR CONCURRENCE**

The clerk of the Senate, being introduced, presented the following bills for concurrence:

**SB 1297, PN 2093**

Referred to Committee on FINANCE, June 6, 2008.

**SB 1369, PN 1954**

Referred to Committee on LOCAL GOVERNMENT, June 6, 2008.

**SB 1373, PN 1965**

Referred to Committee on HEALTH AND HUMAN SERVICES, June 6, 2008.

The SPEAKER. The Chair requests that Representative Solobay come to the podium for an introduction.

**LEAVE OF ABSENCE**

The SPEAKER. The Chair recognizes the majority whip, who requests that Representative GERBER be placed on leave. The Chair sees no objection. The leave will be granted.

**SHANE RUMBAUGH PRESENTED**

The SPEAKER. Representative Solobay.

Mr. SOLOBAY. Thank you, Mr. Speaker.

It is my pleasure this afternoon to kind of beat out the normal geographic borders and boundaries that occur with trying to bring folks out from western Pennsylvania to be recognized on the House floor. This sometimes is an issue, but we had the

opportunity today to introduce to you a very eccentric young man, Shane Rumbaugh, who was this year's oratorical winner of the American Legion Contest, not only from the district back in western Pennsylvania, but Shane also was our State winner of the American Legion award, the Oratorical Contest, and went on to the national level that was held in Indianapolis earlier this month and was also a runner-up for his oratorical presentation.

The main purpose of the American Legion High School Oratorical Scholarship Program is to develop a deeper knowledge and appreciation of the Constitution of the United States as part of the high school student's curriculum. Other objectives of this contest include developing leadership qualities, the ability to think and speak clearly, and intellectually prepare and accept the duties and responsibilities and the rights and privileges of American citizenship.

Today with Shane are his parents, Craig and Linda Rumbaugh; his grandparents, Bert and Joan Barale. If they would stand. Joan and Bert also, if you would stand. If the House could give them some recognition.

Also, from the American Legion we have the State Commander, Robert Miller; the Department Adjutant, Kit Watson; and the Oratorical Committee Chairman, Ned Eppinger. If they also would rise.

You know, there is a lot said oftentimes about our youth and the issues and how they are going to be able to survive, and not only was Shane able to compete as well as he did in the American Legion Contest but also placed very well through the VFW's (Veterans of Foreign War's) similar contest that they have and collected quite a bit of scholarship money as he prepares to go on to college at W&J (Washington & Jefferson) College in western Pennsylvania.

Along with his many activities, Shane was also the National Honor Society president of Trinity High School. He was the vice president of his senior class, dealt with the Trinity High School yearbook. He was part of the Young Republicans, the president of the Young Republicans. He was the lead attorney on a mock trial team, and the issues go on. I figured that Republican part would raise some ire out there. He also was very involved in just about every club and organization within high school. You wonder how he had time for his regular classes and things that went on.

Unfortunately, time and the rules prohibit us from allowing Shane to give his award-winning oratorical presentation, but on behalf of the House and on behalf of all the members present, I would just like to congratulate Shane on his great job and ask that you also give him his congratulations. They are well deserved.

**GUESTS INTRODUCED**

The SPEAKER. The Chair would like to recognize, as the guests of Representative Argall, a delegation from Schuylkill County. They are in the rear of the House. Would you please stand and be recognized.

The Chair would like to recognize, as interns in Representative Dan Surra's district office, Melissa Quattrone and Brittany Trenn. Would you please stand and be recognized.

The Chair would like to recognize our special guests in the balcony, who are the guests of the Bucks County delegation: various Bucks County residents, some of our finest from Bucks County. Would you please stand and be recognized.

## CALENDAR

## BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 1159, PN 1548**, entitled:

An Act designating Long Pond Road in Tunkhannock Township, Monroe County, from the intersection with SR 115 eastward to the intersection with Stony Hollow Road, as Dr. Joseph Mattioli and Dr. Rose Mattioli Drive.

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

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

(Bill analysis was read.)

The SPEAKER. The question is, shall the bill pass finally?

The Chair recognizes the majority whip, Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I just felt compelled to say a few words about SB 1159.

Certainly when the history of auto racing is written across this country, two names will be part of that history, those names being Dr. Rose and Dr. Joseph Mattioli. Their names will certainly stand proud with names like Bill France and Bruton Smith because of what they have done in the Pocono Northeast in bringing auto racing to northeastern Pennsylvania.

Two times a year races are held, significant races are held in northeastern Pennsylvania, and the Pocono Mountains becomes the third largest city in the Commonwealth of Pennsylvania, where well over 150,000 people matriculate to the beautiful Pocono Mountains to cheer on their favorite NASCAR (National Association for Stock Car Auto Racing) driver.

The track is famous for one of the toughest turns in auto racing, that being the Tunnel Turn, and it certainly has been the difference between a trip to victory lane or a trip to the pits to get the dents banged out of your car. But it has been really Dr. Rose and Dr. Joe Mattioli's contributions to our State's economy that really cannot be overstated. In terms of the millions of dollars spent in northeastern Pennsylvania, in terms of the vast amounts of tourists that come to northeastern Pennsylvania, it has been Drs. Rose and Joe Mattioli's vision that has really helped the beautiful Pocono Northeast prosper.

And I would be remiss if I did not mention the fact that there is a third generation of Mattioli now involved in motorsports, albeit in a little bit of a different way, not as a track owner, but I know Drs. Joe and Rose have to be very proud of their grandson and certainly Joe, Jr., proud of his son, Chase Mattioli, who took the wheel of an automobile and raced this past Sunday at the Pocono 500. And I am sure in driving that Chevrolet around the track that he has laid a significant amount of groundwork for a long career in auto sports.

But I just want to say that I proudly support this measure to honor Joe and Rose Mattioli by naming this road the Drs. Joseph and Rose Mattioli highway and certainly

commemorate them for the amazing work that they have done in bringing motorsports to northeastern Pennsylvania, and I would ask for an affirmative vote on the resolution.

The SPEAKER. Representative Scavello.

Mr. SCAVELLO. Thank you, Mr. Speaker.

I also rise in support of final passage for SB 1159, renaming a section of Long Pond Road in Tunkhannock Township in Monroe County the "Dr. Joseph Mattioli and Dr. Rose Mattioli Drive."

Over 40 years ago the Mattioli family had a dream of converting a 1,000-acre spinach field into a 500-mile IndyCar racetrack, a tri-oval racetrack that now hosts two NASCAR events.

As one of only three remaining family-owned racetracks on the NASCAR circuit, Pocono Raceway prides itself on also being one of the most fan-friendly tracks in NASCAR, accommodating over 120,000 fans at each of the track's two NASCAR events.

Mr. Speaker, the economic impact of these two races on the Pennsylvania economy cannot be underestimated. During race weekend, not only in Monroe County but in many counties of the region and across the State, about a quarter of a million people visit the area. Hotel rooms are sold out from the Lehigh Valley to the Wilkes-Barre/Scranton area. Restaurants and local businesses are overflowing with activity. The economic impact of NASCAR for northeastern Pennsylvania is in the billions of dollars each year.

I would also like to commend the Mattioli family for their generosity to our community. Often without expectation or public accolade, they have donated over \$25 million over the years to the United Way, Red Cross, Pocono Medical Center, East Stroudsburg University, Northampton Community College, Kettle Creek, and many other projects.

Each year, the Mattiolis provide \$10,000 scholarships to the top two graduating high school seniors in all four school districts in Monroe County. So based on all the Mattiolis have done for the Pennsylvania economy, for charities, and for their support of higher education, I ask the House for an affirmative vote on SB 1159. This is a small recognition for the large contributions that they have made in Pennsylvania.

Thank you, Mr. Speaker.

The SPEAKER. Representative Siptroth.

Mr. SIPTROTH. Thank you, Mr. Speaker.

I will not reiterate what my two fellow colleagues have said, but they do, the doctors do bring a significant positive economic impact to the Poconos, and I rise in support of SB 1159 commemorating and paying the tribute that they certainly do deserve.

Thank you very much, Mr. Speaker.

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—200

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley

Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Seip
Bianucci	Goodman	Micozzie	Shapiro
Bishop	Grell	Millard	Shimkus
Blackwell	Grucela	Miller	Siptroth
Boback	Haluska	Milne	Smith, K.
Boyd	Hanna	Moul	Smith, M.
Brennan	Harhai	Moyer	Smith, S.
Brooks	Harhart	Mundy	Solobay
Buxton	Harkins	Murt	Sonney
Caltagirone	Harper	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causer	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Parker	Swanger
Conklin	Hutchinson	Pashinski	Tangretti
Costa	James	Payne	Taylor, J.
Cox	Josephs	Payton	Taylor, R.
Creighton	Kauffman	Peifer	Thomas
Cruz	Keller, M.K.	Perry	True
Curry	Keller, W.	Perzel	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel	Mantz		

NAYS-0

NOT VOTING-0

EXCUSED-3

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

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

**RESOLUTIONS PURSUANT TO RULE 35**

Mr. FAIRCHILD called up **HR 768, PN 3839**, entitled:

A Resolution proclaiming the week of June 8 through 14, 2008, as "State Veterans' Home Week."

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-200

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley
Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Seip
Bianucci	Goodman	Micozzie	Shapiro
Bishop	Grell	Millard	Shimkus
Blackwell	Grucela	Miller	Siptroth
Boback	Haluska	Milne	Smith, K.
Boyd	Hanna	Moul	Smith, M.
Brennan	Harhai	Moyer	Smith, S.
Brooks	Harhart	Mundy	Solobay
Buxton	Harkins	Murt	Sonney
Caltagirone	Harper	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causer	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Parker	Swanger
Conklin	Hutchinson	Pashinski	Tangretti
Costa	James	Payne	Taylor, J.
Cox	Josephs	Payton	Taylor, R.
Creighton	Kauffman	Peifer	Thomas
Cruz	Keller, M.K.	Perry	True
Curry	Keller, W.	Perzel	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel	Mantz		

NAYS-0

NOT VOTING-0

EXCUSED-3

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

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Mr. PHILLIPS called up **HR 774, PN 3845**, entitled:

A Resolution honoring the Prehistoric Journeys team on its efforts relating to the Apatosaurus (Brontosaurus) excelsus dinosaur.

On the question,  
Will the House adopt the resolution?

The SPEAKER. The Chair recognizes Representative Phillips.

Mr. PHILLIPS. Thank you, Mr. Speaker.

Today I rise to acknowledge a group of individuals in my district who have contributed to the world of paleontology in their work to prepare, reconstruct, and mount for display the complete 72-foot-long skeleton of the first Apatosaurus excelsus dinosaur with an original, related skull.

Prehistoric Journeys of Sunbury was able to reconstruct 85 percent of the skeleton's skull and brain case for this particular type of dinosaur. A major scientific discovery, this project has essentially been in the making for 140 million years.

The fossil is 76 feet long and weighs 10,000 pounds. Together, their team cleaned and prepared the bones, glued them together, and mounted the massive dinosaur on a metal frame.

I have been told that there are a handful of other Brontosaurus fossils in the world but none that can match this one. Until now, the few Brontosaurus fossils in the world have been displayed with skulls of other similar dinosaurs, but now this fossil is being fitted with its original skull and brain case.

I am not an expert on paleontology, but I believe this is so impressive and the first of its kind in this field that I believe it is worthy of our recognition here in the House today. Barry James and April Rhodes-James, owners of Prehistoric Journeys, along with their team members – Giles Wickham, Dean Raker, Scott Rohrbach, and Arron Whyne – are to be commended on their efforts. It took a great deal of knowledge as well as an attention to detail for this project to be so successful.

And I would also like to acknowledge several others whose efforts helped the team with this extraordinary project: John and Karen Campbell of Sunbury; Nancy Cleaver and Misha Kryzyski of Lewisburg; Hugh and Mary Grimes of Selinsgrove; Kate Lesslie and Chris Snyder of Lewisburg; Robert and Sanae Poust of Sunbury; and Rodney Raker of Sunbury.

The skeleton was first found in what is today Wyoming nearly 130 years ago and was shipped to the team's workshop in Sunbury where they have spent countless hours working to reconstruct this skeleton skull and brain case. Their unique talents, dedication, and valuable work in bringing this dinosaur skeleton, known affectionately as Einstein, back to life is to be commended. The team is now preparing for a 3-month tour of Europe, where they hope to provide inspiration to millions.

I offer my personal congratulations and best of luck in their future endeavors. Our Commonwealth is indebted to you for this valuable contribution to the field of paleontology.

Mr. Speaker, I would like to ask the members for a positive vote on HR 774. Thank you.

