

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, APRIL 6, 2011

SESSION OF 2011

195TH OF THE GENERAL ASSEMBLY

No. 24

HOUSE OF REPRESENTATIVES

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

**THE SPEAKER (SAMUEL H. SMITH)
PRESIDING**

PRAYER

HON. MICHAEL K. HANNA, member of the House of Representatives, offered the following prayer:

Thank you, Mr. Speaker.

Please bow your head in prayer:

Let us begin, Lord, by asking Your blessing on former Speaker Ken Lee and his family.

O faithful God, as Your people, we cherish our memories and our history as a sacred gift. We ask You to guide us throughout our time of uncertainty and transition. Empower each of us to use our unique gifts and ministry to share openly and honestly our thoughts, to respect the opinions of others, and to encourage humility and patience in order to do Your will. We ask for the receptivity, wisdom, and grace to direct our minds and hearts that we may joyfully participate in the task before us.

Open our hearts to Your call. Give us courage and renewed hope that we may meet the challenge of living and building our faith in You. We ask this in Your name. Amen.

PLEDGE OF ALLEGIANCE

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

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Tuesday, April 5, 2011, will be postponed until printed.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 48, PN 23

By Rep. HARHART

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, adding

definitions; and providing for licensure of prosthetists, orthotists, pedorthists and orthotic fitters.

PROFESSIONAL LICENSURE.

HB 292, PN 1442 (Amended)

By Rep. ROSS

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in parking authorities, further providing for competitive bidding of contracts.

URBAN AFFAIRS.

HB 293, PN 1443 (Amended)

By Rep. GEIST

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, in metropolitan transportation authorities, further providing for competitive bidding of contracts.

TRANSPORTATION.

HB 332, PN 1444 (Amended)

By Rep. HARHART

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, further providing for definitions; and providing for regulation of genetic counselors.

PROFESSIONAL LICENSURE.

HB 333, PN 1445 (Amended)

By Rep. HARHART

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, further providing for definitions; and providing for regulation of genetic counselors.

PROFESSIONAL LICENSURE.

HB 371, PN 336

By Rep. ROSS

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

URBAN AFFAIRS.

HB 398, PN 1446 (Amended)

By Rep. HARHART

An Act providing for registration of appraisal management companies, for powers of the State Board of Certified Real Estate Appraisers with respect to appraisal management companies, for the responsibilities and duties of appraisal management companies, for prohibited activities, for discipline and for penalties.

PROFESSIONAL LICENSURE.

HB 639, PN 640

By Rep. ROSS

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in optional affordable housing funding, further providing for affordable housing programs fee in cities of first class.

URBAN AFFAIRS.

HB 700, PN 705

By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, requiring compliance with Federal Selective Service requirements as part of application for learners' permits or drivers' licenses.

TRANSPORTATION.

HB 869, PN 907

By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for drivers in funeral processions.

TRANSPORTATION.

HB 917, PN 980

By Rep. GEIST

An Act designating the bridge carrying State Route 2014 over the Beaverdam Branch of the Juniata River in Hollidaysburg Borough, Blair County, as the Sgt. 1st Class Daniel Lightner Memorial Bridge.

TRANSPORTATION.

HB 1255, PN 1402

By Rep. GEIST

An Act designating the bridge crossing Marsh Creek, joining Freedom Township and Cumberland Township, Adams County, as the Wildlife Conservation Officer David L. Grove Memorial Bridge.

TRANSPORTATION.

BILL REPORTED AND REREFERRED TO COMMITTEE ON LABOR AND INDUSTRY**HB 283, PN 236**

By Rep. ROSS

An Act amending the act of May 1, 1913 (P.L.155, No.104), referred to as the Separations Act, increasing the minimum bid requirement; and providing for evasion of requirements.

Reported from Committee on URBAN AFFAIRS with request that it be rereferred to Committee on LABOR AND INDUSTRY.

The SPEAKER. Without objection, the bill will be so rereferred.

RESOLUTION REPORTED FROM COMMITTEE**HR 70, PN 604**

By Rep. GEIST

A Resolution requesting the department of Transportation to conduct a study of the slate industry for the purpose of devising the

best means of utilizing the slate waste by-product as a component in highway construction and civil engineering projects.

TRANSPORTATION.

LEAVES OF ABSENCE

The SPEAKER. Are there requests for leaves of absence?

The Speaker understands that there are no additional leaves of absence.

Will the members report to the floor. We are about to take the master roll call.

BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED**HB 45, PN 20**

By Rep. CLYMER

An Act providing for college and university faculty and staff criminal history background investigations and self-disclosure requirements.

EDUCATION.

HB 139, PN 77

By Rep. CLYMER

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for State reimbursement for mobile classroom facilities; and making editorial changes.

EDUCATION.

HB 257, PN 1447 (Amended)

By Rep. CLYMER

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for acquisition of buildings, sites for school buildings and playgrounds, and disposing thereof, for approval by department of plans, etc., of buildings and exceptions and for approval of lease agreements.

EDUCATION.

HB 685, PN 690

By Rep. CLYMER

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for powers and duties of the board.

EDUCATION.

HB 686, PN 691

By Rep. CLYMER

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for duties of public institutions of higher education and for the Transfer and Articulation Oversight Committee; providing for participation by State-related institutions and for retroactivity; and making a related repeal.

EDUCATION.

**BILL REPORTED AND REREFERRED TO
COMMITTEE ON TOURISM AND
RECREATIONAL
DEVELOPMENT**

HB 137, PN 75 By Rep. CLYMER

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, changing provisions relating to school terms and sessions.

Reported from Committee on EDUCATION with request that it be rereferred to Committee on TOURISM AND RECREATIONAL DEVELOPMENT.

The SPEAKER. Without objection, the bill will be so rereferred.

**BILL REPORTED AND REREFERRED TO
COMMITTEE ON AGING AND
OLDER ADULT SERVICES**

HB 273, PN 226 By Rep. CLYMER

An Act providing for a demonstration program to be known as the Senior Tax Reduction Incentive Volunteer Exchange Program; conferring powers and duties on the Department of Aging; and providing additional powers and duties to school districts.

Reported from Committee on EDUCATION with request that it be rereferred to Committee on AGING AND OLDER ADULT SERVICES.

The SPEAKER. Without objection, the bill will be so rereferred.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—201

Adolph	Ellis	Knowles	Ravenstahl
Aument	Emrick	Kortz	Readshaw
Baker	Evankovich	Kotik	Reed
Barbin	Evans, D.	Krieger	Reese
Barrar	Evans, J.	Kula	Reichley
Bear	Everett	Lawrence	Roae
Benninghoff	Fabrizio	Longietti	Rock
Bishop	Farry	Maher	Roebuck
Bloom	Fleck	Mahoney	Ross
Boback	Frankel	Major	Sabatina
Boyd	Freeman	Maloney	Saccone
Boyle, B.	Gabler	Mann	Sainato
Bradford	Galloway	Markosek	Samuelson
Brennan	Geist	Marshall	Santarsiero
Briggs	George	Marsico	Santoni
Brooks	Gerber	Masser	Saylor
Brown, R.	Gergely	Matzie	Scavello
Brown, V.	Gibbons	McGeehan	Schroder
Brownlee	Gillen	Metcalfe	Shapiro
Burns	Gillespie	Metzgar	Simmons
Buxton	Gingrich	Miccarelli	Smith, K.

Caltagirone	Godshall	Micozzie	Smith, M.
Carroll	Goodman	Millard	Sonney
Causer	Grell	Miller	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neuman	Toepel
Curry	Heffley	O'Brien, D.	Toohil
Cutler	Helm	O'Brien, M.	Truitt
Daley	Hennessey	O'Neill	Turzai
Davidson	Hess	Oberlander	Vereb
Davis	Hickernell	Parker	Vitali
Day	Hornaman	Pashinski	Vulakovich
Deasy	Hutchinson	Payne	Wagner
DeLissio	Johnson	Payton	Waters
Delozier	Josephs	Peifer	Watson
DeLuca	Kampf	Petrarca	Wheatley
Denlinger	Kauffman	Petri	White
DePasquale	Kavulich	Pickett	Williams
Dermody	Keller, F.	Preston	Youngblood
DeWeese	Keller, M.K.	Pyle	
DiGirolo	Keller, W.	Quigley	Smith, S.,
Donatucci	Killion	Quinn	Speaker
Dunbar	Kirkland	Rapp	

ADDITIONS—0

NOT VOTING—0

EXCUSED—2

Boyle, K. Perry

LEAVES ADDED—6

Cox Evans, D. Micozzie Moul
Cruz Johnson

The SPEAKER. Two hundred and one members having voted on the master roll call, a quorum is present.

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

HB 587, PN 564 By Rep. SCHRODER

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, further providing for regulatory authority of Pennsylvania Gaming Control Board.

GAMING OVERSIGHT.

UNCONTESTED CALENDAR

RESOLUTIONS PURSUANT TO RULE 35

Mr. LONGIETTI called up **HR 158, PN 1346**, entitled:

A Resolution recognizing April 6, 2011, as "National Start! Walking Day" in Pennsylvania.

* * *

Mr. FRANKEL called up **HR 175, PN 1390**, entitled:

A Resolution recognizing April 9 through 17, 2011, as "National Robotics Week" in Pennsylvania and recognizing the contributions of Pennsylvanians in the field of robotics.

On the question,
Will the House adopt the resolutions?

The following roll call was recorded:

YEAS—201

Adolph	Ellis	Knowles	Ravenstahl
Aument	Emrick	Kortz	Readshaw
Baker	Evankovich	Kotik	Reed
Barbin	Evans, D.	Krieger	Reese
Barrar	Evans, J.	Kula	Reichley
Bear	Everett	Lawrence	Roae
Benninghoff	Fabrizio	Longiatti	Rock
Bishop	Farry	Maher	Roebuck
Bloom	Fleck	Mahoney	Ross
Boback	Frankel	Major	Sabatina
Boyd	Freeman	Maloney	Saccone
Boyle, B.	Gabler	Mann	Sainato
Bradford	Galloway	Markosek	Samuelson
Brennan	Geist	Marshall	Santarsiero
Briggs	George	Marsico	Santoni
Brooks	Gerber	Masser	Saylor
Brown, R.	Gergely	Matzie	Scavello
Brown, V.	Gibbons	McGeehan	Schroder
Brownlee	Gillen	Metcalfe	Shapiro
Burns	Gillespie	Metzgar	Simmons
Buxton	Gingrich	Miccarelli	Smith, K.
Caltagirone	Godshall	Micozzie	Smith, M.
Carroll	Goodman	Millard	Sonney
Causar	Grell	Miller	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neuman	Toepel
Curry	Heffley	O'Brien, D.	Toohil
Cutler	Helm	O'Brien, M.	Truitt
Daley	Hennessey	O'Neill	Turzai
Davidson	Hess	Oberlander	Vereb
Davis	Hickernell	Parker	Vitali
Day	Hornaman	Pashinski	Vulakovich
Deasy	Hutchinson	Payne	Wagner
DeLissio	Johnson	Payton	Waters
Delozier	Josephs	Peifer	Watson
DeLuca	Kampf	Petrarca	Wheatley
Denlinger	Kauffman	Petri	White
DePasquale	Kavulich	Pickett	Williams
Dermody	Keller, F.	Preston	Youngblood
DeWeese	Keller, M.K.	Pyle	
DiGirolamo	Keller, W.	Quigley	Smith, S.,
Donatucci	Killion	Quinn	Speaker
Dunbar	Kirkland	Rapp	

NAYS—0

NOT VOTING—0

EXCUSED—2

Boyle, K. Perry

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

GUESTS INTRODUCED

The SPEAKER. Prior to beginning the memorial service, the Speaker would like to recognize some other guests that are with us today.

Located to the left of the rostrum, the Chair welcomes Eva Schuetz, an exchange student from Germany, and her friend, Emily Whitlatch. They are guests of Representative Tom Murt. Will our guests please rise and be recognized. Welcome to the House.

Also located to the left of the rostrum, the Chair welcomes coach John Little, Dan Neff, Thomas Haines, and Connor Moran. These students each placed in the PIAA AAA State Wrestling Tournament, and they are guests of Representative Bryan Cutler. Will our guests please rise.

Also to the left of the rostrum, the Chair welcomes Matt Loscalzo of Bloomsburg University. Matt is currently an intern in the Bloomsburg office of State Representative Dave Millard. Will the guest please rise. Welcome to the hall of the House.

Located in the rear of the House, the Speaker welcomes students from the Mount Pleasant Senior High School civics classes, along with their teacher, Maureen Grace, and chaperones. Five freshman civics classes were divided into majority and minority caucuses and given previously considered House bills to research and debate. Each caucus presented arguments on their chosen bill before a panel of judges and were scored on a point system, and these students are guests of Representative Mike Reese. Will the guests please rise. Welcome to the hall of the House.

Additionally, located in the rear of the House, the Speaker welcomes the students and professors who are participating in the Harrisburg Internship Semester. These are undergraduate students from the 14 State-owned universities who are employed throughout the Pennsylvania State System of Higher Education and placed in different agencies within the Commonwealth around Harrisburg. The students are Tamara Alkhattar, Joan Bradbury, Taylor Bricker, Isaiah Cohen, Courtney Cook, Nicholas Deeter, Ciarra Karnes, Sean McDermott, James Miller, Tyler Morse, John Remis, Tiffany Shickley, Kulsum Soonasra, and Douglas Viganò. Their resident faculty director is Dr. Glenn Geiser-Getz, who is also with them today, and they are the guests of Representative Sue Helm. Will the guests please rise, and welcome to the hall of the House.

And in the well of the House we welcome Nolan Cianci and Daniel Weaver, both eighth grade students at St. Michael, and I apologize for that mispronunciation. They are serving as guest pages today and are guests of Representative Michele Brooks. Welcome to the hall of the House.

Additionally, in the well of the House, the Chair welcomes Jenna Morris, age 14, and Jeremy Morris, age 16, both homeschool students from Shillington. They are serving as guest pages today, the guests of Representative Mark Gillen.

And located in the well of the House, the Speaker welcomes Evan Aftosmes, who is serving as a guest page today, and Evan is the guest of Representative Mauree Gingrich. Welcome to the hall of the House.

And in the balcony, we have some other guests: Danelle Bower, Michelle Dowding, Manouche Latouche, Farah Abraham, Erica Jackson, Katrese Bradley, Joleen Vega, all from the Reading Area Community College, and they are guests of Representative Jerry Knowles. They are up in the balcony. Welcome to the hall of the House.

Members will please take their seats. We are about to begin the memorial service for former Speaker Ken Lee.

MEMORIAL SERVICE FOR HON. KENNETH B. LEE

The SPEAKER. We are going to take a few minutes today to honor the memory of a distinguished former Speaker of this House, Ken Lee. Speaker Lee served as Speaker of the House from 1967 to '68 and again from '73 to '74. Serving as a House member for 18 years, he has been described as one of the most skillful parliamentary leaders of his time, and it is altogether fitting that we pay tribute to him today in the House of Representatives.

CONDOLENCE RESOLUTION

The SPEAKER. We will now consider the condolence resolution for Speaker Lee.

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

The following resolution was read:

COMMONWEALTH OF PENNSYLVANIA THE HOUSE OF REPRESENTATIVES

CONDOLENCE RESOLUTION

WHEREAS, The House of Representatives of Pennsylvania wishes to honor the memory of the Honorable Kenneth B. Lee, a former member and Speaker of the House of Representatives of Pennsylvania who served the residents of Sullivan, Wyoming and Susquehanna Counties with honor and distinction and who passed away at the age of eighty-eight on December 23, 2010; and

WHEREAS, Born on January 23, 1922, Mr. Lee was a graduate of Elkland Township Vocational High School, Mansfield University and the Dickinson School of Law. A veteran of World War II, he served as a B-24 pilot and his war experiences were recently highlighted in the book *Defenders of Freedom*. For thirty-five years he maintained a law practice in Sullivan County, and he was the District Attorney for the county from 1953 to 1957. An active participant in his community, Mr. Lee was a member of numerous organizations and Boards; and

WHEREAS, Elected to the House of Representatives of Pennsylvania in 1956, Mr. Lee was elected Majority Leader in 1963 and Minority Leader in 1965. He was elected Speaker of the House for the 1967-1968 session and the 1973-1974 session. He is lauded for enacting numerous changes during his tenure, including establishing the House Ethics Committee and new ethics restrictions and creating the first Legislative Data Processing Center in the nation. Mr. Lee was a member of the Commission for Legislative Modernization, the 1968 Pennsylvania Constitutional Convention, the Joint State Government Commission, the Legislative Budget and Finance Committee, the Pennsylvania Commission on Interstate Cooperation, the Pennsylvania General State Authority and the Republican State Committee's Executive Committee; now therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania proclaim with enduring sorrow the passing of the Honorable Kenneth B. Lee; and extend heartfelt condolences to his wife, Marjorie Cole Lee; sons, Scott, Cole and Kenneth; daughters, Laura and Susanne; and eight grandchildren; and be it further

RESOLVED, That a copy of this resolution, sponsored by Representatives Tina Pickett and Sandra J. Major, be transmitted to Marjorie Cole Lee.

Tina Pickett, Sponsor Sandra J. Major, Sponsor

(SEAL) Samuel H. Smith, Speaker of the House
ATTEST:
Anthony Frank Barbush, Chief Clerk of the House

On the question,
Will the House adopt the resolution?

The SPEAKER. Those in favor of the resolution will rise as a mark of respect for Speaker Lee. Guests will also please rise.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memory of the former Speaker of the House of Representatives, the Honorable Kenneth B. Lee.)

The SPEAKER. The resolution has been unanimously adopted.
Members and guests may be seated.

FAMILY INTRODUCED

The SPEAKER. On behalf of the House, I want to convey our deepest sympathy to the family, specifically to Mrs. Lee, Marjorie Lee, and her children who are with us – Sue Lee Grina, Laura Lee, Cole Lee, Scott Lee, and former State Representative Ken Lee, who are seated here in the well of the House.

And I also want to give a special welcome to Speaker Lee's grandchildren that were able to be with us – Elizabeth, Lindsey, Lauren, and Katie. Your grandfather was truly a great man, and we are here to honor him today.

Would the family members and close friends please rise and be recognized and greeted by the members of the House.

REMARKS BY SPEAKER

The SPEAKER. We gather today in sadness but also in celebration of the 126th Speaker of the House. Ken Lee truly left his mark on this institution, and if you listened to some of the items mentioned in the resolution, he was a member at a time when there was a lot of change going on in Pennsylvania. Going through a Constitutional Convention period, obviously, is a significant period of governance. But Ken Lee truly left a mark on this institution, and I suspect we will hear some more about his accomplishments while we are hearing from some of the other speakers, so we will leave a few details for others to cover.

But I think it is important to note that Ken served two terms as Speaker, as I mentioned earlier – during the 1967-68 session and again in '73 and '74. And of the House of Representatives'

Speakers through the 20th century, only Ken Lee was from Sullivan County. It was the second least populated county, and he represented the second largest geographical area.