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

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley
Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Seip
Bianucci	Goodman	Micozzie	Shapiro
Bishop	Grell	Millard	Shimkus
Blackwell	Grucela	Miller	Siproth
Boback	Haluska	Milne	Smith, K.
Boyd	Hanna	Moul	Smith, M.
Brennan	Harhai	Moyer	Smith, S.
Brooks	Harhart	Mundy	Solobay
Buxton	Harkins	Murt	Sonney
Caltagirone	Harper	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causer	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Parker	Swanger
Conklin	Hutchinson	Pashinski	Tangretti
Costa	James	Payne	Taylor, J.
Cox	Josephs	Payton	Taylor, R.
Creighton	Kauffman	Peifer	Thomas
Cruz	Keller, M.K.	Perry	True
Curry	Keller, W.	Perzel	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel	Mantz		

NAYS—0

NOT VOTING—0

EXCUSED—3

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

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Mr. BOYD called up **HR 775, PN 3846**, entitled:

A Resolution designating July 22, 2008 as National Lao-Hmong Recognition Day.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley
Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Seip
Biancucci	Goodman	Micozzie	Shapiro
Bishop	Grell	Millard	Shimkus
Blackwell	Grucela	Miller	Siptroth
Boback	Haluska	Milne	Smith, K.
Boyd	Hanna	Moul	Smith, M.
Brennan	Harhai	Moyer	Smith, S.
Brooks	Harhart	Mundy	Solobay
Buxton	Harkins	Murt	Sonney
Caltagirone	Harper	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causar	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Parker	Swanger
Conklin	Hutchinson	Pashinski	Tangretti
Costa	James	Payne	Taylor, J.
Cox	Josephs	Payton	Taylor, R.
Creighton	Kauffman	Peifer	Thomas
Cruz	Keller, M.K.	Perry	True
Curry	Keller, W.	Perzel	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel	Mantz		

NAYS—0

NOT VOTING—0

EXCUSED—3

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

The SPEAKER. Members and guests will please take their seats. The Sergeants at Arms will close the doors of the House. The House is about to take up a condolence resolution. Members will take their seats.

**SUPPLEMENTAL CALENDAR B**

**RESOLUTION PURSUANT TO RULE 35**

Mr. CLYMER called up **HR 781, PN 3869**, entitled:

A Resolution expressing condolences and honoring the life of United States Army Sergeant First Class Shawn Michael Suzch, who paid the supreme sacrifice in the service of his nation on March 10, 2008, while on duty in Baghdad, Iraq.

On the question,  
Will the House adopt the resolution?

The SPEAKER. The Chair recognizes Representative Clymer on the resolution.

Mr. CLYMER. Thank you, Mr. Speaker.

Shawn Michael Suzch was born on July 28, 1975. He was born in Trenton, New Jersey, and raised in Bucks County. Shawn and his brothers were placed into foster care while Shawn was in his teens. As a result, Shawn had little or no contact with family throughout his adolescent years.

He lived with Rick and Abby Pforter and their two sons during part of his junior and senior years of high school. He graduated from Pennridge High School in June 1994. Shawn maintained an extremely positive attitude about life and never complained about the poor hand he had been dealt. Where most people could very easily start feeling sorry for themselves and their lot in life, Shawn remained very upbeat and had a great sense of humor. He became an "older brother" to Rick and Abby's two sons, Brett and Reggie, and you would frequently find the three of them on the basketball court, having a snowball fight, building snow igloos, playing tag football, and so forth and so on. Mr. Pforter always joked that Shawn cost him a lot of money and much space in his attic as Shawn got his sons into collecting sports cards.

Shawn's hero was Michael Jordan, and he had to have everything that was Michael Jordan. Shawn's wardrobe was primarily Chicago Bulls and Michael Jordan. One of Shawn's pride and joys was a sports card of Michael Jordan that he had framed and on his dresser for the entire time he lived with the Pforters. Before Shawn left their home, he gave the most meaningful of possessions to the Pforters' two sons as a token of the bonds that they had made. To know how special that card was to Shawn and how easily he passed it on says everything about who Shawn was.

He enlisted in the U.S. Army early in his senior year. He spent many weekends at Fort Dix, New Jersey, preparing for his enlistment. From the moment the Pforters knew him, his goal had always been to join the United States Army and to serve his country. He never once wavered from that goal.

Shawn officially joined the Army in August after graduating. After basic training, he was stationed in Germany where he was

trained to drive Abrams tanks. He was deployed to Kosovo for two tours of duty and also deployed to Macedonia for one tour. While stationed in Germany and between deployments, Shawn met his wife, Angela, and they had a baby boy, Jay Anthony. Shawn finally had a family of his own. However, this was to be short-lived as Jay died 1 year later from respiratory problems. Shawn and Angela returned to Bucks County to have the services for their son.

Shawn was later restationed to Fort Stewart, Georgia. Fort Stewart became Shawn's base station until his death on March 10. Shawn was a member of the 1st Battalion, 64th Armor Regiment, 2d Brigade Combat Team, 3d Infantry Division, when he was killed on March 10 in Baghdad, Iraq.

Shawn was killed by a suicide bomber as he was leading his platoon in interrogations of local shopkeepers. This was Shawn's third tour of duty in Iraq. Shawn's first tour of duty in Iraq was during the initial invasion. He was one of the first troops to enter Baghdad during the invasion. His second deployment to Iraq was at the height of the insurgencies. His second and third deployments were as a member of the 3d Squadron, 7th Calvary Regiment.

Shawn had several promotions in his 13 years in the Army. Before returning to Iraq for his third tour, he was promoted to sergeant first class. He was posthumously awarded the Bronze Star for bravery.

In September of 2007, while Shawn was in his third tour of Iraq, Angela gave birth to their baby daughter, Alyssa Jayden. Shawn was given leave to be home for the birth. After being home for 15 days, he returned to Iraq. He was confident that he would be returning in a few months to be with his wife and newborn. Unfortunately, that was not to be.

With me today here on the floor of the House are his wife, Angela, and their 8-month-old daughter, Alyssa Jayden, and his foster parents, Rick and Abby Pforter. Will they please stand.

Thank you for that warm reception, members of the House of Representatives. Now, I would ask you to join me in the adoption of HR 781. Thank you.

The SPEAKER. Members and guests will please rise as a sign of respect for our fallen hero, United States Army Sergeant First Class Shawn Michael Suzch.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memory of Sfc. Shawn Michael Suzch.)

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

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley
Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Seip
Biancucci	Goodman	Micozzie	Shapiro
Bishop	Grell	Millard	Shimkus

Blackwell	Grucela	Miller	Siptroth
Boback	Haluska	Milne	Smith, K.
Boyd	Hanna	Moul	Smith, M.
Brennan	Harhai	Moyer	Smith, S.
Brooks	Harhart	Mundy	Solobay
Buxton	Harkins	Murt	Sonney
Caltagirone	Harper	Mustio	Staback
Cappelli	Harris	Myers	Stairs
Carroll	Helm	Nailor	Steil
Casorio	Hennessey	Nickol	Stern
Causer	Hershey	O'Brien, M.	Stevenson
Civera	Hess	O'Neill	Sturla
Clymer	Hickernell	Oliver	Surra
Cohen	Hornaman	Parker	Swanger
Conklin	Hutchinson	Pashinski	Tangretti
Costa	James	Payne	Taylor, J.
Cox	Josephs	Payton	Taylor, R.
Creighton	Kauffman	Peifer	Thomas
Cruz	Keller, M.K.	Perry	True
Curry	Keller, W.	Perzel	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Eachus	Levdansky	Rapp	Williams
Ellis	Longietti	Raymond	Wojnaroski
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel	Mantz		

NAYS—0

NOT VOTING—0

EXCUSED—3

Gerber Pallone Schroder

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

DEMOCRATIC CAUCUS

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair recognizes Representative Cohen for an announcement.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker. I have three announcements. First, there will be an immediate meeting of the House Democratic Caucus. Second, in the same caucus room, the Democrats meet in the majority caucus room, there will be an Appropriations Committee meeting at 2:45. And we will return to the House floor at 3 o'clock.

**REPUBLICAN CAUCUS**

The SPEAKER. Representative Major.

Miss MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus immediately at the call of the recess; that is, caucus immediately at the call of the recess. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

Are there any other announcements?

Will the gentleman, Representative Nailor, approach the rostrum, please.

**LEAVE OF ABSENCE CANCELED**

The SPEAKER. The Chair recognizes the presence of Representative Gerber on the floor. His name will be added to the master roll.

Are there any other announcements?

**RECESS**

The SPEAKER. This House will stand in recess until 3 p.m., unless sooner recalled by the Speaker.

**AFTER RECESS**

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

**APPROPRIATIONS COMMITTEE MEETING**

The SPEAKER. There will be a meeting of the Appropriations Committee in the majority caucus room at 3:30 p.m. There will be a meeting in the majority caucus room of the Appropriations Committee at 3:30 p.m.

**RECESS**

The SPEAKER. This House will stand in recess until the call of the Chair.

**AFTER RECESS**

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

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

**HB 2250, PN 3874** (Amended) By Rep. LEVDANSKY

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, increasing the income allowance for dependents for the special tax provisions for poverty; further providing for the definition of "taxable income" for corporate net income tax purposes; further providing for the definition of "capital stock value" for capital stock and franchise tax purposes; further providing for the carryover of the research and development tax credit and increasing the

annual limitation on credits; providing for a youth employment incentive tax credit; and further providing for the new jobs tax credit.

FINANCE.

**HB 2346, PN 3391**

By Rep. LEVDANSKY

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for exclusions from sales and use tax.

FINANCE.

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

**SB 740, PN 2135** (Amended)

By Rep. JOSEPHS

An Act authorizing the Department of General Services, with the approval of the Governor, to grant and convey to Centre County, certain lands situate in Benner Township, Centre County; authorizing the Department of General Services, with the approval of the Governor, to grant and convey, at a price determined through competitive bidding, certain lands situate in Benner Township, Centre County; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey, separately, to The Pennsylvania State University, Benner Township and the Pennsylvania Fish and Boat Commission certain lands situate in Benner Township, Centre County.

STATE GOVERNMENT.

**BILLS REREPORTED FROM COMMITTEE**

**HB 1634, PN 2805**

By Rep. D. EVANS

An Act prohibiting municipal corporations from requiring municipal registration of deeds prior to recordation by recorders of deeds; providing for the transfer and transmission of copies of deeds for registration; and making related repeals.

APPROPRIATIONS.

**HB 2295, PN 3313**

By Rep. D. EVANS

An Act amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, in management of condominiums, further providing for lien for assessments.

APPROPRIATIONS.

**HB 2522, PN 3780**

By Rep. D. EVANS

An Act providing for the capital budget for the fiscal year 2008-2009.

APPROPRIATIONS.

**HB 2542, PN 3768**

By Rep. D. EVANS

An Act providing for additional debt authorization for the 2007-2008 fiscal year.

APPROPRIATIONS.

**SB 180, PN 216**

By Rep. D. EVANS

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for burial details for veterans.

APPROPRIATIONS.

**SB 356, PN 1098**

By Rep. D. EVANS

An Act amending the act of June 22, 1993 (P.L.105, No.24), known as the Environmental Education Act, providing for the establishment of the Pennsylvania Center for Environmental Education and the Pennsylvania Center for Environmental Education Board; and making editorial changes.

APPROPRIATIONS.

**SB 987, PN 1741**

By Rep. D. EVANS

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, providing for emergency services.

APPROPRIATIONS.

**SB 1020, PN 1871**

By Rep. D. EVANS

An Act amending the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law, further providing for declaration of policy, for the State Conservation Commission, for creation of conservation districts, for designation of district directors, for appointment, qualifications, compensation and tenure of directors, for organization of directors, for powers of districts and directors, for Commonwealth agencies to cooperate and for discontinuation of districts; and making a repeal.

APPROPRIATIONS.

The SPEAKER. These bills will be placed on the active calendar.

**LEAVE OF ABSENCE CANCELED**

The SPEAKER. The Chair recognizes the presence of Representative Pallone on the floor. His name will be added to the master roll.

**CALENDAR CONTINUED**

**BILLS ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 2428, PN 3604**, entitled:

An Act regulating the amount of property insurance coverage required by certain lenders.

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

Mr. **FRANKEL** offered the following amendment No. **A07105**:

Amend Sec. 2, page 2, line 6, by inserting after "insurance" where it appears the second time  
covering owner-occupied private residential properties

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

The SPEAKER. The Chair recognizes Representative Frankel on the amendment.

Mr. **FRANKEL**. Mr. Speaker, this amendment is a purely technical amendment to correct some language in the bill, and ultimately, the legislation deals with making sure that lenders do not require individual homeowners to purchase insurance in excess of the replacement cost of the actual dwelling because a mortgage amount may exceed the replacement cost.

And it is a consumer-oriented bill. We have worked with many of the interest groups with respect to this, and I think it has broad support, generally.

Thank you, Mr. Speaker. I urge support for the amendment.

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

**LEAVES OF ABSENCE**

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative VEREB of Montgomery County and Representative MICOZZIE of Delaware County be placed on leave. The Chair sees no objection. These leaves will be granted.

The Chair recognizes the majority whip, who requests that Representative EACHUS be placed on leave. The Chair sees no objection. The leave will be granted.

**CONSIDERATION OF HB 2428 CONTINUED**

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

The following roll call was recorded:

**YEAS—199**

Adolph	Gabig	Mantz	Roebuck
Argall	Galloway	Markosek	Rohrer
Baker	Geist	Marshall	Ross
Barrar	George	Marsico	Rublely
Bastian	Gerber	McCall	Sabatina
Bear	Gergely	McGeehan	Sainato
Belfanti	Gibbons	McI. Smith	Samuelson
Benninghoff	Gillespie	McIlhattan	Santoni
Bennington	Gingrich	Melio	Saylor
Beyer	Godshall	Mensch	Scavello
Bianucci	Goodman	Metcalfe	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shirkus
Boback	Haluska	Milne	Siptroth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causar	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.K.	Peifer	Thomas

Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vitali
Dally	Killion	Petri	Vulakovich
DeLuca	King	Petrone	Wagner
Denlinger	Kirkland	Phillips	Walko
DePasquale	Kortz	Pickett	Wansacz
Dermody	Kotik	Preston	Waters
DeWeese	Kula	Pyle	Watson
DiGirolamo	Leach	Quigley	Wheatley
Donatucci	Lentz	Quinn	White
Ellis	Levdansky	Ramaley	Williams
Evans, D.	Longietti	Rapp	Wojnaroski
Evans, J.	Mackereth	Raymond	Yewcic
Everett	Maher	Readshaw	Youngblood
Fabrizio	Mahoney	Reed	Yudichak
Fairchild	Major	Reichley	
Fleck	Manderino	Roae	O'Brien, D.,
Frankel	Mann	Rock	Speaker
Freeman			

NAYS-0

NOT VOTING-0

EXCUSED-4

Eachus	Micozzie	Schroder	Vereb
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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 second consideration as amended?  
Bill as amended was agreed to.

(Bill as amended will be reprinted.)

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 2400, PN 3838**, entitled:

An Act providing for the criteria for independent contractors in the construction industry; and imposing penalties.

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

The SPEAKER. The following amendment was filed on third consideration as a technical amendment. There is no rule suspension required.

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

Mr. **LENTZ** offered the following amendment No. **A07372**:

Amend Sec. 16, page 12, line 7, by inserting after "OF" the Minimum Wage Act, the Wage Payment and Collection Law,

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

The SPEAKER. The Chair recognizes Representative Lentz on the amendment.

Mr. **LENTZ**. This is a technical amendment to add language to be consistent in multiple sections of the act.

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

The following roll call was recorded:

YEAS-199

Adolph	Gabig	Mantz	Roebuck
Argall	Galloway	Markosek	Rohrer
Baker	Geist	Marshall	Ross
Barrar	George	Marsico	Rubley
Bastian	Gerber	McCall	Sabatina
Bear	Gergely	McGeehan	Sainato
Belfanti	Gibbons	McI. Smith	Samuelson
Benninghoff	Gillespie	McIlhattan	Santoni
Bennington	Gingrich	Melio	Saylor
Beyer	Godshall	Mensch	Scavello
Biancucci	Goodman	Metcalfe	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Miller	Shinkus
Boback	Haluska	Milne	Siproth
Boyd	Hanna	Moul	Smith, K.
Brennan	Harhai	Moyer	Smith, M.
Brooks	Harhart	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causler	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.K.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vitali
Dally	Killion	Petri	Vulakovich
DeLuca	King	Petrone	Wagner
Denlinger	Kirkland	Phillips	Walko
DePasquale	Kortz	Pickett	Wansacz
Dermody	Kotik	Preston	Waters
DeWeese	Kula	Pyle	Watson
DiGirolamo	Leach	Quigley	Wheatley
Donatucci	Lentz	Quinn	White
Ellis	Levdansky	Ramaley	Williams
Evans, D.	Longietti	Rapp	Wojnaroski
Evans, J.	Mackereth	Raymond	Yewcic
Everett	Maher	Readshaw	Youngblood
Fabrizio	Mahoney	Reed	Yudichak
Fairchild	Major	Reichley	
Fleck	Manderino	Roae	O'Brien, D.,
Frankel	Mann	Rock	Speaker
Freeman			

NAYS-0

NOT VOTING-0

EXCUSED-4

Eachus	Micozzie	Schroder	Vereb
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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.

(Bill analysis was read.)

The SPEAKER. The question is, shall the bill pass finally?

Representative Boyd.

The Chair will ask all members to please take their seats. Debate is about ready to begin. Representative Boyd is in order.

Mr. BOYD. Thank you, Mr. Speaker.

I was wondering if the maker of the bill would stand for an interrogation, please.

The SPEAKER. Representative Lentz indicates that he will stand for interrogation. The gentleman is in order and may proceed.

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, I would like to ask you some questions regarding some of the definitions in the bill, particularly where you define "Construction": "Construction, reconstruction, demolition, alteration, modification, erection, custom fabrication, repair work or maintenance work done on any...property or premises under contract, whether or not the work is for a public body and paid for from public funds."

How would this relate to landscapers? Would that be considered construction under your bill?

Mr. LENTZ. No, I do not believe it would.

Mr. BOYD. So clearly then, for the purposes of legislative intent, there is no intent of this legislation including any landscape contractor as a construction-oriented contractor that this act would apply to?

Mr. LENTZ. That would be my intent, yes.

Mr. BOYD. Thank you, Mr. Speaker.

In terms of, how about in the same vein, how about dump truck operators, people who haul stone to a job site, people who will haul soil around, oftentimes they are related to an excavating company, but sometimes strictly hauling. Would they be included as a contractor under this bill?

Mr. LENTZ. Well, you just listed a series of people, so whether it would apply to one or all of them is really going to depend on the fact pattern. I mean, the answer to most questions about whether the definition contained within a statute applies is, it is going to depend on the facts.

Mr. BOYD. So then, based on that answer to the question, it is possible that your legislative intent is to include truckers that run dump trucks to construction sites?

Mr. LENTZ. People involved that would come under this definition, as it states, the plain language, "construction, reconstruction, demolition, alteration,..." would be covered by the statute.

Mr. BOYD. So based on that, how would those facts be determined? I mean, is the dump truck operator included in this or not?

Mr. LENTZ. Again, it is going to depend on the individual situation. It is going to be a part of the analysis engaged in by the Department of Labor and Industry in each individual situation. If you go through that description there, I can see fact patterns where a person would be included if that was one of their duties.

Mr. BOYD. Okay. I want to come back to that particular industry, if you will. Let me go a little bit further and talk briefly about the agriculture industry, and in the area in which I represent, we have a large contingent of plain-sect farmers, Amish farmers, and there are instances where they will do their own construction on their own farm.

Mr. LENTZ. Right.

Mr. BOYD. Now, they may be a contractor. Their day job is being a contractor, but they will also do some of their own work on their own farm, building a pole barn or something of that nature. When they are doing work on their own farm, even though they are a contractor, would they be covered under this act if they would retain people to help them build?

Mr. LENTZ. No, because they would not come under the definition of "employer," which is a subsequent definition. If you read that, the definition of "employer" is very clear that you must be engaging in or performing services in the commercial or residential building construction industry for remuneration.

So if you are working for yourself, building things, or if you are hiring someone to do construction, you are not in the business for remuneration. The person you hire would be.

Mr. BOYD. Right.

Mr. LENTZ. The person that is hired to do construction would be. And then that individual would be subject to the definitions with regard to their employees, but a person that is not engaged in the business would not qualify because they do not meet the definition of "employer."

Mr. BOYD. Okay. I appreciate your answer to that. I guess what my focus question was on, if they are in fact a contractor and they do this for remuneration, that is their day job, but they are doing their own work on their own property—

Mr. LENTZ. Right.

Mr. BOYD. —where is the distinguishment that they do not do it for remuneration for one job as opposed to another job? Does not doing the job for remuneration, whether you are a contractor or not, preclude you from this act?

Mr. LENTZ. Well, again, it says in the definition of "Employer," "...who is engaging in or performing services in the commercial or residential building construction industry for remuneration." So therefore, if you are working for yourself, you are not doing it as part of a business, you are not doing it for profit. So they would not, in that circumstance, qualify or be covered by the act.

Mr. BOYD. Okay. So the "for remuneration" clause applies to the specific job that you are on or the contract that you are under; it is not a general statement.

Mr. LENTZ. It is going to be for each fact pattern. So each instance it is going to define whether that person meets the qualification of an employer.

Mr. BOYD. Okay. I am going to come back, if I may, to your answer to the question about people that run dump trucks, haul stone and material to job sites. I believe your answer was something to the effect of it depends on the—

Mr. LENTZ. Facts.

Mr. BOYD. —the facts of the case.

Mr. LENTZ. Right.

Mr. BOYD. So the only way we are really going to know is if that person is cited by the Department of Labor as potentially being in violation for the act, correct?

Mr. LENTZ. No. I would say that in most of these instances, if you talk to people in the industry on either side of this issue, they are going to tell you that in most of these cases the distinction is obvious on the ground.

And again, "Construction" is defined as "Construction, reconstruction, demolition, alteration, modification, erection, custom fabrication, repair work or maintenance work done on any REAL property or premises under contract, whether or not the work is for a public body and paid for from public funds."

You can give me endless amounts of scenarios, but when you get on the ground, the question is going to be, is the person in charge of that project hiring an independent contractor, a person who has their own company that meets these other criteria, or is the person involved in that project designating, falsely designating people as independent contractors?

Mr. BOYD. Well, my point—

Mr. LENTZ. And it is not going to matter whether they are hauling dirt as part of a demolition or if they are doing carpentry work or they are doing carpentry. It is going to be clear on the ground, I think pretty obvious to the observer.

Mr. BOYD. Well, I understand what you are saying, but if I run my own dump truck, I have that truck, it is mine, and I am running stone to a job site, and I work primarily for one particular builder, am I an employee of that builder or not?

Mr. LENTZ. Well, you have to go through the analysis in the bill. First off, the bill defines you as being presumed to being an employee unless, and then it lists the criteria that would make you an independent contractor. So any individual independent contractor is going to have to ask the questions like: Am I free to work for other people? Am I free to haul dirt or whatever for other entities? Am I incorporated? Do I have my own equipment? Do I have my own employees? Do I have an incentive to earn a profit based on the work that is done? And all the other criteria that is listed in there, and I think in most instances, in the case you are giving, where a person goes through this analysis, it is going to be clear one way or the other whether they qualify as an independent contractor.

Mr. BOYD. You are referring to the section that defines what an independent contractor is in your analysis there. I notice in section (b), line 10, it says a person that meets all of the following criteria, and then you list 12 specific instances.

So if I meet 11 of those 12 but miss 1 of them, does that make me an employee?

Mr. LENTZ. Under some circumstances, yes.

Mr. BOYD. Under some circumstances or all circumstances?

Mr. LENTZ. Well, under the strict definition of the act, you start off as an employee. You do not lose your status as an employee unless you meet the 12.

Mr. BOYD. Is it fair then, based on this analysis, to say that there are instances that it may be difficult for somebody to really know specifically if in fact they are an employee or if in fact they are a subcontractor?

Mr. LENTZ. I do not think so. I think that one of the things that is clear and easy to interpret about this act is that there is a presumption that you start off as an employee. So that is easy. You know that you start with the presumption. Unless and until you meet these other criteria, you are not an independent contractor.

Mr. BOYD. So then generally speaking, a dump truck operator is an employee.

Mr. LENTZ. Generally speaking, anyone working on a construction site is an employee unless and until they meet these other criteria.

Mr. BOYD. Okay. Thank you, Mr. Speaker.

Let me jump, if I may, to the portion that talks about the subcontractor not being permitted to subcontract. Why, if I may ask, and I am not sure that this is an appropriate question, but I am trying to figure out why that provision is in the bill.

If I am a legitimate subcontractor, I meet all 12 criteria, you are the general contractor, I am doing work for you and I get jammed up, you have given me deadlines, you want your project done, you got a closing date, money is on the table, and I need to find someone to help me get that job done, why can I not subcontract to another contractor? Is that not limiting my ability to conduct my business?