And I was looking back over the House Journal from when the Speaker's portrait ceremony was held and found an interesting little note that Speaker Ryan, who was then minority leader at the moment of this ceremony, Matt Ryan said, among other things talking about Ken Lee, "When I got here, the first thing they do, if you remember, and most of us do not remember, but they read off the results of the elections. Now, at that time I ran in a district that was a four-member district – this predates one man, one vote – and Ken Lee represented Sullivan County – one county, one vote. I had more votes in one of my precincts than he had in his county." And this is Matt Ryan speaking. "I voted 97,000 people Republican, and as I recall, Ken won the election" – in Sullivan County – "with 1,300" votes, "and I often looked back and thought, that Supreme Court, maybe they did know what they were talking about. But I will tell you, those 1,300 people were well represented and so were the people of the Commonwealth by Ken Lee."

I am probably taking a little advantage of the situation because of bringing up that comment by former Speaker Ryan, but I think it is important in context of the span of time that Speaker Lee served this institution and the changes that we have encountered. For 12 of the 18 years that Ken Lee served here, the Republicans elected him to leadership positions. Now, because my term of office did not begin until almost 10 years or so after Speaker Lee had left here, I do not have a lot of personal recollections of him being a member of this House, but my dad served with him and so I do know of him at least secondhand in that regard, and I can tell you that he was certainly a Speaker that had great respect within this body.

When his portrait was unveiled, there were a few other comments that were made that I think might more accurately characterize Speaker Lee. Matt Ryan had also referred to him as "an outspoken floor leader [who] skillfully squared the art of compromise with his convictions." "He had the ability with a quiet determination to make forces join together, to come together, to band together, to stay together, and to do what was right." These are indeed powerful words from a well-respected leader of this chamber.

A legislative historian, Paul Beers, called Ken Lee, quote, "one of the most urbane, skillful parliamentary leaders of his time."

Now, I also wanted to read a few words that Ken Lee made. Let me see what the date of this was. This was September 27. It would have been – what? – '93, I think. And in his comments, upon the hanging of the portrait, one of a couple of comments he made is, "The time which I spent in this chamber, both as a member and as a leader, I think was probably one of the most interesting periods in its history, because it was during this period that we went from almost an amateur legislature to a professional one, and this is a significant change. I do not think that at this period in history we know whether it is best now or was best then. I think the jury is still out. But I also think that sometime in the future it is going to be much better because of this change, and probably the change is going to come for the better when the House leadership gets a handle on how they can use the individual members' time and talent now that they have, and when that happens, I think you will see a great broadening of the perspective of the legislature and how it approaches problems."

I brought that up because I think it shows the foresight and institutional perspective that Ken Lee brought to this building as a State Representative as well as a floor leader, a Speaker, someone who had some authority to direct things, because it really is what makes this place great, and Ken Lee saw that. It was about taking the collective wisdom of all the members of this room and putting it together to come out with what is best for the people of Pennsylvania, and I think that is a hallmark of a great leader.

A couple other comments that Ken Lee made on that day: "We tried to do many things to change our image—" Some of these might be true today. "We tried to do many things to change our image, but there is not much you can do to artificially change the perception. So I resigned myself to this conclusion: that we were really done in by our Founding Fathers. They set this Nation and this State up so it attracted all of the religious sects almost that there are in the world. They did the same thing for all of the nationalities, invited them all to these shores and integrated them into our system. They did the same thing for the conservatives, the liberals, the poor, the wealthy, the common, the aristocratic – brought them all into this State and to this Nation, gave them the right to vote, and then gave them the right to be elected to this institution. That is a lot of diversity. But probably even worse than that, they then saw the system set up, so they divided..." it into two groups, the "Republicans and Democrats, and that probably did not help. And then to make matters worse, they gave us two classes of legislators, the Senate and the House, and if ever any of you have been in a position where you are dealing between these two institutions, you know what the problem is." I found those words kind of span the time. I am sure that members of this legislature from 40 or 50 years ago would also say "Yeah, that applies," and I think all of us can say that what was said by Speaker Lee in the interim of this time also applies today.

One last comment that I found of interest that Ken Lee made that day. He is talking about this system. He actually went into a little jab at the Senate, but being respectful of the Senate, I would never say anything derogatory about them, at least not from the Speaker's dais: "The system, I found, at its best is capable of coming up with a consensus in solving the Commonwealth's problems. At its worst, it is almost tumultuous and sometimes chaotic. But the other thing that I observed in the 18 years that we were down here was that we were at our best when we had a good Governor, and we were at our worst when we had a poor one."

In reading through some of these remarks, I think it gives you a little more perspective of what Speaker Lee meant to this institution: his love of the Commonwealth of Pennsylvania; his commitment to doing what was right for the people of Pennsylvania; and understanding that it does require a balance of all of our initiatives, of all of our thoughts, of all of our ideas, and that that is what, at the end of the day, is what makes this Commonwealth a great place.

Speaker Lee was truly a man of great insight; a man who ran with ideas; a man who tried to make this institution a better place for all of Pennsylvania. We are proud to honor his memory today. The family and friends gathered with us here today, I can assure you his leadership of this chamber and his impact on the Commonwealth of Pennsylvania will not be forgotten.

May he rest in peace, and may God bless you.

REMARKS BY MAJORITY LEADER

The SPEAKER. The Speaker now turns to the majority leader, Mr. Turzai, to make remarks at this time.

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

To the friends and family of Speaker Lee, we are here today to honor one of the great leaders in this institution, an individual who rose to the position of Speaker of the House. And from what I understand from everybody I talked to, Speaker Kenneth Lee was a true statesman in every sense of the word. I never had the privilege to know the Speaker, but his legacy has been felt in the operation of this institution up to and through today.

Throughout his 18 years of service, 12 of which were spent in various leadership roles, including Policy chair, majority leader, and Speaker, he was known for his fairness and his ability to move beyond partisanship and work with members from both parties.

I am told he liked to refer to himself as a "country lawyer," but I also understand he was much more than that. His contributions to the House can still be felt today, playing a significant role in reforming and modernizing the State legislature, serving as a delegate to the 1968 Constitutional Convention, and playing a major role with the Commission for Legislative Modernization.

During his tenure as Speaker, he established the Legislative Data Processing Center, which is integral, really, to how we do legislation in this body, and it was one of the first in the nation. He also established the House Ethics Committee, which today functions in an important manner for all the members of this chamber.

I understand that he was a man of integrity and conviction and has served as a role model for how any of us might wish to serve in this chamber.

Marjorie, Sue, Laura, Cole, Scott, and former Representative Ken Lee and the rest of the family and friends, please understand that we are proud of what Speaker Lee accomplished and we express our deepest sympathy on your loss. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

REMARKS BY MINORITY LEADER

The SPEAKER. The Speaker recognizes the minority leader, Mr. Dermody, for remarks.

Mr. DERMODY. Thank you, Mr. Speaker.

I, too, on behalf of the Democratic Caucus, would like to send our condolences to Speaker Lee's family.

I did not have a chance to ever meet the Speaker, but I did have the opportunity to work in this House a few years with his son, Ken, and we worked together here in the House. And also over the years, as we have just heard about some of the many great things he has done for this Commonwealth, Speaker Lee is responsible for making this institution, the Pennsylvania House of Representatives, a better place, and through all his work over the long years as a Representative and as a leader and a Speaker, he has really helped the people of the Commonwealth of Pennsylvania and made this Commonwealth a better place to work and live and raise our families.

So our condolences go to each of you, and thank you very much. And, Ken, it is great to see you again. Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

REMARKS BY MS. PICKETT

The SPEAKER. The Speaker recognizes the lady, Ms. Pickett, for remarks.

I am sorry; did you guys want to do this together? Ms. Pickett and Ms. Major may proceed at will.

Ms. PICKETT. Thank you, Mr. Speaker.

Mrs. Lee, would you join us here? Thank you, dear. We want to show you off today. Yes, we do.

Mrs. LEE. Wow.

Ms. PICKETT. It is a beautiful view that your husband saw every day, right?

As we pause to honor and remember Speaker Lee, I, too, would like to add my condolences to Speaker Lee's family – his wife, Marjorie; his five children; and his eight grandchildren.

During his time here in the House, he worked hard to modernize the legislature and to ensure that, in addition to legislating, our service to our constituents is among our foremost priorities. Speaker Lee's lasting tribute will be his work to modernize this chamber.

His legacy here in the halls of the House will long be remembered by future generations, and his passing will also be felt back home in the place where he raised his family, operated his law practice for 35 years, and was a veteran of World War II who gave back to his community until his recent passing.

There are only a few people who serve today who were here in the House at the same time as Speaker Lee during his 18-year tenure that ended in the early 1970s. But I know that one of the traits they loved most about him was his common sense. He was a man of integrity and a man who loved Sullivan County and loved Pennsylvania.

Now, what I know Speaker Lee most for is his dedication and his ongoing commitment to Sullivan County. Not only did he ably serve as district attorney and Representative there, he remained active in his community for decades after he gave up public life. So as he was known in this House as "Mr. Speaker," he was also known as "Mr. Sullivan County."

Not only was he instrumental in the construction of our Route 220, which is our major interstate through Sullivan County, he will long be remembered for his efforts toward Lake Jean, Ricketts Glen State Park, and Worlds End State Park, beautiful places in our county, our beautiful Sullivan County.

As we offer a formal farewell to one of our predecessors here in the General Assembly, I am proud that Speaker Lee's work and his legacy continue to live on in this chamber, and that is the best way to remember such a fine public servant and a fine man.

I would now like to have Representative Major say some words about your wonderful husband.

REMARKS BY MS. MAJOR

Ms. MAJOR. Thank you, Mr. Speaker.

It is my distinct honor to rise today to offer remarks as we remember one of Pennsylvania's and Sullivan, Susquehanna, and Wyoming Counties' most dedicated public servants. Although he left this State House long before I was elected, Speaker Kenneth B. Lee's legacy lives on through his many accomplishments, both here and back home, and you have all

heard of those legacies and those accomplishments here today in the comments that have been offered.

I have always considered it an honor and a privilege to represent the district he served so ably for nearly 20 years. Speaker Lee gave so fully of himself to the people of the 111th District and for the entire Commonwealth. He was selfless and forward-thinking, a humble but outspoken leader with strong convictions. Pennsylvanians' lives are better today because of Speaker Lee's commitment to modernizing the State legislature and improving the services that it provides. Speaker Lee will be greatly missed by the people of northeastern Pennsylvania.

I extend my sincere sympathies to his wife, Marjorie; his son, Ken, who is indeed my predecessor here in this chamber; and the entire Lee family and their dear friends, and I thank each and every one of you for supporting your husband and your father and your grandfather in his work to make our State and our region a better place for current and future generations of Pennsylvanians. You are very much a part of his accomplishments. God bless you all.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the ladies.

Ms. PICKETT. And Mrs. Lee— I am sorry. Mr. Speaker?

The SPEAKER. You may proceed.

Ms. PICKETT. Mrs. Lee, Sandra and I would like to present a copy of today's condolence resolution to you.

Mrs. LEE. Thank you so much. Thank you.

Ms. PICKETT. Thank you, dear.

Thank you, Mr. Speaker.

REMARKS BY HON. KENNETH E. LEE

The SPEAKER. The Speaker would now like to recognize the son of Speaker Kenneth B. Lee, the Honorable Kenneth E. Lee, who was a member of this House from 1989 to 1994, and invite him to the podium to make additional remarks.

Mr. LEE. Mr. Speaker, members of the House, my father's 18 years in this House and 4 years as the Speaker were the proudest of his life. As Speaker during the turbulent late sixties and early seventies, he served in difficult times, times not so different than they are in Pennsylvania today. What guided my father during that time and gained him the respect of members on both sides of the aisle was his sense of duty to the State of Pennsylvania, his honesty, and his inherent sense of fairness.

I know that he would have been deeply honored by the ceremony here today. So on behalf of myself, my mother, and all my father's children and grandchildren here today, I want to express our heartfelt thanks for the courtesy extended to us by the House today.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

BENEDICTION

The SPEAKER. In concluding the memorial service for Ken Lee, a prayer will be offered by the Reverend Louise Williams Bishop.

Members and all guests will please rise.

Ms. BISHOP. Thank you, Mr. Speaker.

Let us pray:

Dear God, our Heavenly Father, we are all so thankful for You today for the service that You have allowed or permitted Your servant, the Honorable Kenneth B. Lee, to render to the Commonwealth of Pennsylvania. He accepted his responsibilities and he served with dignity and fidelity to the very end, no matter how difficult the task at hand.

We are eternally grateful to You this morning, Father, for using each and every one of us for the work that You had planned for us to do from the foundation of the world. We go forth this morning reenergized, rededicated, and recharged to fulfill all of those assignments, knowing that when our journey of life is over, that we, too, will have a victorious reward and crown waiting for us.

Now, God, You have said in Your Word that those who serve You, You would bless from generation to generation, and even though the flowers fade and the grass withers, You will still bless us, because Your Word stands forever. Please bless this family from generation to generation. Keep them in perfect peace, with their minds also stayed upon You.

Amen.

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

This concludes the memorial service. Although we will not be long until we break, the family and guests are welcome to leave if they would like. But we will not be too long until we are breaking anyway, so you suit yourselves.

GUESTS INTRODUCED

The SPEAKER. The House will come to order. The Speaker would like to recognize some additional guests that are with us today.

Located in the rear of the House, the Speaker welcomes Susan Stuart, CEO (chief executive officer), Center for Organ Recovery & Education; Howard Nathan, CEO, Gift of Life; Malinda and John Sherid, a donor family; and Deacon Stephen Saab and Mrs. Saab, an organ donor recipient. They are guests of Representative Joe Petrarca and are here in recognition of Donor Awareness Month in Pennsylvania. Will the guests please rise, and will the House welcome them today.

Also with us today, located to the left of the Speaker, are Ron and Dee Boris, guests of Representative Mike Tobash, also here in recognition of Donor Awareness Month. Ron experienced total coronary failure in 2009. He received the Rookie of the Year award commending his commitments to educating the public about donation and dedication to the Gift of Life Donor Program. Welcome our guests. Will you please rise, and welcome to the hall of the House.

EMILY ZHENG PRESENTED

The SPEAKER. For the purpose of presenting a citation, Representative Conklin is invited to the rostrum. With Representative Conklin is Emily Zheng, who will be accepting the citation in recognition of becoming Pennsylvania's Outstanding Young Woman for 2011. Along with Emily is her

State chaperone, Luci Adam, seated to the left of the Chair, and her family members and friends are seated in the rear of the House.

The House will come to order. Members will please take their seats.

The gentleman, Mr. Conklin, may proceed.

Mr. CONKLIN. I would like to thank you, Mr. Speaker.

Mr. Speaker and friends of this beautiful body, I think there is no fitting time than to bring Pennsylvania's Young Woman of the Year to this podium than now. We have had an opportunity to look at how we got to this place, to look at our past, to look at the great achievements that have been done by Speaker Lee, to give us an opportunity to look at our future. I am proud today to have Emily Zheng and her family here in this body.

Emily is a leader of our future. Emily is not only an individual that is the cochair of her Key Club, not only is she an honor student, but Emily is an individual that has been involved with her community, raising money for charities. Emily has taken her time to teach children and classmates Chinese. Emily has also taken the time to be involved in civic organizations, but she is also an athlete. Since sixth grade, she has been on the State College swim team. Numerous medals and awards are honored upon this young lady. But most of all, we are proud of her because coming from State College, Pennsylvania, a State College, Pennsylvania, High School soon-to-be graduate, I am proud, folks, to represent and be part of this life and I am proud to give the folks of Pennsylvania and show them what their future is.

May I introduce and allow you to applaud our great Young Woman of Pennsylvania, Emily Zheng. Emily, thank you for coming.

REPUBLICAN CAUCUS

The SPEAKER. Do we have caucus announcements?

For the purpose of a caucus announcement, the Speaker recognizes the lady, Ms. Major.

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce a Republican caucus at 1 p.m. I would ask our Republican members to please come to caucus at 1 p.m., and we would be prepared to come back on the floor at 3.

Thank you, Mr. Speaker.

DEMOCRATIC CAUCUS

The SPEAKER. For the purpose of a caucus announcement, the Speaker recognizes the gentleman, Mr. Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

I would like to announce a Democratic caucus at 2:30, and be back on the floor at 3. Thank you very much.

The SPEAKER. The Speaker thanks the gentleman.

CONSUMER AFFAIRS COMMITTEE MEETING

The SPEAKER. For the purpose of an announcement, the Speaker recognizes the gentleman, Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

There will be an immediate meeting of the Consumer Affairs Committee in room 149, which is directly across from my office down in the breezeway connecting the Main Capitol with the new addition. So it is going to be a very brief meeting. But I would like to have the Consumer Affairs – it is going to be a voting meeting – I need the Consumer Affairs members there. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

Consumer Affairs will meet in room 149 immediately.

VOTE CORRECTION

The SPEAKER. For what purpose does the gentleman, Mr. Brennan, rise?

Mr. BRENNAN. To correct the record.

The SPEAKER. The gentleman is in order.

Mr. BRENNAN. Mr. Speaker, yesterday on HB 162, my switch malfunctioned. I wish the record to reflect that I would have voted in the affirmative.

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

Mr. BRENNAN. Thank you.

RECESS

The SPEAKER. This House stands in recess until 3 o'clock, unless sooner recalled by the Speaker.

AFTER RECESS

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

HOUSE RESOLUTIONS INTRODUCED AND REFERRED

No. 183 By Representatives PETRI, BAKER, BARRAR, CALTAGIRONE, CLYMER, D. COSTA, FLECK, HENNESSEY, MILLER, MOUL, MURT, O'NEILL, RAPP and SWANGER

A Resolution directing the Legislative Budget and Finance Committee to conduct a performance audit of the Philadelphia Corporation for Aging and to report back to the General Assembly with their findings and recommendations.

Referred to Committee on AGING AND OLDER ADULT SERVICES, April 6, 2011.

No. 184 By Representatives EVERETT, DENLINGER, BAKER, BARRAR, BOYD, CALTAGIRONE, CHRISTIANA, CLYMER, CUTLER, GABLER, GRELL, GROVE, HAHN, HESS, HORNAMAN, KAUFFMAN, KNOWLES, MURT, PEIFER, PETRI, PYLE, ROCK, TALLMAN, TOEPEL, TRUITT and VULAKOVICH

A Concurrent Resolution applying for an Article V amendments convention related to the Constitution of the United States.

Referred to Committee on STATE GOVERNMENT, April 6, 2011.

No. 185 By Representatives KAUFFMAN, BOBACK, BARRAR, BENNINGHOFF, BOYD, BRENNAN, BROOKS, CALTAGIRONE, CLYMER, CONKLIN, D. COSTA, COX, CREIGHTON, DiGIROLAMO, EMRICK, EVERETT, FLECK, GEORGE, GILLEN, GINGRICH, GODSHALL, GRELL, HARHART, HEFFLEY, HENNESSEY, HESS, HICKERNELL, HORNAMAN, KAVULICH, KILLION, KIRKLAND, KORTZ, MAHER, MAJOR, MARSHALL, MARSICO, MILLARD, MURT, MUSTIO, PYLE, QUIGLEY, RAPP, READSHAW, REICHLEY, ROCK, SACCONI, SAINATO, SCHRODER, SIMMONS, STABACK, SWANGER, VEREB, VULAKOVICH and YOUNGBLOOD

A Resolution memorializing the Congress of the United States to designate the Honor and Remember Flag as a national emblem of service and sacrifice by the brave men and women of the United States Armed Forces who have given their lives in the line of duty.

Referred to Committee on STATE GOVERNMENT, April 6, 2011.