Mr. LENTZ. Well, no, and one thing that this bill does not do is restrict your ability to engage in the contracting process. In earlier parts of the bill, it requires that you have a written contract. If in the written contract it is envisioned that you are going to hire another independent contractor as part of the execution of that contract or if some circumstances befall you, either you are injured or you have equipment damage, there is no reason you could not modify that contract to include the work of another contractor.

What this is seeking to prevent is people being legitimate independent contractors, engaging in a legitimate written contract process, and then turning around and turning that work over to individuals who are not independent contractors. It would be a huge loophole in the bill if you were able to do that. So what this says is, unless it is envisioned in the contracting process, you cannot just assign your contract to someone else that does not qualify under the act.

Mr. BOYD. But, correct me if I am wrong, if I am a subcontractor, if you are a general contractor you sub to me and I do what you just suggested whereby I am going and hiring people and calling them subcontractors, would I not be in violation of this act?

Mr. LENTZ. You would be—

Mr. BOYD. Not you, but I would be.

Mr. LENTZ. You would be if you did that outside of the contract that you had executed with the general.

Mr. BOYD. But the way I read this, I am precluded from doing that. Statutorily, if this becomes law, it says operates under a contract which is in writing, which articulates plainly the precise terms of payment and work performed and the scope of the work and a specific prohibition on the retention by the independent contractor of any other independent contractor to perform any part of the work described in the contract.

What that says is, is that for you and I to enter into a contract, if I am a sub and you are the GC (general contractor), I am not allowed to ask you to create the contract that says I can do that. The law says I cannot.

Mr. LENTZ. You cannot assign that contract, the general contract you discussed, but you certainly are always free, under the law in Pennsylvania, at the time of the original contract, to anticipate that condition and include it in your contract. There is nothing in here that prohibits that.

Mr. BOYD. So then if I hear what you are saying clearly, I as a subcontractor under what you just told me would make

certain that every contract that I entered into as a sub would not have that provision in the contract so I could subcontract?

Mr. LENTZ. No. You would have to take an affirmative step otherwise to ensure, to notify at the time of contracting that you would be using another company to execute the balance of the contract or to have that ability to do that if you had some unforeseeable event occur. Or after the contract is executed, you could always do an addendum to the original contract to permit it. That is the law in Pennsylvania. This does not change that.

Mr. BOYD. Where does the language say some unforeseeable situation? The way the language is written here, it says I cannot subcontract.

Mr. LENTZ. Well, I am giving you that as an example. Under most circumstances, you are not permitted. That is what this law says, yes.

Mr. BOYD. So under most circumstances, I am not permitted, but I can have a contract drafted if I am a subcontractor and you hire me as, say, a plumbing contractor to do a project, and I can have a clause, if I understand – I want to make sure I understand what you are saying – I can have a clause in that general contract between the two of us that says if I run into a certain situation or specific situations, that I can, I can, retain subcontractors to help me get the work done. That is permitted under this statute.

Mr. LENTZ. You can write a contract, as long as it is consistent with the law, you can write a contract any way you want. You know that from being a businessman. You can include whatever and anticipate whatever occurrences you want to in the execution of the original contract.

Mr. BOYD. I appreciate the answer to the question. Your answer was, as long as it is within the bounds of the law. Well, we are making the law as we go here. That is what we are doing. So my question is—

Mr. LENTZ. No, that is not my answer. What I am telling you is, under normal circumstances, the plain language of this act is what it says. You are prohibited from assigning a contract and engaging in the practice of multiple, multiple, multiple subcontracts, which would be a huge gaping hole in this law, which is intended to prohibit the practice of calling people independent contractors when in fact they are not. But if such circumstances arise where you need to do that, you can always revisit the contract. There is nothing that prohibits a general contractor or a subcontractor from doing that down the road, but under normal circumstances, yes, it is prohibited.

Mr. BOYD. Well, if that is the case, would that not be a hole anyway, because we could enter into a contract and then a month into that contract, you and I could agree to allow me to hire subs?

Mr. LENTZ. No, because that action and those facts would still be subject to the same analysis. If in that case the contractor, the independent contractor that was either brought in as a replacement or brought as a supplement did not meet the criteria here, then you would have a violation of the act.

So you are always going to have to have come back to revisiting the same issue of the presumption and the fact that to rebut the presumption, you have to meet the criteria set forth in the act.

Mr. BOYD. Well, maybe I should ask the question this way: Is the intent of this legislation to preclude me as a subcontractor from being able to hire other subcontractors to help me get work done for a general contractor?

Mr. LENTZ. As a general matter to help you get work done, that is not the intent of the act. The intent of the act is to prohibit the practice of designating people as independent contractors when in fact they are not.

Mr. BOYD. Okay. Another question. Turning to page 6, the discussion of the stop-work orders, the specific question I have is, under the "Unintentional violation," when you come to language that was amended in on second consideration, it says, "A PRIOR OCCURRENCE SHALL BE DEEMED TO BE CLEAR AND CONVINCING EVIDENCE OF INTENTION WITH RESPECT TO ANY SUBSEQUENT VIOLATION."

Mr. LENTZ. You are looking at an unamended version of the act. The current version does not have that language in it, page 7 of the current version. Are you referring to the summary offense?

Mr. BOYD. No, I am actually up under "unintentional violation." I am on page 6, line 21.

Mr. LENTZ. Page 6, line?

Mr. BOYD. 21, starting on actually line 20.

I am working off of PN 3761.

Mr. LENTZ. You are looking at an earlier printer's number. We have amended that. That was deleted with the amendment that I passed last week.

Mr. BOYD. So no longer in this legislation is the prior occurrence being defined as a definition that it is intentional the second time?

Mr. LENTZ. I will read you what it said—

Mr. BOYD. Okay, please.

Mr. LENTZ. —and I will read you what it says now.

It said, "A PRIOR OCCURRENCE SHALL BE DEEMED TO BE CLEAR AND CONVINCING EVIDENCE OF INTENTION WITH RESPECT TO ANY SUBSEQUENT VIOLATION." That has been deleted.

Mr. BOYD. Okay.

Mr. LENTZ. The replacement language is, "EVIDENCE OF A PRIOR CONVICTION UNDER..." the summary offense, the negligent act subsection, "...SHALL BE ADMISSIBLE AS EVIDENCE OF KNOWLEDGE UNDER..." the subsection. It does not describe it as clear and convincing. It just says it is admissible.

Mr. BOYD. Very good. Thank you. I apologize. You will have to admit we went through a few drafts on this one, so forgive me for not getting that.

Mr. Speaker, that actually ends my questions. I wonder if I may speak on the bill now.

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

Mr. BOYD. Thank you.

Mr. Speaker, the specific reason I asked some of the questions I asked was to document that there is going to be some unclarity within this legislation as to whether somebody is in violation of improperly classifying and retaining a subcontractor, treating them as a sub, not an employee.

And my primary concern with this legislation, Mr. Speaker, is that under the current draft, an unintentional violation makes you a criminal. An unintentional violation of this act as it is drafted makes a legitimate Pennsylvania employer a criminal. And the concern I have with this, Mr. Speaker, is that, in fact, the only way you are going to find out if you are in violation of this act is by making a mistake. And so what we are really doing is we are creating a situation where we do not know whether a dump truck driver is or is not going to be included as an employee or a subcontractor, and I would question the

gentleman's response to a landscaper. I have an idea that a landscaper who comes in and finishes a 250-home subdivision is going to be considered to be a part of that contract, that it will be included under "construction," under the definition. I appreciate the gentleman's answer that it would not, but I wonder whether or not the Department of Labor will have the same interpretation. And that is precisely the point. The way this legislation is drafted right now, by not knowing, by making a legitimate mistake, you are at the risk of being a criminal.

And, Mr. Speaker, I do not believe that we want to create an environment where we make Pennsylvania businesspeople who try to legitimately follow the rules that are not real clear, that are not real clear, to make them criminals. I really think, Mr. Speaker, that what we are doing here is, this piece of legislation is an antibusiness piece of legislation, it is an antiemployer piece of legislation, and it is really an anti-entrepreneurial piece of legislation.

Mr. Speaker, the way this is drafted, this legislation will literally drive, in my opinion, thousands of independent contractors, guys who come out of high school or come out of a career in tech school and decide that they want to be an entrepreneur, they want to throw a magnetic sign on the side of their truck and they want to go out and they want to start putting on roofs, or they want to become a framing contractor. Some Pennsylvania businesses, Mr. Speaker, in fact, I would submit a lot of Pennsylvania businesses, started in somebody's basement, and they just built themselves up and created a business that today probably employs hundreds of people. I know some of those stories in Lancaster County. Mr. Speaker, this piece of legislation literally will put them in a position where they cannot do that. They cannot get started. It is not uncommon for a fledgling business to have one contractor that they do a lot, the lion's share of their work with to get started, until they build their client base.

I know what the author of this was trying to go for. I was on the Labor Committee. I knew what the intent of it was, but, Mr. Speaker, this bill has some problems with it, and it really needs to be fixed. At this point, again, I reiterate the offer to continue to work together with my colleagues across the aisle to try and come up with a commonsense compromise that both business and labor can work with to accomplish the goals of putting bad operators out of business but not hindering the truly entrepreneurial guys who want to follow the rules but do not want to be turned into unintentional criminals.

Thank you, Mr. Speaker.

The SPEAKER. Representative Turzai.

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

I rise in opposition to HB 2400. It is not because I do not think that you can address statutorily a better definition of "independent contractor" and/or "employee." However, that is not what this overreaching piece of legislation does. Not only does it provide a new broad definition of "employee" versus "independent contractor," but it essentially seeks to penalize good people in terms of something that is really basic, the classification of "independent contractor" versus "employee."

Much of today's economic activity thrives because of independent contractors. People like the idea of being their own boss, running their own organization, setting up their own schedule, being able to contract independently with customers to do the work that they want to do in a profitable and efficient and entrepreneurial spirit. The independent contractor today is

in many ways driving the small business job growth in this country.

This bill, however, seeks to ultimately classify everybody as an employee and seeks to penalize those people that want to be independent contractors. Look, there are many people in the State of Pennsylvania that have family-sustaining businesses based on their status of independent contractors.

The author of this particular bill is telling you, the independent contractor, the small entrepreneur in communities throughout the State, you know, we think you are a criminal by virtue of what you are doing, and we are going to be able to do three things to you under workers' compensation law, under Unemployment Compensation Law, under minimum-wage law, and under Wage Payment and Collection Law. We are going to be able to do some pretty severe, significant things because you choose to enter into a private contract and to have an independent relationship.

Let me tell you the penalties that exist under this particular bill that can be imposed on people merely for, quote, unquote, "misclassifying independent contractor versus employee."

One, you can be subject to criminal laws, up to a felony of the third degree, for, quote, unquote, "misclassification of independent contractor versus employee."

Misclassification, a felony of the third degree, and let me read to you the penalties. You can be sentenced to a fine of up to \$15,000 or to imprisonment for not more than 3 1/2 years, up to 3 1/2 years, for that first offense, and for any subsequent offense, up to 7 years you can go to jail, Mr. Speaker, and pay a fine up to \$30,000. I mean, you know, under the criminal law, and I was a prosecutor, that is the kind of felony of the third degree that we use for significant crimes. We are making people who, quote, unquote, "misclassify independent contractor to employee" to be a heavy-duty felony criminal. Give me a break. But it does not stop there. Under some very poorly drafted language with respect to this bill, anybody that should misclassify that relationship can also be subject to, in a kangaroo court setting, where the prosecutor and the judge are the same person, they can be subject to a stop-work order and debarment, debarment, from any government contracts.

Let me talk about in the first instance the stop-work order. Here it is. The Secretary, if they feel, if the Secretary of Labor decides that you have violated and misclassified employee versus independent contractor, he or she can issue a stop-work order like a dictator, like an autocrat, requiring the cessation of, quote, unquote, "all business operations," not a particular project, all business operations within 72 hours of the determination. That means the Secretary— May I have some order, Mr. Speaker, please? Some order, please?

The SPEAKER. Members will please take their seats. The noise level is entirely too loud. The gentleman is entitled to be heard. Conferences will break up.

Mr. TURZAI. Why should we give a singular individual, without any significant due process, the right to shut down a business within 72 hours? Is there anybody here that thinks that that entrepreneur, that small businessperson, is going to be able to restart his or her shop, his or her operation? Forget it. They will not be able to.

Dictatorially, this could be hung over the heads of such people by fiat, and it shall remain in effect until the Secretary, of his or her own making, decides to release it, or upon finding that the employer has properly classified the individual as an employee. Not that they properly classified them as an

independent contractor, and of course, it does not say as to whose finding that is in this kangaroo court setting. And you know your only right to appeal is Commonwealth Court. Forget it. The business is long gone before that happens.

And the same thing happens under the penalty of debarment. The Secretary shall issue an order to show cause why the individual should not be found in violation of this act and subject to debarment. You know, that is backwards, Mr. Speaker. Typically, you are innocent until proven guilty. Here, you are guilty until you prove innocence. And again, it does not make it clear who decides the debarment, but it seems to me to be the same Secretary of Labor, who is both prosecutor and judge.

This bill is far out of line. It is one more step in telling small businesspeople we do not care about you in the State of Pennsylvania. Just like when the Governor increased the personal income tax which taxed S corporations and took their increase from 2.8 percent to 3.07.

This is a bill that is anti-small business, anti-entrepreneur, anti-job growth, anti-family-sustaining job. This is about control by a few people over the many, and we will be continuing to drive jobs to North Carolina, Tennessee, Virginia, because with this kind of a mindset, who would want to stay in the State of Pennsylvania? With all due respect, I ask for a "no" vote.

Thank you very much, Mr. Speaker.

### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative Schroder on the floor. His name will be added to the master roll call.

### LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative HARPER be placed on leave. The Chair sees no objection. The leave will be granted.

### CONSIDERATION OF HB 2400 CONTINUED

The SPEAKER. The Chair recognizes Representative Maher. The Chair will ask members to hold their conversations to a minimum.

Mr. MAHER. Thank you, Mr. Speaker.

I am hoping the sponsor of the legislation will respond to some questions.

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

Is the gentleman familiar with the concept of a prime contractor?

Mr. LENTZ. Yes.

Mr. MAHER. And can you explain, since we are dealing with contractors, what your understanding of a prime contractor is?

Mr. LENTZ. I am sorry?

Mr. MAHER. Can you explain what understanding of prime contractor you had in mind as you authored this?

Mr. LENTZ. I am sorry. I am having trouble hearing you.

Mr. MAHER. I can understand why you have trouble hearing, and perhaps the Chair can assist.

The SPEAKER. Members will please take their seats. Conferences will break up. The Sergeants at Arms will clear the aisles. The gentleman cannot hear the debate. I know the members are interested in this conversation. Members will please take their seats.

Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

It is my hope to be relatively brisk here. I was asking the sponsor of the legislation if he could explain his understanding of what a prime contractor is that he had in mind as he drafted this legislation.

Mr. LENTZ. Well, I do not think the phrase "prime contractor" appears in the legislation.

Mr. MAHER. Well, it does not actually appear, but it certainly has an impact. Did you not have that in mind? If you did not, that is fine.

Mr. LENTZ. I do not think it enters into the definitions in this statute.

Mr. MAHER. Okay. We will move on.

When you indicate by definition if a contractor were to have another contractor such as a roofer hiring someone to put shingles up on a roof, that because that contractor had another contractor performing part of the work, that the roofer would not be a contractor but would in fact be an employee. Is that correct?

Mr. LENTZ. I am not sure I follow the scenario you gave, but if you follow the definitions as listed in the statute and you apply them to individual circumstances—

Mr. MAHER. That is what I am trying to seek your assistance on, and I can only be as quick as you can be responsive. So if you are hoping to be speedy, I would hope that we can just be straightforward.

If an individual homeowner hires a roofer as a contractor and that contractor, the roofer, then hires another contractor to perform part of the work, if I am understanding your bill correctly, the roofer is no longer a contractor of the homeowner but is now an employee of the homeowner. Is that correct?

Mr. LENTZ. No. A homeowner that hires someone to fix their roof is a customer. They do not meet any of the definitions of this act, and the people covered by this act are those that are in the definitional section. So if you are an employer, that is a person that meets the definition of "employer," engaged in the business of construction, then you come under the analysis of this act. If you are an individual—

Mr. MAHER. Can you point out the exception you are talking about for customers, because it is not appearing in my copy of the legislation? I am reading the definition of "Employer," and it says, "The term includes any individual..."—

Mr. LENTZ. Right. And then if you read on the balance of the definition, it says, "...who is engaging in or performing services in the commercial or residential building construction industry for remuneration." So if you are a homeowner that hires a roofing company—

Mr. MAHER. No; excuse me. You misread that, sir. What you are reading speaks about the employee, not the employer. The employer is any individual—

Mr. LENTZ. Right.

Mr. MAHER. —and you are acting as an employer in relation to an employee "...who is engaging in or performing services in the commercial or residential building

construction...." Therefore, I am not seeing the exception for homeowners that you indicate appears.

Mr. LENTZ. Again, if you go back to page 2 of the act at line 20, "Employer." Do you see that?

Mr. MAHER. That is what I am reading.

Mr. LENTZ. All right. If you read the entire definition, "The term includes any individual, partnership, association, joint stock company,..." et cetera, "...who is engaging in or performing services in the commercial or residential building construction industry...."

Mr. MAHER. That is not how it is— You are skipping, you are skipping the part of being, "...an employer in relation to an employee and who is engaging...."

Mr. LENTZ. Right.

Mr. MAHER. So you are saying that your intent is that homeowners are exempt?

Mr. LENTZ. Clearly, the intent is not to cover people that are not engaged in the business, in the construction business, and homeowners that are hiring people to fix their roof would not be engaged in the construction business.

Mr. MAHER. All right. Well, let us take the next step. Let us say I am the roofer. I am a roofer and I hire a fellow to swing the shingles up to the roof on a construction site and the fellow I hired to swing the shingles up to the roof on the construction site hires someone else who brings over a truck to assist in that process. Since I am the fellow who has been hired by the roofer to put the shingles up there but now I have a contract with somebody else to assist in that effort, apparently this person who is putting the shingles up on the roof is no longer a contractor but is now an employee. Is that correct?

Mr. LENTZ. Yes. I would say that the fact pattern you are describing where a roofer hires someone to go on a roof and do work, that would be an employee, and you would not have to do much analysis beyond that.

Mr. MAHER. Now, the fellow who brings over the truck to assist in this process, is he a contractor of an employee then or is he a contractor of the roofer or is he an employee of the roofer or is he an employee of the guy who is swinging the shingles up on the roof?

Mr. LENTZ. Okay. If I follow your series of questions there, if a roofer is hired to fix a roof and there are a group of people there working for him fixing the roof, they would be employees, unless you can demonstrate under the act that they are independent contractors.

Mr. MAHER. But whose employees are they?

Mr. LENTZ. They would be the employees of the guy who has been hired to fix the roof. Again—

Mr. MAHER. So the fellow who has got the truck is now an employee of the fellow who is the roofer even if he has never met the man who has the truck?

Mr. LENTZ. Well, you just added the fact that they never met.

Mr. MAHER. Well, whether they met or not is not part of your test.

Mr. LENTZ. I am wondering, if they never met, how he knew to show up at that job site with the truck.

Mr. MAHER. I could not hear you, sir.

The SPEAKER. If the two gentlemen will suspend.

The noise level is entirely too loud. Members will take their seats.

Mr. MAHER. Now, let us go to that same—

The SPEAKER. The gentleman will suspend.

Mr. MAHER. I am sorry.

The SPEAKER. The conferences in the rear and center aisles will break up. Conferences in the rear of the House and the center aisles will please break up.

The gentleman will also ask the members to ask a question and then wait for a response.

Mr. MAHER. Let us assume the same three-party relationship, but now let us assume that the fellow who is swinging the shingles up on the roof is incorporated. Now, he would not be affected and that the solo incorporated individual would never be deemed to be an employee under this bill. Is that correct?

Mr. LENTZ. I honestly am not following your question. If you are saying—

Mr. MAHER. Well, when I started out in business, I started out as a sole proprietor, and then once I had enough business to make it worth my while, I went ahead and went through an incorporation. A lot of small businesses do that. My question is, if you have got a roofer who is a sole proprietor and a roofer who is incorporated, it strikes me that under your bill you get a different answer, that one is a contractor and the other is an employee for doing the exact same work under the exact same terms. Is that correct?

Mr. LENTZ. I am not sure how you get there, but to get back to the fact pattern you are giving me, if someone hires a company to work on their roof, under this act the people on the roof doing the work are presumed to be employees, and unless and until they meet the criteria set forth in here that would establish them as independent contractors.

Mr. MAHER. So if somebody hires a corporation, Joe's Roofing, Incorporated, to do the roofing work, your bill pierces that corporate veil and turns these corporate individuals into employees of the person who is having the roof done?

Mr. LENTZ. We do not pierce any veils with this act.

Mr. MAHER. Well, I did not think you did, and that is why I was asking the question, because it seemed to me that "employee" dealt with an individual and your definition of "independent contractor" deals with an individual, so I am asking if that individual, instead of being hired as an individual, is hired as a self-incorporated entity, now, suddenly, for doing the same work under the same terms, it seems to me that one of them is deemed to be an employee and the other one is deemed to be a contractor.

Well, I will move on.

Is there any way possible for a sole proprietor in the construction industry to be a prime contractor and hire subcontractors, under your bill, and still have those contractor relationships?

Mr. LENTZ. Yes, absolutely.

Mr. MAHER. There is. Then how can an individual as a prime contractor hire a subcontractor and not be characterized as an employee under your bill?

Mr. LENTZ. Well, again, if you separate, to use your example of the homeowner, the homeowner does not enter into the definitions in this act.

Mr. MAHER. I am not talking about homeowners.

Mr. LENTZ. I know. Let me finish, if I may. The prime contractor, as you have described him, that is hired to fix the roof is absolutely entitled to engage with another independent contractor.

Mr. MAHER. But they would be characterized as an employee.

Mr. LENTZ. They would be an employee if they did not meet the criteria established in this act.

Mr. MAHER. And one of those criteria is the prohibition of any other independent contractor to perform any part of work described.

Mr. LENTZ. I do not think that is what the language of the act says.

Mr. MAHER. I am reading from page 4, lines 11 through 13. The contractor must include, "...a specific prohibition on the retention by the independent contractor of any other independent contractor to perform any part of the work described..."

Mr. LENTZ. Right. That is one of the criteria, which, as I have discussed with the Representative earlier, deals with preventing the loophole of then turning around and violating the act and subsequent layers down.

Mr. MAHER. So a sole proprietor can never be a prime contractor under your bill without turning into an employee?

Mr. LENTZ. No. I would disagree.

Mr. MAHER. Well, explain to me how they could meet your test.

Mr. LENTZ. Well, because the sole proprietor would be the individual engaging the independent contractor. So that is one layer. So you have a sole proprietor that would engage an independent contractor. What this is saying is the independent contractor then cannot turn around and hire 50 people that he designates as independent contractors to climb on to the roof and do the work.

Mr. MAHER. Well, let me go back to our example. Someone in the building construction industry is building buildings and they hire a contractor to put on a roof and that contractor is the prime contractor for the roofing project and then hires subcontractors to assist with various parts of the work to be performed. If I understand your bill, that prime contractor is not actually then a contractor but would be an employee of the fellow building the building and the other contractors that the prime contractor hired would not be contractors but would be employees of the person building the building. Is that correct?

Mr. LENTZ. That would not be my reading of the bill.

Mr. MAHER. Well, help me understand how you do not get there, because I am looking at, again, page 4, lines 11 through 13.

Mr. LENTZ. You are using the roofing example. Using the roofing example, if on a roofing job someone turned around and hired "multiple independent contractors," quote, unquote, to go up and work on a roof, I would say that just on those facts, that would be a violation of the act, because people that are working on one job that are under the direction and control of the roofing contractor, that are not using their own equipment or materials, that are not doing the other things that are described in the criteria, those would be employees and those would not be independent contractors.

Mr. MAHER. Thank you.

In the free market, it is not unusual for construction contractors to be hired on a cost-plus basis, and one of the elements of a cost-plus contract is frequently the requirement that the contractor provide an accounting conducted by an independent auditing firm to verify the cost and calculate the cost-plus. Now, if the independent contractor hires a C.P.A. (certified public accountant) firm to do that work which is required under the contract, for the accounting for the cost-plus contract, is that C.P.A. firm now an employee?

Mr. LENTZ. Well, this act does not deal with C.P.A.s. This act deals with people in the construction industry.

Mr. MAHER. Well, a C.P.A. would be an independent contractor to the independent contractor to perform part of the work required in the contract. The contract requires an independent audit of the actual cost to establish a cost-plus settlement.

Mr. LENTZ. Unless the C.P.A. happened to be up on the roof helping with the roofing job, this act would not apply to them.

Mr. MAHER. Can you show me that exemption?

Mr. LENTZ. The definition of the covered area is construction. It does not say anything about accounting.

Mr. MAHER. Well, you are on page 4, though. You go beyond that and you say, "...a specific prohibition on the retention by the independent contractor of any other independent contractor to perform any part of the work described..." and if the work described requires an independent audit of the cost to be incurred, it would seem to me that that would be against the law under your bill.