HOUSE BILLS INTRODUCED AND REFERRED

No. 481 By Representatives M. SMITH, DeLUCA, BRADFORD, CALTAGIRONE, COHEN, D. COSTA, DAVIS, DONATUCCI, FABRIZIO, GEORGE, GIBBONS, GOODMAN, HARKINS, HORNAMAN, JOSEPHS, KORTZ, KOTIK, LONGIETTI, MAHONEY, MANN, MATZIE, McGEEHAN, MUNDY, MURT, M. O'BRIEN, PASHINSKI, PAYTON, SANTARSIERO, STURLA, J. TAYLOR, WAGNER, WHEATLEY, WHITE and YOUNGBLOOD

An Act prohibiting preexisting condition exclusions for children; and imposing penalties.

Referred to Committee on INSURANCE, April 6, 2011.

No. 1271 By Representatives MARSICO, AUMENT, BEAR, BENNINGHOFF, BLOOM, BOYD, CAUSER, CLYMER, COX, CREIGHTON, CUTLER, EVERETT, FLECK, GILLESPIE, GINGRICH, GRELL, GROVE, HARRIS, HICKERNELL, KAUFFMAN, M. K. KELLER, METCALFE, MILLARD, MILLER, MILNE, PERRY, PICKETT, QUINN, RAPP, ROAE, ROCK, ROSS, SAYLOR, SCAVELLO, SCHRODER, SIMMONS, STEVENSON, TALLMAN and WATSON

An Act amending the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, further providing for definitions.

Referred to Committee on LABOR AND INDUSTRY, April 6, 2011.

No. 1277 By Representatives PERRY, BENNINGHOFF, AUMENT, BLOOM, BOYD, CLYMER, CREIGHTON, CUTLER, EVERETT, FLECK, GILLESPIE, GINGRICH, GROVE, HICKERNELL, KAUFFMAN, F. KELLER, M. K. KELLER, MARSICO, METCALFE, MILLER, MILNE, MOUL, PICKETT, RAPP, ROAE, ROCK, SAYLOR, SCHRODER, SWANGER and TALLMAN

An Act repealing the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act.

Referred to Committee on LABOR AND INDUSTRY, April 6, 2011.

No. 1290 By Representatives GEORGE, CALTAGIRONE, DONATUCCI, FABRIZIO, GILLESPIE, HORNAMAN, HUTCHINSON, JOSEPHS, KULA, McGEEHAN, MURPHY, PASHINSKI, PAYTON, K. SMITH and WAGNER

An Act providing for the testing of new, environmentally beneficial and energy efficient technologies within various State agencies.

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, April 6, 2011.

No. 1291 By Representatives WHITE, BRENNAN, CALTAGIRONE, CLYMER, D. COSTA, DALEY, DeLUCA, DePASQUALE, GIBBONS, GOODMAN, HALUSKA, HARHAI, JOSEPHS, MATZIE, M. O'BRIEN, VULAKOVICH and WAGNER

An Act amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, further providing for sole source procurement and for emergency procurement.

Referred to Committee on STATE GOVERNMENT, April 6, 2011.

No. 1292 By Representatives PERRY, AUMENT, BAKER, BEAR, BENNINGHOFF, BLOOM, BOYD, D. COSTA, COX, CREIGHTON, CUTLER, DONATUCCI, EVERETT, GABLER, GEIST, GILLEN, GILLESPIE, GINGRICH, GOODMAN, HARHART, HARRIS, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. K. KELLER, KILLION, MAJOR, MARSHALL, MARSICO, METCALFE, METZGAR, MILLARD, MILLER, MURT, MUSTIO, PETRARCA, PICKETT, PYLE, RAPP, READSHAW, REESE, REICHLEY, ROAE, ROCK, SONNEY, STERN, STEVENSON, SWANGER, TOEPEL, VULAKOVICH, YOUNGBLOOD and MOUL

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in inheritance tax, providing for expiration and further providing for imposition of tax, for inheritance tax rates and for estate tax.

Referred to Committee on FINANCE, April 6, 2011.

No. 1293 By Representatives HORNAMAN, BAKER, BARRAR, BOBACK, BOYD, D. COSTA, CUTLER, DONATUCCI, EVERETT, FABRIZIO, GABLER, GEORGE, GOODMAN, GROVE, KORTZ, KOTIK, MANN, MOUL, M. O'BRIEN, PASHINSKI, PERRY, READSHAW, STERN, SWANGER and YOUNGBLOOD

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, further providing for nonmedical good Samaritan civil immunity.

Referred to Committee on JUDICIARY, April 6, 2011.

No. 1294 By Representatives GODSHALL, PRESTON, AUMENT, BEAR, BRENNAN, BUXTON, CARROLL, CLYMER, D. COSTA, P. COSTA, CUTLER, DALEY, DAVIDSON, DELOZIER, ELLIS, GRELL, GROVE, HARHART, W. KELLER, KORTZ, KOTIK, MANN, McGEEHAN, MILLARD, NEUMAN, D. O'BRIEN, M. O'BRIEN, PAYNE, PAYTON, PEIFER, PERRY, PYLE, QUIGLEY, READSHAW, REICHLEY, SAINATO, SAYLOR, SCAVELLO, SONNEY, VULAKOVICH, WHITE, WILLIAMS, KULA, MILLER, GINGRICH, STEPHENS, DEASY, GIBBONS, M. SMITH and GERGELY

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for valuation of and return on the property of a public utility; and providing for alternative regulatory mechanisms.

Referred to Committee on CONSUMER AFFAIRS, April 6, 2011.

No. 1295 By Representatives REICHLEY, MURT, QUINN, AUMENT, BARBIN, CARROLL, CLYMER, COHEN, CREIGHTON, GABLER, GEIST, GIBBONS, GINGRICH, GOODMAN, GROVE, HARRIS, HEFFLEY, HESS, HUTCHINSON, KAUFFMAN, F. KELLER, KILLION, MANN, MASSER, MICOZZIE, MURPHY, M. O'BRIEN, PYLE, READSHAW, ROCK, SIMMONS, STEVENSON, TALLMAN, VULAKOVICH, WATSON, J. TAYLOR and EVERETT

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

Referred to Committee on STATE GOVERNMENT, April 6, 2011.

No. 1296 By Representatives MURT, REICHLEY, QUINN, AUMENT, BARBIN, CARROLL, CLYMER, COHEN, CREIGHTON, GABLER, GEIST, GIBBONS, GINGRICH, GOODMAN, GROVE, HARRIS, HEFFLEY, HESS, HUTCHINSON, KAUFFMAN, F. KELLER, KILLION, MANN, MASSER, MICOZZIE, MURPHY, M. O'BRIEN, PYLE, READSHAW, ROCK, SIMMONS, STEVENSON, TALLMAN, VULAKOVICH, WATSON, J. TAYLOR and EVERETT

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for disabled veterans property tax rebate; establishing the Disabled Veterans' Rebate Account; imposing penalties; and providing for appeals.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, April 6, 2011.

No. 1297 By Representatives EVERETT, REED, ADOLPH, AUMENT, BAKER, BARRAR, BENNINGHOFF, BOBACK, BOYD, CAUSER, CLYMER, D. COSTA, COX, CREIGHTON, CRUZ, CUTLER, DAY, DEASY, DeLUCA, DENLINGER, ELLIS, EVANKOVICH, FARRY, FLECK, GABLER, GEIST, GIBBONS, GILLEN, GILLESPIE,

GINGRICH, GOODMAN, GRELL, GROVE, HAHN, HALUSKA, HARHAI, HARHART, HARRIS, HEFFLEY, HENNESSEY, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. K. KELLER, KNOWLES, KORTZ, KRIEGER, KULA, LAWRENCE, LONGIETTI, MAHONEY, MAJOR, MARSHALL, MARSICO, MASSER, METCALFE, METZGAR, MILLARD, MILLER, MILNE, MOUL, MURT, MUSTIO, OBERLANDER, O'NEILL, PAYNE, PEIFER, PERRY, PETRARCA, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, READSHAW, REICHLEY, ROAE, ROCK, SAYLOR, SCAVELLO, SCHRODER, SIMMONS, K. SMITH, SONNEY, STEPHENS, STEVENSON, SWANGER, TALLMAN, TOEPEL, TOOHIL, VULAKOVICH and DELOZIER

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, in public assistance, providing for eligibility for persons with drug-related felonies.

Referred to Committee on HEALTH, April 6, 2011.

No. 1298 By Representatives KAUFFMAN, BOBACK, BENNINGHOFF, BRENNAN, BROOKS, CALTAGIRONE, CLYMER, D. COSTA, COX, CREIGHTON, FLECK, GILLEN, GINGRICH, GODSHALL, HEFFLEY, HESS, HICKERNELL, HORNAMAN, KILLION, KIRKLAND, KORTZ, MAJOR, MARSICO, MILLARD, READSHAW, REICHLEY, ROCK, SACCONI, SCHRODER, STABACK, SWANGER, VULAKOVICH and YOUNGBLOOD

An Act amending the act of July 7, 2006 (P.L.608, No.93), known as the American, Commonwealth and Military Flag Act, providing for the Honor and Remember Flag.

Referred to Committee on STATE GOVERNMENT, April 6, 2011.

No. 1299 By Representatives JOSEPHS, FREEMAN, DePASQUALE, MUNDY, SANTARSIERO, J. TAYLOR, THOMAS, VITALI, WAGNER, SHAPIRO, MURT and DALEY

An Act amending Title 65 (Public Officers) of the Pennsylvania Consolidated Statutes, in ethics standards and financial disclosure, providing for gift ban.

Referred to Committee on STATE GOVERNMENT, April 6, 2011.

No. 1300 By Representatives JOSEPHS, MANN, KORTZ, BISHOP, M. O'BRIEN, JOHNSON, V. BROWN, CUTLER, M. SMITH, BRADFORD, J. TAYLOR, YOUNGBLOOD, DONATUCCI, BRENNAN, CALTAGIRONE, CARROLL, DALEY, FREEMAN, FABRIZIO, DAVIDSON, MURPHY and MURT

An Act providing for the Workplace Accommodations for Nursing Mothers Act.

Referred to Committee on CHILDREN AND YOUTH, April 6, 2011.

**BILL REPORTED AND REREFERRED TO
COMMITTEE ON HEALTH**

HB 192, PN 134 By Rep. GODSHALL

An Act providing for bisphenol A-free baby and toddler products.

Reported from Committee on CONSUMER AFFAIRS with request that it be rereferred to Committee on HEALTH.

The SPEAKER. Without objection, the bill will be so rereferred.

**BILL REPORTED AND REREFERRED TO
COMMITTEE ON URBAN AFFAIRS**

HB 1182, PN 1288 By Rep. GODSHALL

An Act amending the act of November 24, 1976 (P.L.1176, No.261), known as the Manufactured Home Community Rights Act, further providing for disclosure of fees.

Reported from Committee on CONSUMER AFFAIRS with request that it be rereferred to Committee on URBAN AFFAIRS.

The SPEAKER. Without objection, the bill will be so rereferred.

UNCONTESTED SUPPLEMENTAL CALENDAR A

RESOLUTION PURSUANT TO RULE 35

Mr. MAHER called up **HR 188, PN 1453**, entitled:

A Resolution recognizing the month of April 2011 as "Financial Literacy Month" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—201

Adolph	Ellis	Knowles	Ravenstahl
Aument	Emrick	Kortz	Readshaw
Baker	Evankovich	Kotik	Reed
Barbin	Evans, D.	Krieger	Reese
Barrar	Evans, J.	Kula	Reichley
Bear	Everett	Lawrence	Roae
Benninghoff	Fabrizio	Longiatti	Rock
Bishop	Farry	Maher	Roebuck
Bloom	Fleck	Mahoney	Ross
Boback	Frankel	Major	Sabatina
Boyd	Freeman	Maloney	Saccone
Boyle, B.	Gabler	Mann	Sainato
Bradford	Galloway	Markosek	Samuelson
Brennan	Geist	Marshall	Santarsiero
Briggs	George	Marsico	Santoni
Brooks	Gerber	Masser	Saylor
Brown, R.	Gergely	Matzie	Scavello
Brown, V.	Gibbons	McGeehan	Schroder
Brownlee	Gillen	Metcalfe	Shapiro
Burns	Gillespie	Metzgar	Simmons
Buxton	Gingrich	Miccarelli	Smith, K.
Caltagirone	Godshall	Micozzie	Smith, M.
Carroll	Goodman	Millard	Sonney

Causer	Grell	Miller	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neuman	Toepel
Curry	Heffley	O'Brien, D.	Toohil
Cutler	Helm	O'Brien, M.	Truitt
Daley	Hennessey	O'Neill	Turzai
Davidson	Hess	Oberlander	Vereb
Davis	Hickernell	Parker	Vitali
Day	Hornaman	Pashinski	Vulakovich
Deasy	Hutchinson	Payne	Wagner
DeLissio	Johnson	Payton	Waters
Delozier	Josephs	Peifer	Watson
DeLuca	Kampf	Petrarca	Wheatley
Denlinger	Kauffman	Petri	White
DePasquale	Kavulich	Pickett	Williams
Dermody	Keller, F.	Preston	Youngblood
DeWeese	Keller, M.K.	Pyle	
DiGirolamo	Keller, W.	Quigley	Smith, S., Speaker
Donatucci	Killion	Quinn	
Dunbar	Kirkland	Rapp	

NAYS—0

NOT VOTING—0

EXCUSED—2

Boyle, K. Perry

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

GUESTS INTRODUCED

The SPEAKER. The Speaker would like to recognize some guests that are in the balcony. They are from Point Park University, and they are the guests of Representative Paul Costa. Welcome to the hall of the House today.

LEAVE OF ABSENCE

The SPEAKER. For what purpose does the gentleman, Mr. Hanna, rise?

Mr. HANNA. Mr. Speaker, I would like to request leave for the balance of the day for the gentleman, Mr. Dwight EVANS, from Philadelphia.

The SPEAKER. Without objection, the leave will be granted.

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 140, PN 1057**, entitled:

An Act establishing the Methadone Death and Incident Review Team and providing for its powers and duties; and imposing a penalty.

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

* * *

The House proceeded to second consideration of **HB 389**,
PN 353, entitled:

An Act designating the Mill Creek Bridge on the new Route 202 Parkway in Warrington Township, Bucks County, as the George W. Niblock Bridge.

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

* * *

The House proceeded to second consideration of **HB 390**,
PN 354, entitled:

An Act designating Route 202 Parkway on State Route 202 connecting State Route 63 in Montgomery Township, Montgomery County, and State Route 611 in Doylestown Township, Bucks County, as the George A. Penglase Memorial Parkway.

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

* * *

The House proceeded to second consideration of **HB 399**,
PN 365, entitled:

An Act designating the Shenango River Bridge, which carries State Route 322 over the Shenango River in Jamestown Borough, Mercer County, as the Staff Sergeant David M. Veverka Veterans Memorial Bridge.

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

* * *

The House proceeded to second consideration of **HB 438**,
PN 615, entitled:

An Act amending the act of December 18, 2007 (P.L.464, No.71), entitled "An act designating a portion of State Route 145 in Northampton County as the Battle of the Bulge Veterans Memorial Highway," further providing for the Battle of the Bulge Veterans Memorial Highway.

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

* * *

The House proceeded to second consideration of **HB 589**,
PN 573, entitled:

An Act designating U.S. Route 1 in Bucks County from mile marker 66.8 to mile marker 80.2 as the Detective Christopher Jones Memorial Highway.

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

* * *

The House proceeded to second consideration of **HB 728**,
PN 741, entitled:

An Act amending the act of February 11, 1998 (P.L.58, No.15), known as the Combustible and Flammable Liquids Act, further providing for regulations and for prohibitions.

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

* * *

The House proceeded to second consideration of **HB 915**,
PN 1388, entitled:

An Act amending the act of July 6, 2010 (P.L. , No.1A), known as the General Appropriation Act of 2010, by further providing for the appropriation of Federal funds to the Department of Education.

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

* * *

The House proceeded to second consideration of **HB 520**,
PN 923, entitled:

An Act amending the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, providing for lottery winnings intercept.

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

* * *

The House proceeded to second consideration of **HB 986**,
PN 1067, entitled:

An Act amending the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, further providing for powers and duties of secretary; and providing for reports.

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

* * *

The House proceeded to second consideration of **HB 1, PN 217**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, repealing and adding provisions relating to comparative negligence.

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

Mr. **HANNA** offered the following amendment No. **A01206**:

Amend Bill, page 5, by inserting between lines 7 and 8
(vi) Where a party found liable is insolvent, bankrupt, impecunious or is inadequately insured to pay its share of the liability apportioned to it.

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

The **SPEAKER**. On that question, the Speaker recognizes the gentleman, Mr. Hanna.

Mr. **HANNA**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is designed to protect victims from judgment-proof defendants. Essentially, what the amendment says, under current law, joint and several liability would remain in effect in actions where at least one of the wrongdoers found to have harmed the victim without the financial means to reimburse the victim for their portion of the damages award. So said another way, what this means is a victim who is harmed by one or more wrongdoers who are insolvent, bankrupt, underinsured, or otherwise without the means to pay, the victim will be permitted to collect their total damage award from any defendant who is able to pay. It would remain up to the wrongdoers to then work out the reimbursement amongst themselves to ensure that each of them paid only their fair share or to share the portion of the damage award attributed to any defendant without the means to reimburse the victim.

So what we are saying here is that we are protecting victims first, and if there are defendants who are unable to pay, joint and several liability would remain in effect in those cases.

The **SPEAKER**. Has the gentleman concluded?

Mr. **HANNA**. Thank you, Mr. Speaker.

The **SPEAKER**. The Speaker thanks the gentleman.

On the amendment, the Speaker recognizes the gentleman, Mr. Schroder.

Mr. **SCHRODER**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment, if passed, would destroy the Fair Share Act. Instead of passing this amendment, we could just do nothing, keep the law as it is, and have the same result. Mr. Speaker, to adopt this amendment would ignore the cries of help coming from our employers in this State who seek a level litigation playing field; employers who are willing to step to the plate and pay their fair share, but not someone else's share, over whom they have no control or responsibility.

Mr. Speaker, to pass this amendment continues the assault by the trial lawyers on our medical community, our hospitals, nursing homes, our local governments, cities, counties, boroughs, and townships, even our State, which is often brought into lawsuits as a deep-pocket defendant.

Mr. Speaker, I knew we would hear it out of the gate, and we heard the cry of victims first, which I am sure we will be hearing quite often today. Mr. Speaker, I, too, am very concerned about the injured victims. Mr. Speaker, there is a remedy to get more money to the injured victims of lawsuits in this Commonwealth. Mr. Speaker, if the plaintiff trial attorneys would reduce their 30- and 40-percent contingency fees down to a reasonable level, that would be the quickest, most efficient, and reasonable way to get more money to the injured plaintiff that everyone claims to care so much about.

Mr. **HANNA**. Mr. Speaker? Mr. Speaker?

Mr. **SCHRODER**. Mr. Speaker, I hear no one offering—

Mr. **HANNA**. Is the gentleman addressing the amendment?

The **SPEAKER**. The gentleman will suspend.

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

Mr. **HANNA**. Mr. Speaker, is the gentleman addressing the amendment? I do not think there is any mention whatsoever of that in the amendment.

Mr. **SCHRODER**. I certainly am, Mr. Speaker.

The **SPEAKER**. The gentleman will suspend.

The Speaker will take a close notice of the subject matter that is before us and would caution the member that we are on a specific amendment.

The gentleman, Mr. Schroder, may proceed.