Mr. LENTZ. That paragraph has to be read in the context of the whole bill, which is specifically targeted at the construction industry.

Mr. MAHER. Now, let us keep moving.

MBEs (minority business enterprises). How does a minority business enterprise, sole proprietor, enter into a contract with the Commonwealth of Pennsylvania or any political subdivision if they are introduced into the project as a subcontractor? Would they then become as a subcontractor to the prime contractor an employee of the Commonwealth or the political subdivision?

Mr. LENTZ. No, because, again, in that circumstance, as I understand your analogy, the Commonwealth of Pennsylvania would be the customer there. The Commonwealth of Pennsylvania would not be engaged in the construction business. So no employee relationship would arise between the person—

Mr. MAHER. I am speaking about the MBE serving as a subcontractor to the prime contractor. Now, if the prime contractor is engaged in the construction business and they hire subcontractors, those MBEs cannot participate?

Mr. LENTZ. Again, you are giving me multiple layers there in the question.

Mr. MAHER. Well, the real world has got multiple layers in it. That is why I am asking the question with multiple layers. There are lots of multiple layers, so I think these are important questions.

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

The SPEAKER pro tempore. Will the gentleman suspend.

The Chair has been reminded that the inquiries, the interrogation, once the question is asked, the gentleman should have enough ample time to fully answer the question before going into another argument or a question. So kindly give courtesy to one another and to the stenographer for the transcript purposes. Thank you.

Mr. MAHER. Thank you, Mr. Speaker.

I apologize for my briskness. I was trying to be considerate of a request from that side of the aisle to proceed with all due speed, but I will take your advice to slow it down a bit.

Page 4, line 29, says that one of the requirements in order to be a contractor is that an individual must make services available to other businesses. Now, if I am a startup, just out of the service, buy a truck, I am in business going forth in the construction field, I have no other clients yet. I intend to build a business, but you are my first client. Under your bill, it would seem that I cannot be a contractor for you. Instead, I am going to be your employee. Is that correct?

Mr. LENTZ. No, it is not correct.

Mr. MAHER. Well, tell me, how do I satisfy the requirement that I am making services available to other businesses if I am not?

Mr. LENTZ. Making services available to other businesses means that you are able to work for other people.

Mr. MAHER. Well, maybe this is my first job. I am starting out from scratch. I am happy to have a client, and I am working 24/7 to get the job done because I am going to build a business, and so at that moment in time, I am not looking for other clients. I cannot do that legally under your bill.

Mr. LENTZ. Nothing in the statute says you have to have more than one customer. It says you have to be available to work for people other than the person you are working for on that project. So you could try to read that into it, but the plain language is very clear.

Mr. MAHER. Well, the plain language is very clear. On page 5, line 4, a requirement is that to be an independent contractor, an individual must have, "...continuing or recurring business liabilities or obligations." What about an individual contractor who has no business obligations and no debt? What about someone who is operating in the black and has no debts? Under this definition, they cannot be a contractor.

Mr. LENTZ. That is not the intent of that paragraph.

Mr. MAHER. What is the intent?

Mr. LENTZ. The intent of that paragraph is to indicate that the individual is running a business where they are, as referred to in the other paragraphs, where they are taking on the risk, the responsibility for profit or loss, the responsibility for equipment, all the responsibilities that go with being a legitimate independent contractor as opposed to being just designated as an independent contractor.

Mr. MAHER. Well, I thought your test was that an individual had to meet all of these 12-item tests in order to be a contractor. So can you explain to me how an individual who does not have recurring business liabilities or obligations meets the test to have continuing recurring business liabilities or obligations?

Mr. LENTZ. Well, if a person does not own the business, is not responsible for the payroll of the business, is not responsible for the materials and supplies, is not responsible for any burden, there is no risk involved in the business, there is no financial outlay or expense in the business, that would not qualify. That would be a criterion that would disqualify it as a legitimate independent contractor.

Mr. MAHER. So if the fellow is operating on a cash-on-the-barrel basis and he has made all his payments in advance because he is a startup and folks want to see cash on the barrel and would have none of those liabilities out there, how does he satisfy his requirement?

Mr. LENTZ. Well, you are describing obligations and liabilities that he satisfied. That indicates that he is responsible for the business and the cost attended with the business.

Mr. MAHER. Well, it may indicate that he is a responsible businessman, but it does not indicate that he satisfies this requirement.

Mr. LENTZ. Well, if he has an office he pays rent for, the fact that he paid the rent already that month does not mean he does not have an obligation to maintain the business. So it is a pretty clear sentence, and the intent of it, I think, is pretty clear.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my interrogation. If I may speak on the bill?

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

Mr. MAHER. You know, it may be a worthy goal to distinguish between contractors and employees, and I think it is a good goal. In fact, everywhere in the nation this has been a settled question to a large extent for some time. Everywhere in the nation there is common law that has been embraced on a Federal basis that distinguishes between employees and contractors. All of our neighboring States have laws that honor the Federal standards to ease the mobility of businesses across State lines. In fact, I think there probably is a good constitutional question about whether this is an interference with the interstate commerce clause of the Federal Constitution, but I am not going to raise the constitutionality question today out of my high regard for my friends across the aisle.

But I will observe that if this bill were to become law as is, it will require that independent contractors in Pennsylvania who are sole proprietors will be treated with an altogether different standard than independent contractors in Pennsylvania that are in some sort of an organized form of business – a corporation, an LLC (limited liability company), and so on and so forth – because this bill goes to individuals as defined, not to the full range of independent contractors. So what we are saying, if this bill passes, is that the little guy who is starting out cannot, he just cannot without risking breaking the law.

We have heard today that if this bill passes, folks who are out there in the construction industry will wind up having employees they have never met, never expected to meet, but folks that are several steps down the supply chain because someone contracted with someone else to assist in getting the job done. Instead, if this bill passes in Pennsylvania, we will have a whole series of employees, and all these employment relationships carry with them other obligations, which are not addressed in the bill.

But what is hardest to understand for me is how these employees in Pennsylvania under this bill will be employees for some departments of Pennsylvania but will be contractors for other departments of Pennsylvania. The Department of Revenue will still look at individuals as contractors, but under this bill, they would be deemed to be employees. In fact, I am looking at the conspiracy provisions of this bill, and it sounds like it may actually be the Department of Revenue could be criminally convicted for participating in conspiracy to misclassify these individuals, which seems like an odd thing.

Whatever you might think the merits are of minority business enterprises or women's business enterprises, disadvantaged business enterprises, also understand that this bill will make it impossible, impossible for sole proprietors in Pennsylvania to serve as subcontractors in those capacities. It will be a crime. So on the one hand we will have laws that set goals and objectives, and in fact, there will be a request for proposal, a request for bid, that will score whether or not there is an MBE, WBE, DBE (disadvantaged business enterprise)

requirement, but if somebody dares to do that with a startup outfit, a sole proprietor, they are going to jail. Well, that does not make much sense to me either.

If part of the work involved in a construction job, as often happens in the private sector, is to provide an accounting, an independent auditing, of the costs incurred, well, then that C.P.A. by being contracted violates the independent contractor status of the contractor. Now, the contractor is an employee and the C.P.A. is an employee, but a C.P.A. cannot be an independent auditor because they are not independent if they are an employee. So in Pennsylvania this will put an end to the practice of construction contracts being subject to audit. Will that not distinguish our State from the other 49? If you dare to have construction audits done in Pennsylvania, you are going to jail.

This bill seeks to criminalize homeowners, and you may say you are not in the business of construction, but I suppose a homeowner who is in the business of construction would be in big trouble. Worse yet, you are going to criminalize the little guys who are trying to start out. This nation is populated from the greatest generation with guys who came home from the war and bought a tractor or bought a truck and got to work and built this nation, but in Pennsylvania, those returning from Iraq, Afghanistan, you will send them to jail if they try to do the same thing.

The caption for this bill is a good caption. It is worthy to ensure we are classifying employees correctly. It is not good to put individuals in the impossible situation where they must break one law or the other and try to judge which penalty would weigh on them most heavily. It is just wrong, and I would ask that you join me in opposing the legislation.

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

Mr. SURRA. Thank you, Mr. Speaker.

You know, Mr. Speaker, I have been on this floor for a few years, and there is a saying for what I am witnessing right now back in Elk and Clearfield Counties, and I should have brought my hip boots.

Mr. Speaker, this legislation is about businesses and workers and those relationships, but most importantly, Mr. Speaker, it is about fairness. If I was in the construction business and I was sitting at home listening to this debate and I paid my workers their workers' comp insurance and I paid my workers unemployment comp insurance and I was doing business in Pennsylvania the right way, the legal way, I would be very upset about what I am seeing from the Republicans.

Mr. Speaker, the misclassification of workers is a nationwide problem, and it is resulting in employees not receiving the benefits that they are entitled to by law. It is a problem and it is getting worse. It is estimated that 9 percent of all employees in the State of Pennsylvania are being misclassified, and that is costing the Unemployment Compensation Trust Fund alone up to \$200 million a year, \$200 million a year that honest, hardworking entrepreneurs are paying for people that are gaming the system.

In 2000 a report by the U.S. Department of Labor found that the construction industry in particular was the most abusive of the independent contractor loopholes. The report found that 30 percent, 30 percent of construction firms knowingly misclassified their workers. I mean, I heard a discussion that, you know, we are going to drive all our construction jobs to

North Carolina. Well, what are they going to do? Build a house in North Carolina and move it to Pennsylvania?

Other States have already taken action on this. New York and California have created a joint task force to study it. Colorado, Minnesota, Illinois, New Jersey, Connecticut have taken legislative action with very strict penalties for misclassification of workers, and it protects their honest businessmen and it protects their honest, hardworking employees.

It has been mentioned that they cannot believe that we are criminalizing breaking the law. Well, there is a novel idea. We are criminalizing breaking the law. Well, in the labor law we already do so if you violate the Workers' Compensation Act, the Unemployment Compensation Act, child labor laws, payment and wage laws. We already do that. So it should be no surprise, Mr. Speaker, we want to do it in this situation also.

It has been said that this is going to outlaw independent contracting in Pennsylvania. That is not true on its face. It is not true if they are doing it legally. It said it will shut down a small businessman, and that never happens on the work site in Pennsylvania. Well, I guarantee you, if there is some contractor out there dumping oil in the river, he should and will be shut down by current law, Mr. Speaker. We do that all the time.

There was a lot of talk about a roofer and hiring a truck driver and you will never be able to hire an independent contractor. Well, if I am the Dan Surra Roofing Company and I have four or five employees and we are putting on a roof and I hire Paul Leonard Trucking out of Weedville in Elk County to haul away the shingles and Paul brings his truck up and we load it full of old shingles and he hauls it away, he is an independent contractor. He comes to the work site with his truck that he paid for, out of his garage, with his office; he pays the insurance. That is an independent contractor as it is done today. That is an independent contractor how it will go on after this bill hopefully becomes law.

Let us be clear what this bill is trying to do. What this bill is trying to do is stop the practice where I am a contractor and I hire eight employees. They work for me every day at my work sites, with my tools, at my direction. They work for no one else, and I classify them as independent contractors. Why? Because I do not have to pay their unemployment, I do not have to pay their workers' comp, and it is a competitive disadvantage for all the good, hardworking business owners in the State of Pennsylvania, and that is why we need to pass this, because it is bad for honest businesses and it is terrible for workers that are being abused.

And I could give you a couple of examples that happened in my district office. I met with people. One had a husband killed in the workplace, and to her surprise, she did not qualify for unemployment comp; three children. Their income was done; a young family. You talk about family values? This guy worked for this person and no one else. He worked at his direction, on his hours, and that was it. He was his employee. Well, guess what? The State Workers' Insurance Fund found that he was his employee, and we had to pony up and pay for that family, and we should, but that guy was gaming the system and cheating all the good, honest, hardworking businessmen in Pennsylvania.

I had another case just recently, a person hanging drywall for a contractor. He worked in that guy's houses, where he told him to be, on what day he told him to be, what hour he was supposed to be there. He got laid off. The wife came in and talked to me. Hey, 3 weeks without a paycheck; we are really

hurting. Why do you not file for unemployment? He cannot; he is an independent contractor. He was not an independent contractor. He did not work for anybody else.

That is the kind of abuse we are talking about, Mr. Speaker. All this stuff that you are hearing today, like I said, I should have my hip boots on.

Here is what it requires to be an independent contractor: One, you maintain a separate business; two, you operate under contracts; you file the appropriate taxes with the State and Federal governments; you incur the work-related expenses; you are responsible for the completion of your work; you realize the profit or loss; the success of your business depends on the relationship of your business and your receipts and expenditures; you own or lease your own equipment to run your business; you make your services available to other customers; you have recurring business liabilities or obligations; you have the principal proprietary interest in the business; and this is an important one that you all love, you are authorized to work in the United States of America. I think that is an important one that we should all vote for.