Mr. **SCHRODER**. Mr. Speaker, in case the gentleman missed the crux of my remarks and the point I was trying to make, I would gladly join him in an effort to help the victims of which he professes to try to protect under this amendment by changing the contingency fee arrangements, which would be the quickest, most efficient way to drive money out to the plaintiffs and to the victims of a lawsuit.

Mr. Speaker, finally, let us remember that Pennsylvania is one of only nine States not to have reformed its joint and several liability law. In this economy, keeping the status quo, which is what this amendment would do, is simply unacceptable and would act as a drag on our economic recovery. Mr. Speaker, please vote "no" on this amendment.

The **SPEAKER**. The Speaker thanks the gentleman.

Will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Boyd.

Mr. **BOYD**. Thank you, Mr. Speaker.

I was wondering if the maker of the amendment would stand for just one or two quick questions.

The **SPEAKER**. The gentleman indicates he will. You may proceed.

Mr. **BOYD**. Thank you.

As you described your amendment, I just wanted to make sure that I understand it clearly. In the case, under your amendment the way it is drafted, if I did not have, say, product liability insurance and somebody was injured and they bought the product at a store and I as the manufacturer of that product was underinsured or did not have product liability insurance, that the injured party could actually, would be able to sue, say, the seller of that product? Am I understanding— In other words, I am underinsured or I do not have enough insurance; therefore, you could go after the deep pockets. Is that kind of the essence of your amendment?

Mr. **HANNA**. Let me just read it to you: "Where a party found liable is insolvent, bankrupt, impecunious or is inadequately insured to pay its share of the liability apportioned to it."

Mr. BOYD. Okay. I thought so. I wanted to understand it. Just a comment on the amendment though, Mr. Speaker.

The SPEAKER. On the amendment, the gentleman is in order.

Mr. BOYD. While I appreciate the gentleman's intent with the amendment, I believe that it would actually have a counterproductive result, and that is, the irresponsible manufacturers would be incentivized to not take out product liability insurance, because, in essence, why have insurance if I am going to have my product sold by somebody who will have insurance? I am insolvent, so I am not going to have insurance. They are not going to go after me; they are going to go after the other person.

I actually think it would have the reverse effect of making businesspeople even potentially more irresponsible. So while I understand his intent, I do not believe the amendment the way it is drafted is going to have a positive effect. I believe that we should oppose this amendment as it stands right now.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

Will the House agree to the amendment?

I do not see anybody else clamoring to go to the microphone if the gentleman, Mr. Hanna, would like to go. He is in order on the amendment.

Mr. HANNA. I assume, Mr. Speaker, that I am last.

The SPEAKER. One can never guarantee that another member will not stand up, but obviously, the Speaker tries to allow the maker of the amendment to have the last word on his own amendment, but I cannot guarantee that somebody else does not stand up if you say something exceptionally provocative.

Mr. HANNA. I will do my best not to do that, Mr. Speaker. Thank you.

Mr. Speaker, the gentleman from Chester talked about the defendants in an action like this and the victims in an action like this, and that is exactly where we want to focus. We want to focus on the innocent victims. It is absolutely clear that defendants are better able to govern the relationships between themselves in almost all of these actions. That addresses the question that the gentleman from Lancaster raised as well.

In most of these cases, particularly the case that the gentleman from Lancaster outlined, these businesses have a much better opportunity to govern the relationship between themselves than an innocent victim does. What we are asking you to do with this amendment is to protect the innocent victims first, put the innocent victim first.

I want to remind all of you that in these cases, a jury has already determined that the defendants are negligent. So that determination has already been made. What is now at stake is who is going to be left holding the bag? Is it going to be the innocent victim or is it going to be worked out between the defendants? What my amendment says, what my amendment says, is if one of those defendants is what we call judgment-proof, then joint and several would still apply.

Thank you, Mr. Speaker. I urge a "yes" vote on the amendment.

REMARKS SUBMITTED FOR THE RECORD

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

Mr. Speaker, I respectfully ask for an affirmative vote on A01206 (Hanna). This amendment adds a critically important exception to the list of exceptions already contained in the bill. This amendment will permit this chamber to ensure that a victimized citizen injured by an insolvent, bankrupt, impecunious, or inadequately insured wrongdoer will continue to be protected by the current joint and several liability law, and that they will be made whole.

This entire bill is about who will bear a financial loss when a wrongdoer cannot be found or will not pay. This amendment is an answer to that very question. This amendment seeks to protect the interests of the victims of wrongdoing – first and foremost.

Under this bill, victims of wrongdoing who are harmed by individuals or companies that are unable to pay for their share of damages would not be able to recover all their losses. That is an injustice that we cannot let stand. This amendment corrects that injustice in this bill.

When Pennsylvanians are victimized by some wrongdoing, they should not be further victimized by not being fully compensated for their damages. This amendment, if adopted, will prevent our victimized citizens from being revictimized by our civil justice system when one of these wrongdoers cannot pay.

Make no mistake: This entire bill is about protecting these very wrongdoers, at the expense of their victims. The exceptions already contained in the bill clearly indicate the choices the majority party has made about who should be protected by our justice system and who should not be protected.

This amendment represents a choice the Democratic Caucus would like this body to make, Mr. Speaker. I am hopeful that members of the Republican Caucus will join with us in making this choice.

Mr. Speaker, this amendment, along with the other amendments that have been/will be offered to this bill, would give us reason to be proud that we added exceptions to this bill that protect those who deserve protection under the law – in this case, injured victims who, adding insult to their injury, were harmed by insolvent or underinsured wrongdoers. This amendment will help us avoid the shame and disgust we would certainly feel each and every time one of our constituents tells us that they were the victim of wrongdoing and the civil justice failed them.

The current exceptions in this bill show a choice was already made by the Republican Caucus about who should be protected under this bill and who should not be protected. The Republican Caucus, by advancing this bill, has chosen to protect visibly intoxicated patrons in bars over bar owners. The Republican Caucus has chosen, in this bill, to protect employers of those who commit intentional torts over the victims of these employees. The Republican Caucus has chosen, in this bill, to protect employers of those who commit intentional misrepresentations over the victims to whom they lied. Under the current bill, the Republican Caucus has chosen not to protect people who were victimized by insolvent or underinsured wrongdoers.

This amendment is our opportunity to make the right choice about who should be protected by our civil justice system. The choice is clear in this amendment, Mr. Speaker. Who will we protect in this bill? The interests of victims who just happened to be injured by insolvent or underinsured wrongdoers, or are we protecting the financial interests of those who were found to be legally responsible for that wrongdoing?

Please vote "yes" on this amendment.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

LEAVE OF ABSENCE

Mr. HANNA. Mr. Speaker? I am sorry. The gentleman, Mr. CRUZ, from Philadelphia should be put on leave.

The SPEAKER. The gentleman?

Mr. HANNA. Mr. Cruz.

The SPEAKER. Without objection, leave will be granted.

CONSIDERATION OF HB 1 CONTINUED

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

The following roll call was recorded:

YEAS—88

Barbin	DePasquale	Kirkland	Preston
Bishop	Dermoddy	Kortz	Ravenstahl
Boyle, B.	DeWeese	Kotik	Readshaw
Bradford	Donatucci	Kula	Roebuck
Brennan	Fabrizio	Longietti	Sabatina
Briggs	Frankel	Mahoney	Sainato
Brown, V.	Freeman	Mann	Samuelson
Brownlee	Galloway	Markosek	Santarsiero
Burns	George	Matzie	Santoni
Buxton	Gerber	McGeehan	Shapiro
Caltagirone	Gergely	Mirabito	Smith, K.
Carroll	Gibbons	Mullery	Smith, M.
Cohen	Goodman	Mundy	Staback
Conklin	Haluska	Murphy	Sturla
Costa, D.	Hanna	Myers	Thomas
Costa, P.	Harhai	Neuman	Vitali
Curry	Harkins	O'Brien, D.	Wagner
Daley	Hornaman	O'Brien, M.	Waters
Davis	Johnson	Parker	Wheatley
Deasy	Josephs	Pashinski	White
DeLissio	Kavulich	Payton	Williams
DeLuca	Keller, W.	Petrarca	Youngblood

NAYS—111

Adolph	Farry	Lawrence	Reese
Aument	Fleck	Maher	Reichley
Baker	Gabler	Major	Roae
Barrar	Geist	Maloney	Rock
Bear	Gillen	Marshall	Ross
Benninghoff	Gillespie	Marsico	Saccone
Bloom	Gingrich	Masser	Saylor
Boback	Godshall	Metcalfe	Scavello
Boyd	Grell	Metzgar	Schroder
Brooks	Grove	Miccarelli	Simmons
Brown, R.	Hackett	Micozzie	Sonney
Causar	Hahn	Millard	Stephens
Christiana	Harhart	Miller	Stern
Clymer	Harper	Milne	Stevenson
Cox	Harris	Moul	Swanger
Creighton	Heffley	Murt	Tallman
Culver	Helm	Mustio	Taylor
Cutler	Hennessey	O'Neill	Tobash
Davidson	Hess	Oberlander	Toepel
Day	Hickernell	Payne	Toohil
Delozier	Hutchinson	Peifer	Truitt
Denlinger	Kampf	Petri	Turzai
DiGirolo	Kauffman	Pickett	Vereb
Dunbar	Keller, F.	Pyle	Vulakovich
Ellis	Keller, M.K.	Quigley	Watson
Emrick	Killion	Quinn	
Evankovich	Knowles	Rapp	Smith, S., Speaker
Evans, J.	Krieger	Reed	
Everett			

NOT VOTING—0

EXCUSED—4

Boyle, K. Cruz Evans, D. Perry

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

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

Mr. SANTARSIERO offered the following amendment
No. A01158:

Amend Bill, page 5, by inserting between lines 7 and 8
(vi) Where a defendant is a business entity that employs 100 or more individuals.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Santarsiero.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

This amendment merely preserves the victim protection doctrine with respect to any case brought against a company with 100 or more employees. It is an attempt to reach a compromise on this issue because one of the arguments from the other side is that the victim protection doctrine unduly burdens small businesses. Now, I do not happen to agree with that assertion, but in the spirit of compromise, to be able to preserve the doctrine so that victims of injury in this State can obtain full recovery against large corporations that are liable for their injury, this compromise is necessary, and I ask the members of the House to please support it.

The SPEAKER. Will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Reichley.

Mr. REICHLEY. Mr. Speaker, would the maker of the amendment rise for brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, while certainly the language of the amendment seems to be very commendable, does your amendment indicate whether a business would qualify if the employees are 100 part-time individuals or must they be 100 full-time individuals?

Mr. SANTARSIERO. Mr. Speaker, the amendment does not specify as to whether they are full-time or part-time, but candidly, Mr. Speaker, I have a hard time imagining a business with 100 part-time employees only.

Mr. REICHLEY. Well, Mr. Speaker, does the amendment indicate whether the employer, as the business entity, must be employing the 100 individuals at the time when the injury is alleged to have occurred? Would it be, have hired 100 employees at the time the case has gone to judgment? Would it be at 100 employees when a plaintiff is seeking recovery of the damages, Mr. Speaker?

Mr. SANTARSIERO. Mr. Speaker, the amendment does not specify, but frankly, Mr. Speaker, that is immaterial, and it is immaterial for the following reason. This amendment is intended as a compromise. There is nothing magical about the number 100. In fact, many people on the other side of this argument have long argued that small businesses are typically more about 25 or even 50 employees. The idea here is to come up with an even higher number, again, in the spirit of compromise, so that parties who are injured in the Commonwealth of Pennsylvania will continue to be able to be made whole once they bring their case and liability as judged against the defendant.

Whether there are 98 employees at the time of the injury or 102 employees at the time of the claim, whether there are 96 employees at the time of the injury or 103 employees at the time of the judgment, really does not matter. The idea is to offer a compromise, a reasonable compromise, to be able to preserve the right of injured Pennsylvanians to be made whole. Remember, Mr. Speaker, the idea about the whole concept here is preserving the right of injured parties to be made whole. This is a common law doctrine that was originally fashioned so that the burden rests not with the injured party, but rather with those parties who are responsible for the injury, and undoing that wise policy is, I believe, Mr. Speaker, a perilous course for the Commonwealth of Pennsylvania. It is in the spirit of compromise that I offer this amendment for that reason.

Mr. REICHLEY. Well, thank you for that long explanation, Mr. Speaker, but it still does not answer the question as to when the applicable figure would apply. Let me ask you another question since you have spoken of compromise. I am sure the gentleman from Bucks has read many news media accounts which indicate that jobs are a preeminent goal of every legislature and at the Federal level as well. Mr. Speaker, would not his amendment preclude an employer who has 95, 96, 98 employees from hiring that 1 or 2 more individuals to bring onto his payroll in order to avoid being thrust into the joint and several concept which we are trying to evade here, Mr. Speaker?

Mr. SANTARSIERO. Mr. Speaker, that argument that employers are going to vary the number of employees that they have due to lawsuits that are brought is, in my opinion, Mr. Speaker, not a reasonable argument. I do not believe employers make decisions on that basis, nor do I believe that the current injured party protection rule has any impact on the economy of this Commonwealth and the ability of employers to hire employees and, frankly, their decision in that process.

Mr. REICHLEY. That concludes my interrogation, Mr. Speaker. On the amendment?

The SPEAKER. The gentleman is in order on the amendment.

Mr. REICHLEY. Mr. Speaker, I think the gentleman from Bucks has been very earnest and sincere in his comments here, in which he wholly admits there is nothing magical about the number 100. I think we can take him at his word because you could very well set this as the employee base of 50, 72, 114, whatever it might be. The real impact of this is that you just throw mass confusion into our business community, which even at this time is trying to crawl its way out of a recession.

The impact of this amendment, I think, would very well affect those employers who are trying to gain some more profitability, some more business, to bring people back onto a payroll, but would now have to pause to think to themselves, if

I hire that one more individual and I now get sued, have I put myself in a position where I become a potential deep pocket? The gentleman has said, he does not know what employers have as their decisionmaking rationale when they are bringing people on, and I think he is, again, being quite honest. So we cannot take his word as to the fact that employers will not factor that in. This is meant to help employers and help employees get back into the workforce. The amendment, as it is written, is so riddled with inconsistencies and vagueness that it should be defeated on a unanimous basis. There is not an indication of whether this refers to 100 full-time employees, part-time employees, when the magic number of 100 takes place. So is it when the injury occurred, when the lawsuit is filed, when it goes to judgment, when they have attempted to collect on the judgment? None of this has been answered, and I think in the plain, black and white language of the amendment, there are too many questions left for us. So I urge the members to vote "no" on this amendment, A01158. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Allegheny County, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

This amendment is really adding one sentence. Ordinarily, adding a single sentence would seem to be a simple matter, but this simple sentence is written so cavalierly that no one in this room can know what it really means. Our colleague who just was seeking guidance on what this sentence means was greeted with responses that it really does not matter; the actual words, "it really does not matter what it means." Well, if it really does not matter what it means, then why waste our time offering an amendment? I would hope that it would matter what it means.

I was intrigued, though, and saw that this sentence invokes terms that are not defined in the legislation that are very important terms. It talks about a business entity. A business entity is not defined in the amendment; it is not defined in the bill. Now, if you look across our statutes, you will find that when the term "business entity" and similar terms are applied, they are defined because they are treated, they have a variety of meanings in a variety of circumstances. You are being asked to just accept a pig in a poke because the person that offers this amendment says it really does not matter what it means. When he says it does not matter what it means about at what point in time a defendant has 100 employees, well, on the face of it, it says, "Where a defendant is a business entity that employs 100 or more..."; where a defendant is, not where a defendant was at the time of the alleged event, an entity employing 100 or more. So this sloppily written amendment would allow a defendant to choose its form of justice either in anticipation of litigation to shed employees, create another entity, move your employees, which actually gets to the core of this. The core of this is that it is unequal justice.

I would ask the sponsor, if it did matter to him, what it means to employ? You may remember we spent a considerable amount of time discussing independent contractors versus employees. The term "employees" in this case is again not defined. So is this an entity that has independent contractors? Is this an entity that has vendors? Does it count the person who comes and cuts the lawn? Does it count the messenger who comes and picks up a package? Does it count the taxi ride someone might get to an airport? Are those among these 100 employees? Well, you are left to guess.

About the only thing that you are not left to guess about in this amendment is that it would create unequal justice in Pennsylvania. For some reason, whatever these entities turn out to be, and however it is that they are deemed to employ 100 of whatever is deemed to be an individual, are left— A hundred; suddenly, if you are larger than that, it is one system of justice; if you are smaller than that, it is another system of justice. In my mind, nothing is less just than creating a dual standard of justice.

I would ask that you join me in opposing this sloppily written amendment where the author says it really does not matter what it means. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Boyd, from Lancaster County.

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, I also rise to oppose the amendment. Some of the prior speakers made similar points, but one of the issues that I do want to bring to the members' attention is, typically when a business owner or a business is negotiating their liability insurance coverage, those coverages are annual premiums. They pay for a year. So if I start out the year with 98 employees and halfway through the year I bring on 5 temporary employees, pushing me over the magic 100 number, and then, at the end of a large project, those 5 temporary employees are let go and I am back to 98, at what point do I define how many employees I have, and will that have an impact on my insurance premium?

While I understand the gentleman from Bucks County's intent with his amendment, literally, in my opinion, it is not workable, and I do not think it is workable for the insurance, the liability insurance industry to provide accurate premiums for employers. I think it ends up actually raising everybody's premiums because they are just going to max out and make sure they have got themselves covered. So while I understand the intent of the amendment as the gentlemen from Allegheny and Lehigh Counties have already said, I believe it is poorly drafted. I do not believe it really can be effective and actually work in practice in the business community. So for that reason I would oppose the amendment. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker. I will be brief.

Mr. Speaker, as we know, businesses, large and small, look to the litigation climate of a State in determining whether to locate here, whether to expand here, and whether to hire here. Since Pennsylvania is one of only nine States thus far not to reform their joint and several liability laws, we are putting up the stop sign for businesses to come into this State, something we just cannot afford to do in our, you know, sort of weak, tepid economic recovery that we seem to be experiencing.

One other aspect that the gentleman mentioned in his debate is that this common law doctrine of joint and several liability, although I think he referred to it as something else, is longstanding, with the inference being that it is revered and, you know, has withstood the test of time and should not be touched. Well, Mr. Speaker, that argument fails to hold up when you consider the following facts. The common law from England also brought us the doctrine of contributory negligence. Contributory negligence is a very harsh doctrine on the plaintiff,

on the victim, because under a contributory negligence scheme, if the victim is any percentage at fault, they cannot collect against any of the defendants, period.

Now, that was recognized to be an overly harsh doctrine by this legislature in the 1970s, which led to the law that was adopted that we have today known as the comparative negligence statute. That means that if the plaintiff contributed to his fault, just like defendants, he loses a certain portion of his judgment based upon the amount of fault that he or she might be. So let us not get caught up in this argument about the sacrosanct common law being handed down to us from England and being intact for hundreds of years because, Mr. Speaker, it has been changed all the time, and when we have harmful doctrines that are hurting this economy, such as joint and several liability, it is time to change them today.

So, Mr. Speaker, I, too, ask for a "no" vote on this amendment.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the gentleman from Bucks's amendment. When words are introduced into law and they have no definition, the standard practice of statutory interpretation is to say, what do they mean in normal, everyday language? We do not have to have a definition of every single word in every single bill. If we did that, the bills would have no end. "Employees" does not mean, in standard, everyday language, independent contractors. Independent contractors are, by definition, not employees. There is no question about that. Had Mr. Santarsiero introduced a definition that would have made them independent contractors, then they would be independent contractors. Mr. Santarsiero is going on the normal, everyday meaning of the word "employees." And "employees" is a term that has a present tense. When would the present tense be applicable? The standard, everyday meaning of a word that has a present tense is when the incident occurs. That is the only time that makes sense. It does not make any difference at what time the employers got an insurance policy. It does not make any difference what happens to the employer later. That is irrelevant.

If an employer has three employees at the time of an incident for which he should be liable and he later gets 100 new employees, that does not mean you go back to the time in which he had only 3 employees. I do not think there is any mystery at all, really, about what this means, nor is there any mystery about the effect it is going to have on employers. There is no reason whatsoever to believe that an employer is going to be magically counting his employees every day and saying, oh, my God, if we fill this vacancy now after we filled 2 other vacancies, we are now going to hit 100 employees. The chances are that any employer is not going to be a defendant in one of these tort actions. We know that. The employers know that. The employees know that. The odds on anybody making employment decisions on this are very, very remote.

Mr. Santarsiero is offering a compromise. What he is saying is that an employee, an organization that employs people of a certain size, regardless of whether they are full-time or part-time, regardless of what happened before the accident or after the accident, an employer of 100 people at any given time in which there is an incident that leads to a lawsuit, is going to

be jointly and severally liable. I think the meaning is obvious. I admire the creative lawyering of my colleagues and friends on the Republican side of the aisle, but I do not see that any judge would have any real doubt as to what this means. This is a compromise offer. This is the beginning of the legislative process. If somebody on the other side would say, 100 is just too low, it really ought to be 125 or 150, Mr. Santarsiero is certainly willing to listen to offers that people might make here in the House and here in the Senate to see if we can reach some kind of bipartisan agreement. Obviously, the Democrats are the minority party; we cannot pass anything all by ourselves. We believe that people ought not to be hindered in the exercise of their legal rights. We believe that HB 1 does hinder people in the exercise of their legal rights. We understand the concerns about really small businesses. Mr. Santarsiero is offering a specific proposal to try to deal with the concerns about small businesses. He and the Democratic Party as a whole are open to negotiation. We would hope there would be interest in negotiation. We would hope there would be interest in justice for all.

I find it somewhat interesting that Mr. Maher has concerns about equal justice. Just yesterday, I believe, we opposed a bill in the Health Committee which sought to decrease penalties against welfare workers engaging in fraud and increase penalties against welfare recipients engaging in fraud. I would hope that Mr. Maher's comments about equal justice would be remembered when we vote on that legislation. They are far more relevant on that legislation than they are on this legislation.

I strongly urge support of Mr. Santarsiero's amendment. It is well written. It is well thought out. It is good, common sense. I urge support of it.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Allegheny for the second time, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I appreciate the segue, Mr. Cohen. Your memory is really remarkable when you refer that just yesterday in the Health Committee I voted for such and such. Memo: I am not on the Health Committee. Now, I think your other observations were equally on point. When you talk about understanding legislation and the simple phrases in everyday course of usage, and a business entity, you say, well, that is simple. May I remind the gentleman that our Ethics Law was authored a couple decades ago and it took the courts 20 years to figure out what it meant to have a business engaged for profit? Lo and behold, the court decided that included not-for-profit entities.

That is the hazard, Mr. Speaker, of having legislation that is written without precision, that instead of this body making a decision, it is saying, the absence of precision means we are not making the decision, but leaving it to the courts to figure out over decades to come. I am for statutes that our constituents can pick up and read and know what they say, not have to go to a law library and sort through case law over years and years and years of interpretation before they can understand what a statute says. I think it is sloppy to do it that way. I will not embrace it. I think the commonsense part of this, just remember, we found out 2 years ago, after two decades, what a business entity means in the context of the Ethics Law. Well, I think in this statute, it is very important that we be very precise about what you might mean with this sentence.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman and would remind the members, being that the two previous speakers both used members' names in the context of debate, that it is improper to use the member's name. They should refer to them by their county, their hometown or some other euphemism, their district number. I would urge the members to refrain from using members' names in the context of debate.

The question is, will the House agree to the amendment?

On the question, the Speaker recognizes the gentleman from Bucks, Mr. Santarsiero, for the second time.

Mr. SANTARSIERO. Thank you, Mr. Speaker.

In that spirit, Mr. Speaker, I will say to my friend, the gentleman from Allegheny County, I do not take umbrage at the repeated characterization of my drafting as sloppy, not at all, but I will say this: The term "entity" is a term that is already used in the bill. So to the extent that it is not defined, it is not defined in the main bill.

But, Mr. Speaker, let me address a couple of the other issues that were raised in the course of the debate. First, to make it clear, the gentleman from Lehigh suggested that I said that I did not know how employers would react with respect to the number of employees they employed. I did not say that. I said I believed that they would not take that into consideration, and I believe that is true, Mr. Speaker. But, Mr. Speaker, at the end of the day, this is not about, at least it should not be about what is right for insurance carriers. This bill should be about what is right for the people of Pennsylvania and injured parties. If you vote against this amendment, which is, as I said before, an offer of compromise, then you are voting to open up injured parties to the risk that they will not recover in full when large corporations that can well bear the risk of the injury are allowed to go without having to fully compensate the injured party.

Mr. Speaker, I think that is bad policy for the Commonwealth of Pennsylvania. I think it is contrary to what we in the legislature should be doing to protect our constituents. I respectfully request that every member in this chamber think hard and long about this before they vote, and ultimately, that they vote in favor of this amendment to help protect injured Pennsylvanians.

Thank you.

REMARKS SUBMITTED FOR THE RECORD

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

Mr. Speaker, I respectfully ask for an affirmative vote on A01158 (Santarsiero).

This amendment adds a critically important exception to the list of exceptions already contained in the bill. This amendment will ensure that when the unfortunate victim of wrongdoing is victimized by a big business, our Pennsylvania joint and several liability law will protect them and make them whole.

This entire bill is about who will bear a financial loss when a wrongdoer cannot be found or cannot pay. This amendment is an answer to that very question.

To not include this exception means that the potential exists for these big businesses to take their profits and run, leaving their Pennsylvania victims financially strapped. This amendment, if adopted, will prevent our victimized citizens from being revictimized by these big businesses that cannot or will not pay for the injuries they have caused.

Make no mistake, this entire bill is about protecting wrongdoers. The exceptions already contained in the bill clearly indicate the choices the majority party has made about who should be protected by our justice system and who should not be protected.

This amendment represents a choice the Democratic Caucus would like this body to make, Mr. Speaker. I am hopeful that members of the Republican Caucus will join with us in this choice.

Mr. Speaker, this amendment, along with the other amendments that have been/will be offered to this bill, would give us reason to be proud that we added exceptions to this bill to protect those who deserve protection under the law – in this case, victims of wrongdoing committed by big business.

This amendment can help us avoid the shame and disgust we would certainly feel each and every time one of our constituents tells us that they were the victim of wrongdoing at the hands of big business and the civil justice failed them.

The current exceptions in this bill show a choice was already made by the Republican Caucus to protect visibly intoxicated patrons in bars over bar owners.

The Republican Caucus has chosen, in this bill, to protect employers of those who commit intentional torts over the victims of these employees.

The Republican Caucus has chosen, in this bill, to protect employers of those who commit intentional misrepresentations over the victims to whom they lied.

Under the current bill, the Republican Caucus has chosen not to protect Pennsylvanians victimized by big business.

This amendment is our opportunity to make the right choice about who should be protected by our civil justice system.

The choice is clear in this amendment, Mr. Speaker.

Who will we protect in this bill? The interests of big business or the interests of their innocent victims?

Please vote "yes" on this amendment.

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

The following roll call was recorded:

YEAS—89

Barbin	DePasquale	Kirkland	Preston
Bishop	Dermody	Kortz	Ravenstahl
Boyle, B.	DeWeese	Kotik	Readshaw
Bradford	Donatucci	Kula	Roebuck
Brennan	Fabrizio	Longietti	Sabatina
Briggs	Frankel	Mahoney	Sainato
Brown, V.	Freeman	Mann	Samuelson
Brownlee	Galloway	Markosek	Santarsiero
Burns	George	Matzie	Santoni
Buxton	Gerber	McGeehan	Shapiro
Caltagirone	Gergely	Mirabito	Smith, K.
Carroll	Gibbons	Mullery	Smith, M.
Cohen	Goodman	Mundy	Staback
Conklin	Haluska	Murphy	Sturla
Costa, D.	Hanna	Myers	Thomas
Costa, P.	Harhai	Neuman	Vitali
Curry	Harkins	O'Brien, D.	Wagner
Daley	Hornaman	O'Brien, M.	Waters
Davidson	Johnson	Parker	Wheatley
Davis	Josephs	Pashinski	White
Deasy	Kavulich	Payton	Williams
DeLissio	Keller, W.	Petrarca	Youngblood
DeLuca			

NAYS—110

Adolph	Farry	Lawrence	Reese
Aument	Fleck	Maher	Reichley
Baker	Gabler	Major	Roae
Barrar	Geist	Maloney	Rock

Bear	Gillen	Marshall	Ross
Benninghoff	Gillespie	Marsico	Saccone
Bloom	Gingrich	Masser	Saylor
Boback	Godshall	Metcalfe	Scavello
Boyd	Grell	Metzgar	Schroder
Brooks	Grove	Miccarelli	Simmons
Brown, R.	Hackett	Micozzie	Sonney
Causer	Hahn	Millard	Stephens
Christiana	Harhart	Miller	Stern
Clymer	Harper	Milne	Stevenson
Cox	Harris	Moul	Swanger
Creighton	Heffley	Murt	Tallman
Culver	Helm	Mustio	Taylor
Cutler	Hennessey	O'Neill	Tobash
Day	Hess	Oberlander	Toepel
Delozier	Hickernell	Payne	Toohil
Denlinger	Hutchinson	Peifer	Truitt
DiGirolamo	Kampf	Petri	Turzai
Dunbar	Kauffman	Pickett	Vereb
Ellis	Keller, F.	Pyle	Vulakovich
Emrick	Keller, M.K.	Quigley	Watson
Evankovich	Killion	Quinn	
Evans, J.	Knowles	Rapp	Smith, S., Speaker
Everett	Krieger	Reed	

NOT VOTING—0

EXCUSED—4

Boyle, K.	Cruz	Evans, D.	Perry
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

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

Mr. DePASQUALE offered the following amendment
No. A01216:

Amend Bill, page 1, lines 2 and 3, by striking out "repealing and adding " in line 2 and "provisions relating to" in line 3 and inserting further providing for

Amend Bill, page 1, line 7, by striking out "repealed" and inserting

amended to read

Amend Bill, page 1, line 8, by striking out the bracket before "§"

Amend Bill, page 1, line 8, by inserting a bracket before

"Comparative"

Amend Bill, page 1, line 8, by inserting after "negligence"

] Assumption of risk

Amend Bill, page 1, line 9, by inserting a bracket before

"General"

Amend Bill, page 2, line 3, by inserting after "plaintiff"

] (Reserved)

Amend Bill, page 2, line 4, by inserting a bracket before

"Recovery"

Amend Bill, page 2, line 13, by inserting after "contribution"

] (Reserved)

Amend Bill, page 3, line 7, by inserting a bracket before

"subsections"

Amend Bill, page 3, line 7, by inserting after "(b)"

] section 7102.1 (relating to comparative negligence)

Amend Bill, page 3, line 11, by inserting a bracket before

""Defendant"

Amend Bill, page 3, line 11, by inserting a bracket after

"defendants."

Amend Bill, page 3, line 24, by inserting a bracket before

""Plaintiff.""

Amend Bill, page 3, line 28, by striking out "(a) General rule.—In all actions brought to recover damages" and inserting

(a) General rule.—

(1) In all actions brought to recover damages

Amend Bill, page 4, lines 3 and 4, by striking out "the causal negligence of the defendant or" in line 3 and "defendants against whom recovery is sought" in line 4 and inserting

50%

Amend Bill, page 4, lines 7 through 30; page 5, lines 1 through 30; page 6, lines 1 through 29, by striking out all of said lines on said pages and inserting

(2) Joint liability is abolished as to any defendant whose percentage share of liability is less than the percentage share attributed to the plaintiff. The plaintiff may not recover damages from such a defendant in excess of that defendant's percentage share.

(3) Where recovery is allowed against more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of his causal negligence to the amount of causal negligence attributed to all defendants against whom recovery is allowed. Except as provided in paragraph (2), the plaintiff may recover the full amount of the allowed recovery from any defendant from whom recovery is allowed. Any defendant who is so compelled to pay more than his percentage share may seek contribution.

Amend Bill, page 6, line 30, by striking out "(f)" and inserting

(b)

Amend Bill, page 7, line 4, by striking out "(g)" and inserting

(c)

Amend Bill, page 7, line 7, by striking out "Defendant." Includes an impleaded defendant.

Amend Bill, page 7, lines 20 and 21, by striking out all of said lines

Amend Bill, page 7, line 22, by striking out "repeal" and inserting

amendment

Amend Bill, page 8, line 6, by striking out "repeal" and inserting amendment

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. DePasquale.

Mr. DePASQUALE. I was not trying to hide from you, Mr. Speaker.

The SPEAKER. You were hiding right in front of me.

Mr. DePASQUALE. That is right.

Well, Mr. Speaker, I have spoken to the gentelady from Montgomery, who has a very similar amendment, and as a result of those discussions, I will be withdrawing my amendment.

The SPEAKER. The Speaker thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration?

Ms. **HARPER** offered the following amendment No. **A01135**:

Amend Bill, page 3, line 28, by striking out "(a) General rule.—In all actions brought to recover damages" and inserting

(a) General rule.—

(1) In all actions brought to recover damages

Amend Bill, page 4, lines 3 and 4, by striking out "the causal negligence of the defendant or" in line 3 and "defendants against whom recovery is sought" in line 4 and inserting

50%

Amend Bill, page 4, by inserting between lines 6 and 7

(2) Where recovery is allowed against more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of his causal negligence to the amount of causal negligence attributed to all defendants against whom recovery is allowed. Except as set forth in paragraph (3), the plaintiff may recover the full amount of the allowed recovery from any defendant from whom recovery is allowed. Any defendant who is so compelled to pay more than his percentage share may seek contribution.

(3) Joint liability is abolished as to any defendant whose percentage share of liability is less than the percentage share attributed to the plaintiff. The plaintiff may not recover damages from such a defendant in excess of that defendant's percentage share.

Amend Bill, page 4, lines 7 through 30; page 5, lines 1 through 30; page 6, lines 1 through 5, by striking out all of said lines on said pages

Amend Bill, page 6, line 6, by striking out "(d)" and inserting

(b)

Amend Bill, page 6, line 19, by striking out "(e)" and inserting

(c)

Amend Bill, page 6, line 29, by striking out "subsections (a) and (b)" and inserting

subsection (a)

Amend Bill, page 6, line 30, by striking out "(f)" and inserting

(d)

Amend Bill, page 7, line 4, by striking out "(g)" and inserting

(e)

Amend Bill, page 7, lines 23 through 30; page 8, line 1, by striking out "or under the act of June 19, 2002 (P.L.394, " in line 23, all of lines 24 through 30 on page 7 and "damages; imposing penalties; and making a repeal," in line 1 on page 8

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the lady, Ms. Harper.

Ms. HARPER. Thank you, Mr. Speaker.

First, let me talk about what this amendment does. This is also a reform of joint and several liability under a different theory than the bill that we are debating this afternoon. Let me tell you what HB 1 is not about. It is not about stopping lawsuits or even stopping frivolous lawsuits. Joint and several liability has nothing to do with frivolous lawsuits. It only kicks in after a jury has found that at least two defendants are responsible for a substantial part of the harm caused to a victim who is called a plaintiff or a citizen or a consumer. It has nothing to do with stopping frivolous lawsuits. Moreover, this bill has nothing to do with luring businesses to Pennsylvania. In fact, the State of Delaware, often viewed as a model for attracting business, has traditional joint and several liability, just like what we have had for more than 50 years that we are proposing to change today.

This bill has nothing to do with luring businesses to Pennsylvania. This bill has nothing to do, nothing at all to do with saving insurance premium money. Not a single insurance company, among all of the insurance companies who have sent us letters and e-mails, has promised to reduce premiums one iota.

Now, what my amendment is about, and what reform of joint and several liability is about, can best be explained by the following hypothetical. Let us say you go to a big-box hardware store and you purchase a table saw because you like to do home improvements or whatever. You read the directions, and it works pretty well for about 6 months. After 6 months, something goes horribly wrong and you slice off the fingers of your left hand. After an investigation, it is discovered that while you purchased that table saw from a well-respected local business, it was manufactured in China. Your lawyer files suit against your local business which sold the table saw and the Chinese manufacturer of what turns out to be a shoddy product. After the jury determines that each of those two defendants is 50 percent liable, your local retailer's insurance company pays up promptly, but the other half of your damages, you cannot get them because the Chinese company has not come to court in Pennsylvania and you cannot find them. Who is in a better position to chase that Chinese manufacturer of the shoddy product? How about the big-box retailer who purchased the table saws from them? Who is in a better position to say to the Chinese manufacturer, pay the victim and fix your process or we will not be buying any more table saws from your company? Obviously, the big-box retailer is in a better position to collect on that judgment than the injured victim. That is called contribution, and that is preserved under my amendment.

What my amendment does is follow Pennsylvania's comparative negligence statute. We have comparative negligence here. Jury verdicts are reduced by the amount of the plaintiff's own negligence when the plaintiff is negligent, and what my amendment does is say, if the plaintiff himself was careless or partially caused the accident, it does not change current law, which reduces the verdict by the amount of that negligence or carelessness, and it also says that there is no joint and several liability where the victim's negligence or carelessness in causing the harm is greater than that of the defendant against whom the recovery is sought.

So what my amendment does is reform joint and several liability as it currently exists in Pennsylvania to get rid of the unfair specter of a person who is less liable than the one who is trying to recover having to pay the full judgment. But beyond that, it follows Pennsylvania jurisprudence and it provides a comparative weighing of responsibility in deciding both the amount of the damages and whether or not one defendant who worked in concert with another defendant to cause the harm should pay the damages and then be tasked with the responsibility of collecting from the other entity that caused the harm.

So what my amendment does is follows our comparative negligence statute already in effect and already working. It is in fact exactly like Senator Stewart Greenleaf's bill, which is presently pending in the Senate. It is a very reasonable approach to reforming joint and several, to remove the specter that someone who is more at fault than the defendant will collect from that defendant. So my amendment does that.

Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Would the gentlelady stand for brief interrogation?

The SPEAKER. The lady indicates she will. You may proceed.

Mr. SCHRODER. Now, correct me if I am wrong, but under your amendment, the only defendants who would be responsible for their just share or their percentage of the damages are those defendants who have been found less responsible than the plaintiff. Is that correct?

Ms. HARPER. No. All defendants would remain severally liable for that percentage of damages that the jury decides they should bear; as with the plaintiff, who would suffer a reduction in the damages awarded in accordance with its own negligence. However, joint liability would be abolished for those people whose negligence is less than that of the injured party.