And what is happening, Mr. Speaker, people are being called independent contractors that are hourly employees that work for one person or one company only, and that is wrong, and that is a smack in the face to all the good, hardworking, honest businessmen in this Commonwealth.

This is a pro-business bill. This is a bill that is pro for good, hardworking, honest businessmen. If you are against this bill, you are supporting deadbeat businesses, Mr. Speaker, and you are supporting allowing illegal aliens to work in the workplace. Let us keep our workplaces safe, let us keep the competition among businesses honest and upfront, and let us vote "yes" on HB 2400.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair is in receipt of a request from the minority whip for a leave of absence for the gentleman, Mr. PETRI. Without objection, the leave will be so granted.

### CONSIDERATION OF HB 2400 CONTINUED

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

Mr. MARSICO. Thank you, Mr. Speaker.

The reason it took me awhile to get up here, I was putting on my hip boots after that last speaker.

I would like to interrogate the maker of the bill, please.

The SPEAKER pro tempore. The gentleman has agreed, and you may proceed.

Mr. MARSICO. I know that, sir, you mentioned about landscapers being in the bill or being not in the bill. I would like to have some clarification of that, not just landscapers but also landscape nurserymen, the nursery industry, groundskeepers, greenskeepers. Are you saying they are included or not included?

Mr. LENTZ. My reading of the definition of "construction" is that pure landscaping would not qualify as being— And that would not be the intent of the act.

Mr. MARSICO. I have a lot of concern about that because under the definition of "Construction," which says, "Construction, reconstruction" – line 13 – "demolition, alteration, modification, erection, custom fabrication, repair work or maintenance work done on any REAL property or premises under contract,..." I mean, I think that is very unclear, because many of the landscapers construct retainer walls, walkways, and so do nurserymen and so do groundskeepers, greenskeepers, et cetera. So I think that is very unclear, and I am concerned that if this law is enacted, that there is going to be someone in Labor and Industry, some bureaucrat, making a determination of whether or not they are or are not included, and looking at this, it would appear to me that they could be construed or interpreted that they are included. That was my concern. I do not know if you have any other comment on that.

Mr. LENTZ. Well, I would just say that the preamble to the act and the other definitions of the act make it clear that the focus here is on the building trades construction industry, which would not include landscaping, and in that context with that definition, I do not think it would apply, and I do not think it would be a justification for applying it.

Mr. MARSICO. Mr. Speaker, I have concluded my interrogation. I would like to make a few comments.

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

Mr. MARSICO. Thank you, Mr. Speaker.

I am here to oppose this legislation for many reasons. This is bad public policy. It is very unclear. We just heard that it is unclear, the provisions regarding the landscape industry. It is unclear there whether or not they would be included or not. And the other reason is this could subject innocent small business employers to jail time.

Speaking of that, let me just go toward in that direction with criminal penalties and civil penalties. As mentioned before, this legislation will make it a third-degree felony if an employer or an agent of an employer knowingly violates the act. Now, I agree, many of us agree, we probably all agree there should be penalties if you violate this law. It provides for a criminal fine of up to \$15,000 and imprisonment, in prison for 3 1/2 years, for the misclassification of one, of one employee, with enhanced fines and prison sentences for subsequent offenses.

Now, let me have your attention; let me have your attention, Mr. Speaker. This is very important. For those of you that are going to—

The SPEAKER pro tempore. The gentleman is correct. Members, please clear the aisles.

Mr. MARSICO. For those of you that are going to vote for this bill, you are putting these small business employers in the same category, the same category, with other crimes graded as third-degree felonies, which include terroristic threats, stalking, threats to use weapons of mass destruction, arson, robbery, institutional sex assault, and theft. The misclassification of one employee does not rise to the level of these offenses and does not justify the imposition of a lengthy prison sentence.

For those of you that are not paying attention, you ought to pay attention soon because you are going to put innocent people in jail for a long time. You could possibly do that. So maybe you ought to pay attention to this, what you are going to do to these folks.

Mr. Speaker, we are talking about the imposition of a State prison sentence for merely misclassifying one employee as an independent contractor. We are filling up our prisons – you are

going to fill up our prisons with white-collar crime when we are overcrowded now.

Recently we spent a considerable amount of time passing a prison reform package with the ultimate goal of reducing overcrowding of our county jails and State prisons. The package provided for the release of nonviolent drug offenders so we could reduce overcrowding and make sure that people committing violent crimes remain in jail. However, this bill, HB 2400, will now subject Pennsylvania's small business owners and contractors to prison time, which they can spend with the Commonwealth's most violent offenders, while other nonviolent criminals are being released. It just does not make sense, and many of you on both sides of the aisle voted for that prison package, HBs 4,5, 6, and 7.

Mr. Speaker, this legislation subjects contractors to significant civil penalties and administrative penalties, including stop-work orders and debarment. These penalties are enough. There is no rational reason to criminally prosecute these employers and throw them into already overcrowded jails and prisons.

Frankly, as a former small business landscaper, contractor, I am outraged and appalled by what the author and the cosponsors and the voters of this legislation intend to do – criminalize hardworking, hardworking small business owners. This is a blatant attack on our honest and hardworking business owners.

Once again, think what you are going to do here, Mr. Speaker. If you pass this bill, if you pass this bill – many of you pound your chest for small businesses in this Commonwealth; you are all friends of small business – but if you vote for this bill, you are not going to be a friend of small business. Thank you.

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

Mr. MUSTIO. Thank you, Mr. Speaker.

Mr. Speaker, this has been an issue that has been around for a long time, and I am rising in support of the legislation, and I would like to interrogate the maker of the bill.

The SPEAKER pro tempore. Seeing no objection, the gentleman may proceed.

Mr. MUSTIO. Mr. Speaker, there have been some comments made about the various types of businesses that can and cannot operate under this legislation. Would you portray the legislation as primarily trying to address independent sole proprietor contractors from hiring other independent sole proprietor contractors, primarily?

Mr. LENTZ. Primarily, yes.

Mr. MUSTIO. And the reason for that is because in our State we have had a problem with that issue. Is that fair to say, that we have had various reports in the media, particularly in southwestern Pennsylvania, of companies hiring so-called and sometimes nonresidents of the United States to work on projects, not paying workers' compensation premiums where we have heard here that we want all of our employers to do that, to lower the cost for everyone, not paying taxes so that we at budget time cannot raise taxes on other companies and individuals in the Commonwealth?

Mr. LENTZ. That is right.

Mr. MUSTIO. Mr. Speaker, as part of the development of this legislation, we have heard a lot of comments today about the penalty process, the penalties imposed in the legislation. Was there at some point a discussion about implementing

perhaps an ARD (accelerated rehabilitative disposition) program that exists currently under the workers' compensation law in Pennsylvania for first-time offenders?

Mr. LENTZ. Not that I am aware of. There is no specific mention in this statute of that, but absolutely, like any other criminal statute, an individual accused of that would be eligible for such a program.

Mr. MUSTIO. It is my understanding that if it went to court, that the judge could certainly impose a sentence like that. Was there ever any discussion about perhaps not having the Secretary impose the, I guess, guidelines of this legislation and perhaps having the first stop be the court system, and I am not using probably the correct terminology because I am not a lawyer.

Mr. LENTZ. Could you repeat that, please?

Mr. MUSTIO. In the legislation it references the Secretary having the enforcement provisions under the law, under the bill, if it is enacted as law. Was there a discussion about perhaps having the court system more involved in this process, in enforcement?

Mr. LENTZ. I believe there was discussion during the process of formulating the final bill.

Mr. MUSTIO. And it was felt that this way of going was better for what reason?

Mr. LENTZ. Say that again; I am sorry.

Mr. MUSTIO. It was felt that having the Secretary enforce the law as opposed to the court system was better for what reason?

Mr. LENTZ. That is right.

Mr. MUSTIO. But was there a reason for that?

Mr. LENTZ. Well, if you just think of the— I believe it was for ease of enforcement but also to retain within the Secretary the ability to impose less severe penalties or take less severe action.

Mr. MUSTIO. Okay. Mr. Speaker, on the legislation.

The SPEAKER pro tempore. The gentleman has concluded his interrogation and may proceed with his closing remarks.

Mr. MUSTIO. I would agree that in working on this legislation, it was sort of like that game you see at the arcades, that Whac-A-Mole, where you address one issue and another comes up, and I think we have heard that today. But, Mr. Speaker, I think that the overriding issue and the problems that we have had with this type of abuse of the system far outweigh at least in this initial stage of the process in moving this bill along.

I think that a lot of the comments made by those interrogating today about the severity of the penalties, about perhaps other ways to address that issue and perhaps changing the work stoppage from an overall company work stoppage to a work stoppage at a job site, make sense, but this issue in the broad perspective is not going to be fixed if this bill does not move out of the House.

And speaking of someone who has worked on this issue for several years now, I think it is time that we do move the ball forward and do address this issue and attempt to make it more palatable as it works its way through the Senate, and I encourage my colleagues to vote "yes." Thank you.

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

Mr. MOUL. Thank you, Mr. Speaker.

I would like to ask one question of the prime sponsor, please.

The SPEAKER pro tempore. The gentleman has agreed, and you may proceed.

Mr. MOUL. Mr. Speaker, I want to paint you a quick picture. I was a self-employed landscaper. I worked for one general contractor who worked for a developer. He gave me enough work that I did not have to go work for anyone else. He would fax to me each week the jobs coming up for the next week that I needed to get done for him. Sometimes if I needed a piece of equipment that I did not have on the job site, I would just go borrow one of his and that was fine. I would send him a bill about twice a month. I had no contracts with him after a while because he trusted me that I was not going to cheat him, I was not going to overcharge him. Would this be illegal under your bill?

Mr. LENTZ. Well, first off, you said you were in the landscaping business?

Mr. MOUL. Well, but I built retaining walls; I put in a silt fence; I did various other things. I even poured a little concrete once in a while. My forte was landscaping. I planted some trees; I did some sidewalks, things like that, but if he needed something done and I was able to fill in and do it, I would do it and I would send him a bill. Would that be illegal? I covered a myriad of things, even built a deck or two along the way.

Mr. LENTZ. Well, I will just direct you to the definitions under the act. If you had your own business, as you described, you had your own equipment, you were free to work for other people. You were free – a key factor – you were free to decline working, if, when he sent you that fax, you could say, no, I am not going to do that job. I am going to do another job. If you meet the criteria in the act, then it would not be illegal. If, on the other hand, you worked in the area of construction on a construction job and did not meet these criteria, then it would be a violation of the act, but it would only be, remember, it would only be a criminal violation if it was a knowing and intentional act done for the purpose of evading the requirements of the Minimum Wage Act, the Prevailing Wage Act, and the Workers' Compensation Act.

Mr. MOUL. Okay. I had no employees, so I did not have to worry about the workmen's comp issue of this, but I simply worked for one man for years.

Mr. LENTZ. If you worked for him just because he was the person providing you business but you had your own business, and you had your own equipment, and you had your own liabilities, you had to buy your own, you know, shovel or whatever it was you were using, and you only worked for him exclusively because he was the guy providing you business but you were available to do work for others and that you had the power to decline work from that one employer, all the factors that are listed in there – I am giving you a couple examples of them – if you meet the factors listed, then you would not be in violation of the act.

Mr. MOUL. Okay. Mr. Speaker, I will accept that, and in the interest of time – I know we need to go – I will leave it right there. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

Mr. BOYD. Thank you, Mr. Speaker.

Real briefly, I just wanted to comment. A prior speaker made the comment that this was a pro-business bill. I just wanted for the record to identify the organizations that support this bill are

the Pennsylvania Building and Construction Trades Union and the PA AFL-CIO. Opposed to this legislation in its format are the Pennsylvania Chamber of Business and Industry, the National Federation of Independent Business, the Pennsylvania Builders Association, the Insurance Federation, the Associated Builders and Contractors, and the Pennsylvania Landscape & Nursery Association. I would disagree. I believe that this is not a pro-business bill.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair does not have any other members seeking recognition. The gentleman, Mr. Lentz, would you like to give concluding remarks?

The gentleman, Mr. Lentz, is so recognized.

Mr. LENTZ. Thank you, Mr. Speaker.

Mr. Speaker, I will be brief.

There have been a lot of comments and characterizations of this bill, and I just would like to address a few of them very briefly.