Mr. SCHRODER. Well, okay. That is what I understood. Maybe I did not ask the question correctly, but that last part is what I was trying to get at. So under your amendment then, the only people who would be getting any type of tort relief are those defendants who harmed the plaintiff less than the plaintiff actually harmed themselves?

Ms. HARPER. I do not understand the question. I am sorry.

Mr. SCHRODER. Well, if there is a finding of, let us say, 10 percent of fault of the plaintiff under comparative negligence statute and, let us say, there is one of the defendants who is only 5 percent negligent, that is the only defendant who is not going to be subject to joint and several liability. So therefore, you have set up a situation where the only one getting protection is the one where the plaintiff was more responsible for their injury.

Ms. HARPER. While that is technically true, our entire tort system exists to compensate people who are injured by the carelessness of others. We have a system of comparative fault, where our juries decide the percentage of fault, and all of that remains the same under your bill and under my amendment.

However, what we are talking about when we are talking about getting rid of joint liabilities, who should bear the risk of a defendant who has already been found liable, that we cannot find, does not have the money, or refuses to participate like my Chinese manufacturer? In that event, the plaintiff is going to bear that risk if the plaintiff's own carelessness or negligence was worse than the Chinese manufacturer's. Yes, that would be true in that instance. Otherwise, everyone who is jointly and severally liable now would remain jointly and severally liable, so it would get rid of one of the complaints about joint and several liability, that a defendant with a very small share of liability could be responsible for 100 percent of the judgment. My amendment gets rid of that, except in the case where the plaintiff was not guilty of any carelessness or fault in causing the injury to begin with.

Mr. SCHRODER. And on the other hand, Mr. Speaker, a plaintiff who was maybe 5 percent at fault, and you have one of three or four defendants who is maybe 10 percent at fault, under this scenario, the defendant 10 percent at fault could still end up paying the plaintiff the entire verdict if it was not collectible against the other parties, correct?

Ms. HARPER. Yes. Under joint liability, any defendant would have to pay the whole verdict but then could seek the money back from the nonpaying defendants. That goes back to

my example where the big-box retailer would then have to go against the Chinese manufacturer to get repaid. All of joint and several liability laws deal with shifting the burden of who should be doing the hard work of collecting. In most cases, of course, defendants are assigned a share of liability and they or their insurance carriers pay off promptly. This is the unusual case, but it is becoming more usual as many Pennsylvania retailers are importing products which turn out to be dangerous from countries very far away that refuse to submit to our jurisdiction.

Mr. SCHRODER. Thank you, Mr. Speaker.

That ends my interrogation. I would like to speak on the amendment.

The SPEAKER. On the amendment, the gentleman is in order.

Mr. SCHRODER. Thank you.

Mr. Speaker, there are a number of things that I disagree with that the gentelady has stated and some that I believe are just factually inaccurate. She stated in order to justify having a defendant with only a small slice of fault apportioned to them, this concept that the jury has already determined that they were a substantial factor in causing the damage. Well, Mr. Speaker, that concept might have been valid the last time we debated this legislation back in 2006 and 2002, but the fact is, the Pennsylvania Suggested Standard Civil Jury Instructions of today, as of 2010, no longer call for the defendant's conduct to be a substantial factor in the harm. The new standard is that of factual cause. So no longer does the conduct have to be a substantial factor in the injury, but the Suggested Standard Civil Jury Instructions that are being used in this State have actually reduced that standard from the last time we debated this issue on the floor of the House.

Now, the gentelady also makes what I call the Great Wall of China argument in her remarks, too. Let us be very clear, Mr. Speaker. If a Chinese or other foreign company, manufacturer, whatever the case might be, is subject, has the requisite connections in Pennsylvania that they can be sued under our jurisdiction, so can they be collected from under our jurisdiction as well. So, Mr. Speaker, I do not put much credit in that argument about the foreign countries. They are being held up as a distraction here in this debate.

Mr. Speaker, the gentelady also said that this in fact was reform. Well, this amendment might look like reform in style, but it is not in substance. It essentially does nothing to prevent the abuses associated with joint and several liability and the constant search for deep pockets to drag defendants into lawsuits for little or no reason other than their ability to pay regardless of their fault.

Now, courts do not collect records on the number of verdicts where an individual defendant's negligence is less than that of the plaintiff. There is one area that is an exception to that, and that is in medical malpractice. Now, records that we have obtained from the AOPC, the Administrative Office of Pennsylvania Courts, show that between 2003 and 2010, only 5 percent of the plaintiffs were found to have any contributory negligence in the medical malpractice cases. That means that 95 percent of the cases would not be impacted by the Harper amendment and we would in fact be maintaining the status quo.

Therefore, this amendment does nothing to address and correct the abuses that we are seeking to remedy here today. It allows the status quo to continue for the vast majority of cases. I will say that it is a rhino reform in name only.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from York, Mr. DePasquale.

Mr. DePASQUALE. Mr. Speaker, brief interrogation of the maker of the amendment? Brief interrogation?

The SPEAKER. The lady indicates she will stand for interrogation. The member may proceed.

Mr. DePASQUALE. Mr. Speaker, I have heard many times that the concern from the business community in many cases is that the defendant that is very minimally liable could end up getting the whole judgment under current law. How does this amendment address that concern?

Ms. HARPER. In most cases, when the jury apportions liability, there is a lot of fault to go around and the plaintiff is assigned some measure of liability, not as the gentleman stated in malpractice cases, where the plaintiff is unconscious on an operating table and is unable to participate in their own liability, but in most cases, the plaintiff is guilty of some measure of liability, some cause of the accident, some carelessness that contributed to the injury. Under traditional comparative negligence, if the plaintiff's own culpability or carelessness is more than 50 percent, they do not collect at all. If it is less than 50 percent, their damages are reduced by the percentage of their culpability or negligence.

What my amendment does is get rid of that case, cited in several letters from the business community and cited specifically by the Pennsylvania association of C.P.A.s (certified public accountants), where a minimally responsible defendant pays 100 percent of the verdict and the plaintiff is more responsible than they. My amendment reforms our joint and several laws to get rid of that possibility. Cannot happen, will not happen if the Harper amendment is adopted.

Mr. DePASQUALE. Thank you, Mr. Speaker.

That ends my interrogation. I would like to speak on the amendment.

The SPEAKER. On the amendment, the member is in order and may proceed.

Mr. DePASQUALE. Thank you, Mr. Speaker.

I have heard from many businesses that they are concerned about a particular case, the 1 percent or the 5 percent defendant, but because they are the deep pocket, they can, in some instances, although during our hearing we did not find actual testimony on those specific cases, but that that is a concern that they could end up getting the whole bill. In an actual verdict, the plaintiff, or the victim in some cases, may in many instances have some share of the blame. I think the Harper amendment strikes a proper balance in this issue.

Look, the reality is, in this chamber there are going to be strong views on this issue, some siding with business, some siding with the victims, but I think the Harper amendment strikes the appropriate balance. For the victim, there still is the capability, if the Harper amendment goes through, of getting wholly compensated, while at the same time, the defendant, or the business in some instances, that is less at fault than the plaintiff or the victim does not get stuck with the whole bill and only with their share of the responsibility. The whole theory behind joint and several is making sure that the victim is wholly compensated. I want to commend the lady from Montgomery for, I believe, striking the appropriate balance in an obviously contentious issue that strikes the appropriate balance of trying to maintain Pennsylvania's competitiveness in business retention

and also in trying to make sure that the victim does not go without compensation.

One other thing I do want to point out and this is not entirely on point with the amendment, so if I am out of order, Mr. Speaker, feel free to shut me down and I will speak on final passage on this, but I think it is appropriate here. That is, we are hearing about the business climate in Pennsylvania. Well, the State of Florida passed what is now known as HB 1, almost exactly, in 2007. We are now in 2011 and I do not think anybody would argue that Florida's business climate is better than Pennsylvania's. In fact, last year Pennsylvania had the second most number of job growth in the United States behind only Texas.

So I just want to point out that if you are concerned about the business climate, you can still vote for the Harper amendment and make sure victims are wholly compensated, and at the same time not damage Pennsylvania's business climate and I think can actually improve it.

So I ask colleagues on both sides of the aisle to support the Harper amendment. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Marsico.

Mr. MARSICO. Thank you, Mr. Speaker.

I would like to speak on the amendment.

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

Mr. MARSICO. Thank you.

With all due respect to my good friend and colleague, the gentledady from Montgomery County, I disagree with this amendment. This amendment simply is a continuation of the unfair share act. This amendment, essentially, turns this fair share bill upside down on its head. It strikes out, if you really want meaningful tort reform, it strikes out reform contained in this bill and replaces it with language that only applies to a limited number of defendants in a limited number of civil cases.

Mr. Speaker, the Commonwealth is in dire need of meaningful tort reform. If you are for meaningful tort reform, you will vote for this bill. If you believe that we should keep the status quo, then you are for this amendment. I encourage a "no" vote on this amendment.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Montgomery County, Mr. Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

I would like to commend the gentledady from Montgomery County for her hard work on this amendment and her effort to reach a compromise. I know that this chamber is extremely divided over this issue and I appreciate the bipartisan effort to help bridge those divides.

If I may, I would like to ask a couple of questions of the maker of the amendment, Mr. Speaker.

The SPEAKER. The lady indicates she will stand for interrogation. The gentleman may proceed.

Mr. GERBER. Thank you, Mr. Speaker.

Mr. Speaker, several years ago in an effort to address the problems we were having with medical malpractice cases and the impact those cases were having on hospitals and doctors, the Supreme Court made two very important changes to the Rules

of Civil Procedure. One was to try to cut down on venue shopping, and the other was to ensure that cases that came forward would have merit.

Mr. Speaker, my question for the maker of the amendment is whether or not this proposed language would do anything to interfere with those changes that have had such a positive impact on the system.

Ms. HARPER. Thank you, Mr. Speaker.

The answer is that my amendment will not affect either of those two provisions, the certificate of merit or the venue provisions. They were actually put in place by the Court, under its ability to control what happens in the courts, after bills introduced right in this General Assembly suggested that this might help the then medical malpractice insurance crisis. In fact, both of those provisions have drastically reduced the number of medical malpractice cases in Pennsylvania but do not appear to have had a significant impact on medical malpractice insurance premiums, but either way, my amendment would not change in any way those reforms which appear to be working for doctors and hospitals.

Mr. GERBER. Thank you, Mr. Speaker.

Another question for the maker of the amendment. With respect to the underlying bill that we are now discussing, language very similar to the underlying bill has been enacted in other States around the country. My question for the maker of this amendment is whether or not you know if those changes in joint and several liability in other States have had any positive impact on insurance rates, malpractice premiums, or any of the other problems that we hear about from doctors and hospitals.

Ms. HARPER. I am not aware of any State which has a demonstrable lessening of insurance premiums as a result of enacting the gentleman from Chester County's version of joint and several reform. Remember, my amendment does enact a reform, moves the ball forward, but does not go so far as to leave Pennsylvania victims without a remedy, which I am afraid that the bill as unamended would certainly do.

Mr. GERBER. Thank you, Mr. Speaker.

If I may on the bill, Mr. Speaker?

The SPEAKER. The gentleman is in order on the amendment.

Mr. GERBER. On the amendment; excuse me. Thank you. On the amendment.

Again, I would like to commend the gentledady from Montgomery County for her effort to bridge the divide here in the chamber. While I am of the view that there really is no need to change the current law at all to the extent that I have heard any persuadable arguments that change is needed, I believe this proposed amendment would address those issues. We have seen the changes in the Rules of Civil Procedure that were promulgated by the Supreme Court work. We know they have been extremely effective. The data is in place to prove that. We also have seen no evidence from anywhere in the country that language similar to the underlying bill has been effective in solving any of the problems that that language allegedly would solve. Yet this amendment does seek fairness. While I know nomenclature gets tossed around and sometimes in very disingenuous ways, I do believe in this case, with this language that the gentledady from Montgomery County is offering, it really does seek to right some wrongs.

It really does seek to make the system more fair in those very rare cases, may I say, very rare circumstances where a defendant is less liable than a plaintiff.

So I would encourage the chamber to support the proposed amendment offered here by the gentlelady from Montgomery County. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Lancaster, Mr. Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

It was just yesterday that myself and the gentlelady who is the maker of the amendment had a conversation about the ability to civilly disagree. Little did I know that it would be this quick that we would find ourselves on the floor on opposite sides of an issue.

But I would like to briefly interrogate her regarding her amendment, if possible?

The SPEAKER. The lady indicates she will stand for interrogation. You may proceed.

Mr. CUTLER. Thank you, Mr. Speaker.

Using your hypothetical, Mr. Speaker, that you had given previously, I would like to use some different percentages just to make sure that I have the mechanics of your amendment down, if I may. In the hypothetical with the store, the supplier from China and the plaintiff, if the plaintiff were 50 percent liable and the defendants were 30 and 20 percent liable, how would that break down under your proposed amendment with regards to joint and several liability versus only being liable for the portion that you are directly responsible for?

Ms. HARPER. Okay. Thank you.

I will try to answer that. I have to admit that math has never been my strong suit. But the way it would work is, if the plaintiff is not more than 50 percent liable, the plaintiff could collect, but the amount of damages would first be reduced by the 50 percent culpability or responsibility of the injured party. So the amount remaining would then be split 30 percent to the defendant who had 30 percent responsibility and 20 percent to the defendant who had that. In most cases the 30-percent defendant would pay 30 percent of the remaining half and the other one would pay 20 percent of the remaining half. In the event that the 30-percent defendant refused to submit to the jurisdiction, could not be found, was bankrupt, then the plaintiff would only recover that 20 percent that the other defendant paid. So in effect, where a jury might have determined that the damages were worth a certain number, the plaintiff or injured party would only get 20 percent of that amount. So it is a substantial reduction because of my amendment, which should make some defendants happy, I would imagine, but it would leave the plaintiff uncompensated, but that is part of trying to balance how we compensate victims of negligence. Thank you for the question.

Mr. CUTLER. Thank you, Mr. Speaker.

Just to change those percentages again, and like you, math always was not my strong point. That is probably why we both went into law.

Ms. HARPER. That is right.

Mr. CUTLER. But if, conversely, the plaintiff was found less liable and only had a 10-percent contributory negligence and the other defendants were split, say 50-40, what would happen under that scenario?

Ms. HARPER. Under that scenario, in most cases the 50-percent defendant would pay 50 percent of a judgment that had been reduced by 10 percent for the plaintiff's own

responsibility and the other would pay 40 percent of the judgment reduced by 10 percent for the plaintiff's own responsibility. In the event one of those defendants was insolvent, out of the country, unable to be reached, or unwilling to pay, the plaintiff in that case could collect all of it from the half-responsible defendant, and that defendant would have to track down the other defendant to be repaid or reimbursed.

Mr. CUTLER. Thank you, Mr. Speaker.

I am going to quickly move away from math since neither of us seems to have a love for it and ask a couple more brief questions.

Does the gentlelady have any data or estimation on how many cases this might affect that are currently in the system?

Ms. HARPER. Actually, both the bill and the amendment do not change this. They would not affect any cases currently in the system. It would become effective if the bill passes after the effective date of the act. So if a person is already injured, they would not be affected.

Mr. CUTLER. I apologize, Mr. Speaker. I should have phrased the question a little bit better. Using today's numbers on any future cases, is there an ability to predict how many cases might be influenced by contributory negligence and, conversely, how many non-deep-pocket defendants may not be liable for their whole amount?

Ms. HARPER. In most cases the plaintiff is assigned some share of responsibility. That contrasts strongly with the medical malpractice statistic of the gentleman from Chester County, but remember that medical malpractice can occur while the plaintiff is unconscious, so that probably reduces their responsibility quotient. I do not have an exact number—

Mr. CUTLER. That is fine.

Ms. HARPER. —because there is no way to tell who will be injured tomorrow by an accident or the active negligence of someone else.

Mr. CUTLER. Thank you, Mr. Speaker.

And just one final question. Would the balancing act that is either proposed in your amendment or the bill, would those in any way, those instructions and those divisibility instructions, be conveyed to the members of the jury so that they would recognize the impact of having a plaintiff be above or below contributory negligence as compared to any of the other defendants?

Ms. HARPER. Well, I have not reviewed the standard civil jury instructions on exactly what the jury is told, but I do know that they are instructed in how to apportion liability among responsible parties, and that would include the injured party who brings the lawsuit. That is a normal and regular part of a jury trial.

Mr. CUTLER. Perfect. Thank you, Mr. Speaker.

I have concluded my interrogation and would like to speak on the amendment, if I may.

The SPEAKER. On the amendment, the gentleman is in order.

Mr. CUTLER. Thank you.

Unfortunately, as the gentlelady pointed out, there is not a lot of data in this area. It is difficult to determine the number of cases that would potentially be impacted by this. And to the best of my knowledge, when we made an inquiry with the Administrative Office of Pennsylvania Courts, the medical malpractice jury and nonjury verdict slips are actually the only ones that are routinely tracked in our system that we have any data whatsoever. Given those numbers and the date range—

PARLIAMENTARY INQUIRY

Mr. CUTLER. And, Mr. Speaker, I guess I would have a parliamentary inquiry.

I would like to inquire about moving this data into the legislative record to reflect what data is available and then be able to speak on it, if I may.

The SPEAKER. Would the gentleman clarify the parliamentary inquiry? Are you suggesting that you have some data that you would like to submit for the record?

Mr. CUTLER. Yes, Mr. Speaker. We had approached the Administrative Office of Pennsylvania Courts, and they were able to provide verdict slips from the medical malpractice community. That is the one area where there is actually collected data. To briefly summarize, they run from July 1, 2003, through December 31, 2010, and it gives the comparative breakout of jury verdicts in favor of plaintiffs and then how many of those had contributory negligence, and then, conversely, how many of those were also greater than the individual defendants, and I would like to move it into the record.

The SPEAKER. The gentleman may submit that form of information for the record.

Mr. CUTLER. Thank you, Mr. Speaker.

DOCUMENTS SUBMITTED FOR THE RECORD

Mr. CUTLER submitted documents for the Legislative Journal.

(For documents, see Appendix.)

Mr. CUTLER. On those data points, to save some of the members the need to run through all of these, as I spent last evening, the numbers are as follows: The total number of verdicts in this slightly longer than 7-year period has been 303. Of those, there were 16, actually, medical malpractice cases where the plaintiff was found to have contributory negligence, but when we get to the numbers on which ones would actually be affected by this amendment as compared to others, it knocks that total only down to 2.

Mr. Speaker, I would offer that effectively impacting less than 1 percent of these cases is really not a change at all. Mr. Speaker, we would not even have to change the law to practically get these same results. Out of 303 cases, only 2, and the percentage splits are as follows: 34 1/2 percent to defendant one, 21 1/2 percent to defendant two, 44 percent to the plaintiff, and conversely, one of the examples that I had reviewed earlier was a 50-percent contributory negligence to the plaintiff and 30 and 20 split between the defendants. Mr. Speaker, these are the only two cases of any documented data that we have.

Mr. Speaker, I understand where the gentelady intends to go with this amendment. However, I do not believe that it results in the intended outcome. For that reason I, obviously, will be opposing the amendment, but I would like to speak a little bit longer on some of the other points.

Mr. Speaker, particularly with statistics, association is not always causation. There is not a direct causal link between trends that you see. We heard that this is the same legal compromise, if you will, that Delaware has. Well, Delaware also has a much more favorable tax environment. I believe one

of the amendments that we will deal with later deals with the perceived Delaware loophole and the issues regarding some tax policy that this Commonwealth currently has. The reality is, just because they have better or different liability laws, perhaps, does not mean that their better business climate is based solely on their legal atmosphere. It has other impacts that contribute to that.

Mr. Speaker, the example that we always learned in statistics class was that when there was increased ice cream consumption, there were increased drownings. Ice cream had nothing to do with the drownings, but the reality, Mr. Speaker, was more people ate ice cream during the summer and more people swam during the summer. Therefore, more people drown during the summer, and it is an outside event that impacts the statistics that are there, Mr. Speaker, and I would offer that the favorable business climate in Delaware is one of those examples.

Furthermore, we heard the prior speaker from Montgomery County discuss the medical malpractice crisis and some of the changes that were implemented via the Supreme Court and the impacts that they had on the liability area. Mr. Speaker, these cases speak directly to those kinds of cases, and even with this data, it is less than 1 percent that would actually be dealt with under this amendment.

Mr. Speaker, the real problem and one that I can personally speak to is the fact that when cases are filed, defendants are named regardless of their amount of contact. I personally was named in a suit when I was an x-ray technologist. I had x-rayed the patient one time in their multiweek stay in the hospital. In fact, I had x-rayed the patient after she had been injured, but that did not prevent my name from going on to the lawsuit, and I was subpoenaed to testify before our in-house counsel on this issue. Mr. Speaker, thankfully I did not then nor do I now have deep pockets, so I was quickly dropped from the suit, in addition to the fact that I had documented that I was not the causal reason for this lady's injury. But the fact remained, had I been rich, had I had money, or had I been a big company or even a small company that happened to have a good year, Mr. Speaker, I probably would not have been able to get off of that suit as quickly as I did.

Mr. Speaker, furthermore, these verdict slips that we have do not represent all of the defendants that were initially named in the suit. These were only the ones who were carried through to the end. Mr. Speaker, we have one defendant in this list that actually was found zero percent liable. That individual had to still spend the money because they did have a deep pocket, Mr. Speaker, and they were worried. They were worried that they would be wholly liable for the sum that was brought before them, and the split in that case was as follows: Plaintiff one was 65 percent liable, plaintiff two— Excuse me; defendant one was 65 percent liable, defendant two was zero percent, and the plaintiff was 35 percent. Recognizing that it is outside the bounds and actually above the 60-percent hold as contained in the bill, I recognize that the outcome would not have been different, but the fact remained because of the specter of the possibility of paying this entire settlement, that individual had to carry this out to the end, wait until the verdict slip came out, and saw the zero next to their name.

Mr. Speaker, back to the medical malpractice crisis, recognizing that this data is slightly old, but I think it is still relevant. Leading up to that crisis, 67 to 69 cents of every dollar that was collected in malpractice premiums for hospitals and

physicians was used in legal defense work to represent them in cases. Mr. Speaker, please note that does not include actual judgments against them. That is for individuals such as myself who was named in a suit that ultimately had to defend myself. The hospital had to expend an attorney on my behalf as well as their own.

And, Mr. Speaker, if we want to get to the root cause and we want to eliminate the search for deep pockets in this Commonwealth, Mr. Speaker, we cannot support this amendment. This amendment as drafted would have no real impact, less than 1 percent of the cases, as I mentioned earlier. Mr. Speaker, we have got to bring real tort reform to the Commonwealth, and I would offer that we do so by defeating this amendment.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the amendment of the lady from Montgomery County. I think for people who want an amendment that is detailed and well written, an amendment that deals with complex issues and seeks complex rules to deal with complex problems, this is that amendment.

Mr. Speaker, we do not know whether future events will be the same as past events because we simply cannot predict the future. If this amendment is passed, there certainly will be an even greater incentive than exists today to prove plaintiff liability, and it would seem to me that the statistics would inherently change simply because this amendment is passed. This amendment seeks to change the law so that there is some relief granted to the business community but does not seek to change the law so that plaintiffs who are needy are consistently denied relief.

I am touched with the deep concern for businesspeople with deep pockets. It is heartening to know that the wealthy have friends in Pennsylvania, but we have to see that the wealthy are not the only people with friends in Pennsylvania. There are people who buy products from China, from all over the world that are dangerous products that are sold by stores that are making hundreds of millions, in some cases billions of dollars a year from the sale of these defective products, and they should have the right to relief. And when people buy products that cause dangers, they have to operate the product in some fashion to have any danger occur. If they use the product— If they just buy the product and keep it in the garage, it is never going to be any danger to them. It is when they use the product, and some people when they use a product feel that they are really smart men and women and they feel that reading the directions is beneath them, and if somebody uses a product and feels that reading the directions is beneath them, that they are so smart they can figure out how these complex machines work without directions and they are seriously injured, they will be denied relief under this amendment. But if somebody faithfully reads the directions and follows the directions and uses the product in the manner in which they reasonably were led to believe that the product should be used and they are injured as a result of faithfully following the directions, this amendment sees that they get justice in Pennsylvania. They ought to get justice in Pennsylvania. People ought to be able to reasonably rely on directions. They ought to be able to reasonably rely on products

operating safely. The whole growth of business really depends upon products working the way they are intended. A slipshod system in which products are dangerous only discourages the use of new products and hurts business.

This amendment safeguards legitimate interests of business, legitimate interests of plaintiffs. It deals with the issue with some degree of complexity and nuance and understanding. It is well worth supporting. I urge support of this amendment.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, I have listened carefully to the debate, and it is certainly true that people on both sides of this particular amendment are offering very articulate and well-reasoned discussions. It a bit reminds me of the analogy, whenever you get two different lawyers together in a room, you are going to get three different opinions.

And I certainly respect the gentelady from Montgomery County. I understand the intention behind the language of this amendment, but I think it is also necessary for us as members to reflect on a larger and broader perspective here. We were sent here from the election results last November not because people were satisfied with the way things were in Pennsylvania, but because they sought a change in the way that business was being conducted in this Commonwealth. Somehow along the way the litigation system not only within Pennsylvania but nationwide, but we are focused on Pennsylvania, has gotten off track. It is no longer an attempt to assess responsibility for the actions which one performed which led to an injury, but instead, it has turned into a lottery system where now we are going into a system of litigation with the idea that it does not matter if you did something which caused my particular injury, but if I can hold you accountable to the maximum degree, that is my end goal.

And the language of the bill that underlies our discussion here today seeks to restore balance to this legal system. The language of the Harper amendment, again with all due respect, reminds me of that discussion about if it looks like a duck and sounds like a duck and smells like a duck, it is a duck.

This would retain the current system. You will not measurably alter what is taking place in courtrooms throughout Pennsylvania by putting this in place. And I understand the idea of the Chinese manufacturer who somehow is held accountable, but, Mr. Speaker, you will not advance the interest of the plaintiff by somehow bankrupting the defendant who is here in Pennsylvania because you make them completely liable for the damages which are awarded. Only through proportional representation of the assignment of the damage awards to the amount of liability determined by the fact-finder will you restore the legal system to its rightful balance.

And I would urge the members to think very carefully, because voting "yes" on the Harper amendment will not help plaintiffs, it will not help the business community here in Pennsylvania, it will not answer our constituents' demands that change be implemented here from Harrisburg.

So I am urging the members to think very carefully. Look at the language of this amendment and realize that there is nothing here that changes the way the system is currently in effect. You will always have the situation in place, even under the Harper amendment language, where the deep-pocketed defendant

ultimately becomes liable. I think the gentelady herself and certainly the gentleman from Philadelphia just remarking before said that the ultimate goal here is to award the plaintiff still and make the defendant who has now had to pay the entire damage award, make that person go and seek contribution. While you have gone in the process of penalizing and potentially bankrupting that defendant, you have not helped this situation.

So I would urge the members to vote "no" on the Harper amendment. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the minority leader, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, I agree with the gentelady from Montgomery County that the state of the law in Pennsylvania, at least as it pertains to joint and several liability, is not broken. Today when we call and we mention that this is the Fair Share Act, that is disingenuous at best because what it is, is the wrongdoer protection act, and what we should be doing is looking out for victims after they have been damaged and they have suffered harm due to a negligent wrongdoer.

This is not about frivolous lawsuits. We have a situation in this case where people have been found, defendants have been found to be negligent, and because of their negligence, an innocent person has been injured and suffered damages, and they should be allowed to recover fully and be made whole through the joint and several liability system. It works. It has worked for 50 years. It is not broken. We should not be about and this is not about punishing victims, which is what HB 1 does.

Now, while I stand here today thinking we should keep the law as it is in place, I am for the Harper amendment, grudgingly so. It is a lesser of evils, and I urge our members to support it.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester, Mr. Hennessey.

Mr. HENNESSEY. Thank you, Mr. Speaker.

Mr. Speaker, as we have heard from prior speakers both this afternoon and on prior occasions when we debated this concept of joint and several liability and possibly reforming the current system, we have heard that the current system works on many occasions, if not most occasions, but I will readily agree that it does not always work in every situation. When it starts to break down is where we have a defendant who simply is unable to pay whatever the jury has said that he was supposed to pay. Whether he is bankrupt, whether he is uninsured, whether he is simply judgment-proof in one way or the other, he is simply unable to pay, and in those cases the system begins to fail, at least in that particular case.

When one of the defendants found negligent by a jury cannot pay and cannot be forced to pay by any kind of legal process, there is going to be unfairness. We cannot avoid that. The current system places that unfairness on and shares it among the other negligent defendants by the percentage allocated by the jury. HB 1 without the Harper amendment would place that burden of unfairness on innocent victims.

The Harper amendment makes HB 1 fairer to those victims. If we look at any jury's verdict, it comes in two parts; actually, it comes in many parts, but it can be boiled down to two. The jury says the plaintiff should be awarded a certain amount of money. As an example, I will say the jury says the plaintiff should be awarded \$100,000 and the jury says the defendants among them, however many there are that they find negligent, should share that \$100,000 on a percentage scale. Quite frankly, HB 1 ignores that part of the jury verdict that deals with the plaintiff and focuses solely on the other part of the verdict, assigning percentages of fault among negligent defendants, and it argues that it is unfair for any defendant to ever pay any more than his percentage assigned by the jury. It ignores the fact, part one of the jury verdict that says that the jury determines that the plaintiff is entitled to a certain dollar amount in order to compensate the plaintiff fairly or his family for the damages sustained by the plaintiff as the victim.

As I said, once one of the defendants is judgment-proof, there is going to be unfairness, and it is either going to be visited upon the plaintiff who is considered, basically, innocent or it is going to be placed on the shoulders of other defendants who have been found negligent by the jury. While some unfairness is inevitable, where we place that burden is not cast in stone. That is a public policy decision which we make, and it seems to me that the Harper amendment makes a more fair allocation of that burden and places it on the defendants found negligent by the jury rather than the victim.

It seems to me that that is the proper public policy approach, and I support the amendment. Thank you very much.

The SPEAKER. The Speaker thanks the gentleman.

The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Kampf.

Mr. KAMPF. Thank you, Mr. Speaker.

On the amendment?

The SPEAKER. On the amendment, the gentleman is in order.

Mr. KAMPF. Mr. Speaker, I rise to oppose the amendment of the gentelady from Montgomery County and just for a second to talk about the example that she spoke of. Before I came to the House in January, for the last 13 years I have been doing defense work in joint and several liability and strict liability cases, and I think I know something of how crafty the plaintiffs' bar in Pennsylvania is.

In her situation where the Chinese manufacturer cannot be hauled into Pennsylvania, the smart plaintiff's lawyer never sues the Chinese manufacturer, because Pennsylvania law says that that big-box store is 100 percent responsible for distributing that product, and the plaintiff's lawyer knows that it is incredibly expensive to use the international compacts to try to even get service on the Chinese company. Just ask the Chinese drywall people down in Florida who cannot get remuneration from the Chinese manufacturers of that drywall, and they have had to enlist the White House to use diplomatic power to do so. So I do not think that the gentelady's example would ever, ever be affected by the Fair Share Act, even under her own amendment.

I will say this: The Fair Share Act, the legislation from the gentleman from Chester County, is designed in the situation where the main wrongdoer, somebody who is 60 or 70 percent

liable but is bankrupt or judgment-proof, that the minor contributor – 10 percent, 5 percent – that that individual or that company is protected from having to pay the entire verdict. That is fair, and the unfairness is working out in the courts of Pennsylvania every day.

Let us just think of some examples. Under the gentelady's amendment, the Fair Share Act would protect these individuals. If the main wrongdoer were 90 percent responsible and the minor wrongdoer were 10 percent responsible, under the Fair Share Act, the 10 percent responsible would be protected. Under the gentelady's amendment, they would not. If the main wrongdoer were 80 percent responsible and the minor wrongdoer were 20 percent responsible, under the Fair Share Act, that minor wrongdoer would be protected. Under the gentelady's amendment, they would not. Even in the situation where the major wrongdoer is 80 percent responsible and the minor wrongdoer is 11 percent responsible and the plaintiff is 9 percent responsible, under the Fair Share Act, they get protection, but under the gentelady's amendment, they would not. And finally, maybe the most egregious, under the gentelady's amendment if the main wrongdoer who is judgment-proof is 99 percent responsible and the other defendant is 1 percent responsible, you get no protection under the gentelady's amendment.

For those reasons I oppose the amendment and urge my colleagues to follow suit.

The SPEAKER. The Speaker thanks the gentleman.

The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, the minority whip, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, I urge support for the Harper amendment.

We keep talking about fairness, and let us really try and boil this down. The amendment first clarifies that a plaintiff found more than 50 percent responsible for their injuries cannot recover. That is fair.

Secondly, the amendment abolishes current law for any defendant whose liability is less than the plaintiff. Again, fairness. That defendant will never pay more than his or her share. Let me repeat that. The amendment then abolishes current law, which is what HB 1 talks about doing for everyone, the amendment abolishes current law for any defendant whose liability is less than the plaintiff. Again, this is fair. That defendant will never pay more than his or her share.

Finally, the amendment preserves current law for any defendant whose liability is greater than the plaintiff. Again, that is fair.

I urge you to look at this amendment. I applaud the lady from Montgomery County. I believe this is an excellent amendment, and it puts victims first, but it protects those defendants whose liability is less than the plaintiff.

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

The SPEAKER. The Speaker thanks the gentleman.

The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Cumberland County, Mr. Grell.

Mr. GRELL. Thank you, Mr. Speaker.

Will the gentelady stand for interrogation, please?

The SPEAKER. The lady indicates she will stand for interrogation. The member may proceed.

Mr. GRELL. Thank you, Mr. Speaker.

I believe in the debate you have stated twice that in most cases, except in medical malpractice cases where the plaintiff is unconscious, the plaintiff is found at least partially liable. Do you have any data at all to support that assertion?

Ms. HARPER. I was actually responding to the statistic given by the gentleman from Chester County, who was relating that in medical malpractice cases, an unusually high number of plaintiffs are not found responsible, which I think is easily understood by the facts which underlie most medical malpractice cases.

Mr. GRELL. But aside from the medical malpractice arena, I believe your statement was that in most cases plaintiffs are found at least partially liable. If I misheard you say that twice, correct me.

Ms. HARPER. No. That is true.

Mr. GRELL. Do you have any data to support that?

Ms. HARPER. I do not have hard data on that. I know that to be true.

Mr. GRELL. Okay.

Mr. Speaker, on the amendment? That concludes the interrogation. On the amendment?

The SPEAKER. The gentleman is in order on the amendment.

Mr. GRELL. Thank you, Mr. Speaker.

The gentelady from Montgomery certainly makes a very persuasive case for all of us to buy American-made products. Beyond that, however, on the amendment itself, I think it falls short for making any real reform for reasons that many other members have touched upon. There is no real data to support how many instances this comparative negligence new standard would come into play.

Part of the premise to the gentelady's argument is that this amendment and this legislation has nothing to do with ending frivolous lawsuits. The minority leader also made the same assertion. I would argue to the contrary that this has everything to do with ending or eliminating or reducing frivolous lawsuits.

There are many, many egregious examples of plaintiffs' attorneys dragging in everybody they can possibly bring into a lawsuit in hopes of being able to find that defendant 1 percent liable, knowing that because of the way joint and several liability works, that even a 1-percent liable defendant could be responsible for the entire judgment. As long as we have joint and several liability in its current state, those types of lawsuits will continue, and I urge rejection of the amendment for that reason.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Berks, Mr. Caltagirone.

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

To comment on the amendment; to comment on the amendment, Mr. Speaker.

The SPEAKER. The Speaker apologizes. He was distracted. Would you repeat the comment?

Mr. CALTAGIRONE. I just want to make some remarks on the amendment.

The SPEAKER. The gentleman is in order.

Mr. CALTAGIRONE. Mr. Speaker, I have worked with the gentelady from Montgomery County for a number of years on Judiciary. I have always found her to be articulate, hardworking,

and very knowledgeable about the issues that she has brought before the Judiciary Committee. I believe that even more so today. She is on target with the amendment. This is about as good as it can get. I do not know if we are going to win this or lose this amendment, but I do not think this issue is going to go away.

And I will just conclude by saying I think it is in our best interest to give her an affirmative vote and get on with the business here of today. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Neuman.

Mr. NEUMAN. Thank you, Mr. Speaker.

I would like to have a brief interrogation of the maker of the amendment, please.

The SPEAKER. The maker of the amendment indicates she will stand for interrogation. The member may proceed.

Mr. NEUMAN. Mr. Speaker, do you know what the Medicaid reimbursements are that arise out of lawsuits?

Ms. HARPER. Mr. Speaker, I do not have the exact number of Medicaid reimbursements. However, the gentleman raises an important point that Medicaid is reimbursed from the plaintiff's recovery in a personal injury lawsuit. In addition, the workers' compensation insurers are reimbursed, or the workers' compensation insurance fund is reimbursed. It is called subrogation. It is very complicated, but it is a good point that if the plaintiff does not recover fully for the plaintiff's injuries, then those who are subrogated do not recover either. In other words, Medicaid would not recover fully, workers' comp would not recover fully, and anybody who has already made payments, like DPW (Department of Public Welfare), would not recover fully if the plaintiff does not recover fully.

Mr. NEUMAN. So, for instance, Mr. Speaker, if a plaintiff had \$80,000 in medical expenses, if this passes, if HB 1 passes as is and the plaintiff is left insolvent, who ends up paying that \$80,000 lien?

Ms. HARPER. Mr. Speaker, it would obviously be the taxpayers of the Commonwealth of Pennsylvania that has to shoulder that burden. If the wrongdoing party or those who act in concert with the wrongdoing party do not make the victim whole and in so doing make DPW and workers' comp whole, it would be the Commonwealth's own taxpayers.

Mr. NEUMAN. So the State stands to miss out on millions of dollars, potentially millions of dollars in reimbursements if HB 1 is passed as is?

Ms. HARPER. I would agree with the gentleman's assertion, Mr. Speaker.

Mr. NEUMAN. Thank you, Mr. Speaker.

On the amendment, please.

The SPEAKER. The gentleman is in order on the amendment.

Mr. NEUMAN. Mr. Speaker, we have heard a lot of arguments today, and the argument that I first want to address is from the gentleman from Lancaster County, who actually proved that our legal system works. He was named in a case. Through our discovery process, we do not know if you are liable or not liable until we get documentation. He was involved in a situation where a plaintiff was injured. The plaintiff came and said and named the parties that potentially were liable. Through our great discovery process, he was able to produce documentation that he was not liable. So they dismissed him

from the lawsuit. They knew from the beginning – there is no joke – they knew from the beginning he did not have deep pockets, but he was still named.