Many times when discussing this kind of an act, it helps to have an actual illustration, and there was reference earlier to a case in southwestern Pennsylvania, and I would just like to read to you briefly some of the news reports about an investigation that was done at Slippery Rock University in May of 2006. This is quoting from a news report:

"The construction site at Slippery Rock University looks like any other. The workers are framing a new dorm. They all work for Ohio-based Twenty-First Century Framing, but they are not employees. Payroll sheets obtained by..." the news agency "show all the workers" – every worker on site – "are being paid as independent contractors. That means no taxes are withheld from their paychecks and the company...." pays no employment taxes, and as was mentioned earlier, they pay nothing into the Workers' Compensation Fund and they are not bound by any other of the requirements listed in the act.

One of the workers, a Mario Navarro, was identified on his paycheck by a company name, Mario Navarro Construction. This was found to be somewhat comical by his attorney, since Mario Navarro could not read, write, or speak English. Of all the workers on the site listed as independent contractors, they all were working under fictitious independent contract company names. This is an actual example of the type of conduct that is being outlawed by this act.

Now, I have heard reference from some very unlikely sources here today advocating on behalf of workers, on behalf of minority-owned businesses, and in one case, on behalf of veterans returning home from war. How many jobs are created for returning veterans by Mario Navarro Construction? How many jobs are created for Pennsylvanians, hardworking Pennsylvanians, for whom the previous speakers claim to be advocating? How many jobs are created for them by Mario Navarro Construction, by this practice of intentionally and illegally mischaracterizing people as independent contractors?

Now, many of the speakers have suggested that this bill, and I quote, "criminalizes small businesses." To say that this act criminalizes small businesses is to say that the DUI (driving under the influence) statute criminalizes driving. There is no crime committed unless you intentionally, as described in the act, intentionally misclassify workers as independent contractors for the specific purpose of evading your obligations

as an employer to pay payroll tax, to pay the minimum wage, to pay the prevailing wage, and to pay into the Workers' Compensation Fund.

And I am really amazed at the horror that people have at the fact that we may impose harsh criminal penalties on people that commit intentional criminal acts. If somebody stole \$200 million on an annual basis from the State of Pennsylvania, I think we would be hard pressed to find a citizen of this State that would object to them going to prison. Well, these contractors that are engaging intentionally, as described in the Slippery Rock case, in intentional criminal conduct, should be no less subject to harsh penalties. If you want the practice to stop, then you better have harsh punishments for intentional violations.

So as I said the other day when we were debating the amendments, if you are for workers, if you are for fairness for all the contractors in Pennsylvania, if you are for those returning veterans being able to find a job because companies that are coming from Ohio and employing illegal immigrants are not doing business in Pennsylvania anymore, then you should be for this act.

And just because people line up against it does not mean it is not the right thing to do. This is the right thing to do for the people of Pennsylvania, but particularly for the hardworking, independent businesses that abide by the letter of the law, and in particular for the people they employ.

I ask you to vote in favor of the bill.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?

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

The following roll call was recorded:

YEAS—122

Adolph	Freeman	Mann	Santoni
Argall	Galloway	Markosek	Seip
Barrar	George	Marshall	Shapiro
Belfanti	Gerber	McCall	Shimkus
Bennington	Gergely	McGeehan	Siptroth
Beyer	Gibbons	McI. Smith	Smith, K.
Bianucci	Godshall	Melio	Smith, M.
Bishop	Goodman	Moyer	Solobay
Blackwell	Grucela	Mundy	Staback
Brennan	Haluska	Murt	Stairs
Buxton	Harhai	Mustio	Sturla
Caltagirone	Harkins	Myers	Surra
Carroll	Hennessey	O'Brien, M.	Tangretti
Casorio	Hornaman	O'Neill	Taylor, J.
Civera	James	Oliver	Taylor, R.
Cohen	Josephs	Pallone	Thomas
Conklin	Keller, W.	Parker	Vitali
Costa	Kenny	Pashinski	Wagner
Cruz	Kessler	Payton	Walko
Curry	Killion	Perzel	Wansacz
Daley	King	Petrarca	Waters
DeLuca	Kirkland	Petrone	Wheatley
DePasquale	Kortz	Preston	White
Dermody	Kotik	Quigley	Williams
DeWeese	Kula	Ramaley	Wojnaroski
DiGirolamo	Leach	Raymond	Yewcic
Donatucci	Lentz	Readshaw	Youngblood
Evans, D.	Levdansky	Roebuck	Yudichak

Evans, J.	Longiotti	Sabatina	
Fabrizio	Mahoney	Sainato	O'Brien, D.,
Frankel	Manderino	Samuelson	Speaker

NAYS—76

Baker	Gabig	Marsico	Reichley
Bastian	Geist	McIlhattan	Roae
Bear	Gillespie	Mensch	Rock
Benninghoff	Gingrich	Metcalfe	Rohrer
Boback	Grell	Millard	Ross
Boyd	Hanna	Miller	Rublely
Brooks	Harhart	Milne	Saylor
Cappelli	Harris	Moul	Scavello
Causar	Helm	Nailor	Schroder
Clymer	Hershey	Nickol	Smith, S.
Cox	Hess	Payne	Sonney
Creighton	Hickernell	Peifer	Steil
Cutler	Hutchinson	Perry	Stern
Dally	Kauffman	Phillips	Stevenson
Denlinger	Keller, M.K.	Pickett	Swanger
Ellis	Mackereth	Pyle	True
Everett	Maher	Quinn	Turzai
Fairchild	Major	Rapp	Vulakovich
Fleck	Mantz	Reed	Watson

NOT VOTING—0

EXCUSED—5

Eachus	Micozzie	Petri	Vereb
Harper			

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 2496, PN 3687**, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to grant and convey to the Pennsylvania State Employees Credit Union, certain lands situate in Susquehanna Township, Dauphin County.

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.

(Bill analysis was read.)

The SPEAKER pro tempore. 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	Freeman	Mantz	Rohrer
Argall	Gabig	Markosek	Ross
Baker	Galloway	Marshall	Rubley
Barrar	Geist	Marsico	Sabatina
Bastian	George	McCall	Sainato
Bear	Gerber	McGeehan	Samuelson
Belfanti	Gergely	McI. Smith	Santoni
Benninghoff	Gibbons	McIlhattan	Saylor
Bennington	Gillespie	Melio	Scavello
Beyer	Gingrich	Mensch	Schroder
Bianucci	Godshall	Metcalfe	Seip
Bishop	Goodman	Millard	Shapiro
Blackwell	Grell	Miller	Shimkus
Boback	Grucela	Milne	Siptroth
Boyd	Haluska	Moul	Smith, K.
Brennan	Hanna	Moyer	Smith, M.
Brooks	Harhai	Mundy	Smith, S.
Buxton	Harhart	Murt	Solobay
Caltagirone	Harkins	Mustio	Sonney
Cappelli	Harris	Myers	Staback
Carroll	Helm	Nailor	Stairs
Casorio	Hennessey	Nickol	Steil
Causar	Hershey	O'Brien, M.	Stern
Civera	Hess	O'Neill	Stevenson
Clymer	Hickernell	Oliver	Sturla
Cohen	Hornaman	Pallone	Surra
Conklin	Hutchinson	Parker	Swanger
Costa	James	Pashinski	Tangretti
Cox	Josephs	Payne	Taylor, J.
Creighton	Kauffman	Payton	Taylor, R.
Cruz	Keller, M.K.	Peifer	Thomas
Curry	Keller, W.	Perry	True
Cutler	Kenney	Perzel	Turzai
Daley	Kessler	Petrarca	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGiolamo	Leach	Quinn	Wheatley
Donatucci	Lentz	Ramaley	White
Ellis	Levdansky	Rapp	Williams
Evans, D.	Longietti	Raymond	Wojnaroski
Evans, J.	Mackereth	Readshaw	Yewcic
Everett	Maher	Reed	Youngblood
Fabrizio	Mahoney	Reichley	Yudichak
Fairchild	Major	Roae	
Fleck	Manderino	Rock	O'Brien, D.,
Frankel	Mann	Roebuck	Speaker

## NAYS—0

## NOT VOTING—0

## EXCUSED—5

Eachus	Micozzie	Petri	Vereb
Harper			

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 SPEAKER (DENNIS M. O'BRIEN)  
PRESIDING**

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS  
AS AMENDED**

The House proceeded to consideration of concurrence in Senate amendments to the following **HB 489, PN 1992**, as further amended by the House Rules Committee:

An Act amending the act of December 4, 1996 (P.L.893, No.141), known as the Volunteer Health Services Act, further providing for license renewal, continuing education requirements and disciplinary and corrective measures.

On the question,  
Will the House concur in Senate amendments as amended by the Rules Committee?

**BILL TABLED**

The SPEAKER. The Chair recognizes the majority leader, who moves that HB 489 be removed from the active calendar and placed on the tabled bill calendar.

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

**BILL REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader, who moves that HB 489 be removed from the tabled bill calendar and placed on the active calendar.

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

**BILL REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bill be removed from the tabled bill calendar: HB 983.

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

**BILL RECOMMENDED**

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bill be recommitted to the Committee on Appropriations: HB 983.

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

**COMMUNICATION**

The SPEAKER. The Speaker acknowledges the receipt of the following report, which the clerk will read.

The following communication was read:

A communication dated June 5, 2008, from the Public Employee Retirement Commission regarding amendment No. 07139 to HB 2084, PN 3689, providing an actuarial impact statement on the amendment.

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

The SPEAKER. It is the Chair's intention to recess regular recess and go into special session at 6:17.

**RECESS**

The SPEAKER. Regular session of the House will now stand in recess.

**AFTER RECESS**

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

**STATEMENT BY MR. MCGEEHAN**

The SPEAKER. For what purpose does the gentleman, Representative McGeehan, rise?

Mr. MCGEEHAN. Thank you, Mr. Speaker.

I would like to be recognized on unanimous consent.

The SPEAKER. The gentleman is recognized under the provision of unanimous consent and may proceed.

Mr. MCGEEHAN. Thank you, Mr. Speaker.

It has been a very sleepless 24 hours for my friends and constituents, Tom and Joanne McCloskey.

They received a call early Sunday morning informing them that their son, Kevin Michael McCloskey, had broken his leg while on patrol in Afghanistan. Unfortunately, this earlier report was inaccurate. Kevin had, in fact, suffered grievous injuries and was being airlifted to a military hospital in Ramstein, Germany.

Mr. Speaker, last night it was learned that this brave soldier had lost both of his legs below the knee, along with other serious injuries, after hitting a land mine while on patrol with his unit with the 101st Airborne. It is not known, Mr. Speaker, if others in his unit have suffered any injuries.

Mr. Speaker, compounding this tragedy is the fact that Kevin is to celebrate his 20th birthday this week.

Mr. Speaker, I know that every member joins me in asking, those watching or listening to these proceedings, to join us in a private prayer for those men and women now serving in our Armed Forces, particularly those in harm's way in Iraq, Afghanistan, and throughout the world.

And I respectfully ask that we say a special prayer for Kevin and the McCloskey family that God gives them the physical, emotional, and spiritual strength to overcome Kevin's appalling

injuries and that he be returned as quickly as possible to the loving embrace of his family in Philadelphia.

Thank you, Mr. Speaker.

The SPEAKER. Members and guests will please rise and observe a moment of silent prayer for Kevin McCloskey and his family.

(A moment of silence was observed.)

**ANNOUNCEMENT BY SPEAKER**

The SPEAKER. There is one other happy occasion that the Chair would like to recognize.

It has come to the attention of the Chair and many members of this General Assembly that we have a newlywed in the House. The Chair would like to extend, on behalf of the members of the General Assembly, congratulations to Representative John Sabatina on his nuptials.

**APPROPRIATIONS COMMITTEE MEETING**

The SPEAKER. Are there any other announcements?

For what purpose does the gentleman, Representative Keller, rise?

Mr. W. KELLER. For an announcement, Mr. Speaker.

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

Mr. W. KELLER. I would like to announce an Appropriations Committee meeting tomorrow morning, 10 a.m., in the majority caucus room.

The SPEAKER. The Chair thanks the gentleman.

Mr. W. KELLER. Thank you, Mr. Speaker.

The SPEAKER. The Appropriations Committee will meet at 10 a.m. tomorrow in the majority caucus room.

**ANNOUNCEMENT BY MAJORITY LEADER**

The SPEAKER. Are there any other announcements?

The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Just an announcement, Mr. Speaker, relative to schedule, that the House Appropriations Committee will meet at 10 o'clock tomorrow morning in the majority caucus room. House Appropriations tomorrow morning, 10 o'clock, House majority caucus room. Thanks.

The SPEAKER. The Chair thanks the gentleman.

Are there any other announcements? The Chair sees none.

**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 Representative Bear of Lancaster County, who moves that this House do now adjourn until Tuesday, June 10, 2008, 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 6:25 p.m., e.d.t., the House adjourned.