Also, the facts that were deciphered from the gentleman from Lancaster County only dealt with medical malpractice cases. Now, I know that is the only documentation he had, but I can guarantee you that is a small number of cases that are filed in the State of Pennsylvania, and there are a great number of cases – there is no documentation; I cannot show you the numbers – but 302 cases, or I do not know the exact number he stated, that is a ridiculously low number of cases that are filed in Pennsylvania, and it is a bad example of what lawsuits are like in Pennsylvania.

This amendment, we have heard a lot of hypotheticals. Let me give you a real-life example. Six mentally handicapped adults in Westmoreland County were sexually assaulted for a period of 6 years on a school bus that took them to work by their busdriver; six mentally handicapped adults for 6 years. That busdriver technically did the intentional tort, assaulted those mentally handicapped adults, but that bus company was negligent in hiring, negligent in not having oversight on the bus, negligent in not having cameras. They were below the standard of care when it came to these adult mentally handicapped individuals. If HB 1 passes without the Harper amendment, we stand to allow not only the perpetrator off, because he is insolvent, but also the bus company. If you can tell me how that is fair, I would like to hear it.

Yesterday we stood up and applauded victims of hit-and-run accidents. We stood up and applauded. If HB 1 is passed the way it is written now without the Harper amendment, those victims, potentially, could go uncompensated. These are real victims. These are not 10 percent, 90 percent. They are not these examples. These are real victims.

It is hard for me to stand up here and tell you that there does not have to be some sort of reform. The Harper amendment is reasonable reform that protects victims and also protects against defendants that should not have to pay their fair share. We have to look, Mr. Speaker, at who is positioned to take on the burden. Is it the person that is injured, the victim? Are they positioned to take on the burden and lose potentially hundreds of thousands of dollars because they may not be able to work again and become insolvent to the State, or is it more fair for the defendants to subrogate themselves and determine how this can be paid?

Mr. Speaker, I would support the Harper amendment. It is great for Pennsylvania taxpayers. We could potentially lose millions and millions of dollars in reimbursements, and I think it is fair, reasonable reform that we need to vote "yes" on. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Westmoreland County, Mr. Krieger.

Mr. KRIEGER. Thank you, Mr. Speaker.

I would like to respond to one statement made by the previous speaker. He mentioned an example in Westmoreland County where there was an intentional tort, and as I read HB 1, it is an intentional tort. That would be an exception, and it would still provide for joint and several liability. So I do not think his characterization in that particular case was accurate.

With regard to the general statements that have been made today, I think we are all missing a real important point here. The other side and I think the base of this amendment makes an

assumption, and that is the tort system is designed to compensate victims, and the fact of the matter is, that is its secondary purpose. Its primary purpose is to assign fault and assign blame. Think of the social benefits of that and why this was wisely designed to look at the social benefit. We have the tort system that says, okay; you can take a look at what you are doing out there, you can know what your people are doing and you can insure against it. You can insure against what you can control. You cannot insure against what you cannot control.

The problem with a compensation-based system is this: We end up insuring against things that are unknown; cost increases.

There has been a lot of talk today about victims and the fact we want to protect against victims. There is also a victim in this process as it is designed now, and that is, all the folks out there that pay for the products that are made by corporations that manufacture in this State and that pay the additional costs that are incumbent on all of us because of the social system we have designed. I think we need to remember those folks, the taxpayers in this Commonwealth, the folks that are paying the additional cost because of the system we have designed, and I think we need to remember those folks also as we enter into this and finish this debate.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia, Mr. Cohen, for the second time.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman from Washington has made very important points about the fiscal liability to the Commonwealth of Pennsylvania of passing this legislation without the Harper amendment. I would hope that we would take into account the gentleman's points. We certainly are not in a position at this time to pass up on reimbursements to the Medicaid system or to the SWIF fund (State Workers' Insurance Fund) or to any other State agency which otherwise would be expending money.

I would say that the savings to the business community under this amendment will occur when suits are determined to be filed. The documentation that was supplied earlier about the number of past suits that would fit under this amendment only dealt with those suits that had already been determined and not those potential suits that had not been filed or those suits that that had been withdrawn before adjudication by a jury.

This amendment will deter frivolous suits. This amendment will save taxpayers' money. I strongly urge support of it.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Lehigh, Mr. Reichley, for the second time.

Mr. REICHLEY. Thank you, Mr. Speaker.

Again, I just want to make a brief point of clarification. The gentleman from the other side who spoke one before the gentleman from Philadelphia, I am not really sure who he is just because he is a new member and I apologize, but he made reference – Neuman. Thank you. Okay; I do not want to refer to him by name. The reference he made to the situation of the six mentally challenged people being sexually assaulted, those people of somehow being placed in jeopardy by passage of this, I would refer the gentleman and all members, all members to the language of the Schroder bill, HB 1, page 4, beginning at line 21: "A defendant's liability in any of the following actions shall be joint and several, and the court shall enter a joint and several judgment in favor of the plaintiff and against the

defendant for the total dollar amount awarded as damages...." Going down to the second line at line 27, "An intentional tort....," such as the one described by the gentleman.

Now, refer back over to the amendment language. Line 26 of the Harper amendment strikes out that language. So the very provision in the Schroder bill which would have protected those young people and entitled them to full recovery is taken out by the Harper amendment.

So consider that, please, as you are looking at this language and vote "no" on this amendment. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Philadelphia County, Mr. McGeehan.

Mr. MCGEEHAN. Thank you very much, Mr. Speaker, and I am going to speak on the Harper amendment, if I may.

I was very moved by the comments of the gentleman from Washington and the case he related in his district where the young people on the bus were abused by the busdriver and the negligence of the company to do a proper and adequate background check.

I rise to support the Harper amendment because it is important to deal with a case like the gentleman's example in Washington County. Mr. Speaker, I come from the city of Philadelphia, and we have an issue that, frankly, is based on two grand jury reports, where the second grand jury report was just released some weeks ago in dealing with the criminal and morally repugnant actions of Catholic priests within the Archdiocese of Philadelphia. Under the Harper amendment— And let me lay out a scenario that is happening in real life right now, and I am going to have an amendment later that will address this particular issue and this example I am about to give. Under this scenario, the priest, and there were a number of priests who routinely, over decades, abused the young people they had entrusted to them. Those priests, with the knowledge of high-ranking officials within the Archdiocese of Philadelphia, were transferred from school to school to school, and the perpetration of the abuse on hundreds of young people resulted in the wreckage, the wreckage of their lives.

If this bill passes without the Harper amendment, those people can go into court to help them pay for their psychological treatment, their substance abuse directly related to the sexual abuse that they endured. They will not be compensated, because do you know why, Mr. Speaker? Many of these priests have taken a vow of poverty, and there is nothing to get from these priests. In the example in the Archdiocese of Philadelphia, the administration, the church itself, was knowingly facilitating the abuse.

If this bill passes without the Harper amendment, we are thumbing our noses at the victims. We are telling them their abuse, the crimes perpetrated against them do not matter, and there are no consequences for these morally and criminally depraved individuals.

We have a moral obligation in this House. The greatest obligation we have as legislators is to stand up for the innocent. If this bill passes without the Harper amendment or the amendment I am going to offer later, we have failed in our duty as legislators and we are just as guilty in perpetrating these crimes.

Mr. Speaker, I urge an affirmative vote for the Harper amendment.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Washington County, Mr. Neuman, for the second time.

Mr. NEUMAN. Thank you, Mr. Speaker.

My name is Brandon Neuman, by the way. I am from Washington County, 48th District, North Strabane.

But just to respond, if you are going to interpret that language in which one of the previous speakers said, every medical malpractice suit is an intentional tort. Do you understand that? The basis of a medical malpractice suit is an intentional tort. So you do not help doctors at all with this bill if you are going to interpret it as broad as what was explained to me on the floor. Everybody that is involved in that suit, including the doctor, will be severally and jointly held responsible and half the 1 percent, as you are saying, is going to have to pay 100 percent of the bill. So if you are going to interpret it that way, that is fine, but the Harper amendment is reasonable. And if you interpret it the other way, which I think you want to, the more narrow way, the Harper amendment will allow the victims and everybody else their fair share.

Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Berks County, Mr. Caltagirone, for the second time.

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

Just to elucidate the situation with the public schools with this piece of legislation, we have been doing some tracking of teachers that have created those sexual offenses which were alluded to previously, and they are protected by sovereign immunity, and I want that put on the record.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Kortz.

Mr. KORTZ. Thank you, Mr. Speaker.

I rise in support of the Harper amendment, and I want to commend the gentlelady from Montgomery County. I want to thank all my colleagues for this great debate this afternoon because it has been an eye-opener. I want to commend the gentleman from Washington County and also the Speaker from Philadelphia for their excellent viewpoints.

I think what is important to try to bring us to the bottom line is we have victims. There has been a crime; there has been a perpetration. They have been hurt somehow, and if we do not compensate these victims, they have been victimized the second time. That is what we are doing if we do not put this amendment into play. We are going to allow victims, such as these young men from Philadelphia, to be victimized a second time. I do not think we want to do that. I think that is far from what we want to do here in the General Assembly.

So I would ask everybody to reconsider how they look at this and remember that the victims do need compensated. We just cannot say no to that.

One last point, Mr. Speaker. In cases where somebody is injured and they may be in a wheelchair – a quadriplegic, paraplegic – if for some reason we do not hold someone accountable, then the taxpayers of Pennsylvania are going to pick up that tab. That is who is going to get stuck with that, Mr. Speaker. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

Does the gentlelady, Mrs. Swanger, seek recognition on the amendment? The lady may proceed.

Mrs. SWANGER. Thank you, Mr. Speaker.

Just one comment. That is what insurance is for, to compensate victims.

But with all due respect to my colleague from Montgomery County, I will vote against her amendment.

It has been proven in other States that tort reform has resulted in jobs. New companies have located into States such as North Carolina and Texas because they have adopted tort reform. So the bottom line is, I will oppose this amendment and all the other amendments that were filed, because HB 1 is, in my mind, about jobs, it is about jobs, it is about jobs. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the lady from Montgomery County, Ms. Harper, for the second time.

Ms. HARPER. Thank you, Mr. Speaker.

Am I the last speaker?

The SPEAKER. The majority leader has indicated he would also like to speak.

Ms. HARPER. He may go first, if he wishes, Mr. Speaker.

The SPEAKER. I think he was deferring to you.

Ms. HARPER. Thank you very much, and thank you, Mr. Speaker, for the full and fair debate we have had this afternoon on my amendment to the fair share bill.

Fair share. What exactly is fair? We have had joint and several liability in Pennsylvania for a couple hundred years, even longer in England. Now, a few years before that we thought it was fair to take an eye for an eye and a tooth for a tooth. So if I did something that caused you to lose the sight in one eye, you could come over here and put my eye out. After a while we decided that was not a good way to handle things. So we came up with the tort system.

And I have heard a lot about the tort system and its failings, and it is by no means, by no means perfect. That is why my amendment proposes a small revision to our tort system, but make no mistake about it, the tort system itself is way better than an eye for an eye and a tooth for a tooth by providing a fair court process for determining how to compensate wrongs. It also has the salutary effect of guiding our human behavior. Fences are put up around quarries because quarry owners are afraid someone will fall and sue them. Shoddy manufactured products from China are not imported at all because someone fears that they may be sued for putting them in the stream of commerce.

There are problems with the tort system, and there are cases where the act of being sued is uncomfortable. I understand that. As a township supervisor myself, I was sued twice. I hated it, but I understand that the process needs to work.

What I am proposing in my amendment is a modification of fair share, modification of joint and several liability in order to provide a somewhat more fair way of dealing with things. Let us be honest. It is not fair to leave a victim uncompensated any more than it is fair to make someone who is less responsible than the victim for the harm to pay all of it. I get that.

Getting rid of joint and several liability, which is what HB 1 proposes without my amendment, is not fair. It carries a nice name, but it is not a fair way to handle accident and injury

victims. We should follow the model we have been following, which is comparative negligence, where we let a jury determine responsibility for an injury, assign percentages, and then compensate the victim accordingly. When the victim cannot be compensated completely because one wrongdoer cannot or will not, the other wrongdoers who acted in concert to cause the injury are responsible, and it is good for the victim and it is good for society that people worry about being responsible for joining with others and causing harm. It leads to a safer, better society, and it is far better than an eye for an eye and a tooth for a tooth.

Please vote for my amendment. It is a rational, reasonable fix to the joint and several liability law that currently exists in Pennsylvania and has existed in Pennsylvania for hundreds of years.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the lady.

The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the majority leader, Mr. Turzai.

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

Without question, our civil litigation system needs significant commonsense reform. People are tired of having decisions second-guessed in a court of law, and people are tired of having to spend significant dollars defending baseless suits and spending numerous hours in depositions and gathering documents. They are tired of being subjected to the stresses of litigation.

This amendment, essentially, eviscerates the negotiated reform of joint liability. It eviscerates it in the sense that it basically, by adopting this amendment, makes the reform, the underlying reform, inapplicable.

The expansion of the doctrine of joint and several liability, to respond to the maker's points, is one of the tools used in today's litigation environment that in fact fosters lawsuit abuse. The origins of joint and several, I would offer, are different than set forth in the previous maker's remarks.

The doctrine in joint and several liability has actually expanded significantly once it was imported from the common law in England. It is far different today than when it was originally established. Joint and several liability initially applied at common law to shared torts, situations where multiple tortfeasors injured a plaintiff by acting in concert or breaching a common duty. No joinder of parties was allowed if the parties did not act in concert. The rule, however, was expanded to concurrent torts, or torts where independent torts occur at the same time to inflict an injury.

According to a 1994 Wisconsin Law Review article, "...joint and several liability" is "the 'deep-pocket theory' because it encourages plaintiffs to seek out defendants of minimal [if any] culpability but maximum financial ability and" then "add them to the suit to bankroll the expected judgment."

According to a 1987 Dickinson Law Review article, "The rule of joint and several liability has the effect of singling out...industries," hospitals," and professionals. These are the deep pockets that are most likely to have the resources to satisfy a...damage award." Plaintiffs' attorneys regularly pull in anyone remotely connected to a case, particularly a defendant with a lot of money, and if the plaintiff can prove that person is even 1 percent at fault, the defendant could be forced to pay that total judgment.

Let us be honest. Joint liability reform is about defendant versus defendant versus defendant and about the tort system that penalizes parties brought in as defendants. It is not about the plaintiff's relationship with the defendant. By putting forth an amendment, it sounds nice, but the whole goal of the Greenleaf amendment, as offered here, is to eviscerate or make the joint liability reform null and void. That is the point.

Opponents argue that there is somehow an urban myth. In practice, let me assure you, it is not. Any attorney involved in civil litigation from the plaintiff or defense side, if talking honestly to you, can tell you exactly how the doctrine works day to day in litigation. A judge calls a settlement conference and eyes up each of the attorneys. He asks each of them not one but two questions in determining how to fashion a settlement: What is your potential liability, and what is the likelihood that the plaintiff can collect from you? How much money do you have? The harder it is to get money from a defendant, the lower the amount typically paid by that defendant in settlement, but the easier to go against the deep pocket, the more the party will look at to be paid a settlement amount even if his, her, or its liability is minimal. That is the way the system is played, and no one questions it from within.

As a legal scholar has noted, there is a high level of unpredictability in the court system that is compounded by joint and several liability. Cases routinely go to juries on thin evidence and tenuous theories of liability, and juries are not effectively policed and tend to assess minimal liability as a matter of course. If you are in the suit, I am going to give you a percentage. No actual liability becomes a nominal 10 percent liability in the eyes of a jury, that in turn becomes 100 percent responsibility for damages under this joint liability. Inflated settlements absolutely occur as a matter of course because of that unpredictability.

As my colleague from Westmoreland County indicated, the tort system we have in place is designed to deter negligent action. In joint liability what occurs is you are picking up risk for somebody else's negligent actions or omissions that you cannot predict. It is not fair. You should be able to control your negligent actions or omissions and be held responsible for them, not another defendant's. As I said, this is about defendant-defendant not plaintiff-defendant. And keep in mind, keep in mind, as a Cornell Law Review article put it, "It is a sense of injustice that activates the tort process." Corrective justice is individualized, and it is bound to promote a system of deterrence. Joint liability does not do that. It promotes social insurance, and that is not what our tort theory is based upon.

We went with a compromise, Mr. Speaker. We went with a compromise that other States have enacted. We said if you are up to 60 percent as a defendant, then you should only be responsible for your share. If you are 60 percent or above, then you can be found for the whole 100 percent. As I said, this amendment eviscerates that compromise in this negotiated reform. We are behind other States in enacting that. Both New Jersey and New York have similar liability reforms on joint liability, and many States actually have eliminated joint liability in total. Keep in mind that Pennsylvania enacted comparative negligence in 1978, and in 1978, guess what? We abrogated common law; we abrogated it. And when we abrogated it, we said that we are going to apportion amongst the defendants what their liability is.

Now, I will tell you in the decision that addressed that statute that upheld it, the Chief Justice said, look, I think the legislature – he chastised the legislature for not eliminating joint and several liability, as other States did, when it enacted the comparative negligence statute in 1978. He said, "It is not for this Court, but rather for the legislature, to re-examine this language if unfortunate results such as this are to be avoided in the future." This is a Supreme Court Chief Justice from the other side of the aisle's party. We are doing that here today with the underlying bill. If we pass the amendment, we eviscerate that.

The fact of the matter is, many of us had voted upon the underlying bill in 2002 and in 2006. Significant numbers of the other side's leadership voted for the exact language of the underlying bill, for the exact language of the underlying bill; five of those members on both the 2002 vote and 2006 vote. I think these are good people. There are policy differences. We have twice understood what the underlying bill is and we understood the compromise at play. We purposely adopted a compromise from New York and New Jersey, and this amendment eviscerates that.

I must end on this note. I think that the discussion today and the debate today has been very civil and very rational. The only line of debate, I must say, and I do take some offense and I apologize, was the gentleman from Philadelphia. To intimate that somehow we are criminal or guilty by being against this amendment or for the underlying bill is not fair. I do not think it was true back in 2002 or 2006 when members of the other side voted for the underlying bill, and I do not think that is true today. I do not think that is a right allegation, and I do not appreciate the hyperbole. There can be significant policy decisions, but the underlying bill has the exact same language that was passed into law in 2002 and 2006 with votes from both sides of the aisle. That is just the case, and I do not feel like I am a criminal or I am guilty by voting against this amendment or being for the underlying bill. It is a very, very legitimate reform, and many people have sided with us not only in this State but in many, many other jurisdictions. In fact, over 80—

Mr. DERMODY. Mr. Speaker, please—

Mr. TURZAI. —over 80 percent—

Mr. DERMODY. —if we let the speaker go— We are not speaking on the amendment.

The SPEAKER. The gentleman will suspend. The gentleman will suspend. The gentleman will suspend.

POINT OF ORDER

The SPEAKER. For what purpose does the gentleman, Mr. Dermody, rise?

Mr. DERMODY. For a point of order, Mr. Speaker.

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

Mr. DERMODY. Mr. Speaker, the debate is to be on the amendment. I understand some leeway is allowed, but we have gone way beyond this amendment, and I ask the Speaker to direct the current speaker to direct the remarks to the amendment, please.

Mr. TURZAI. Thank you.

The SPEAKER. The Speaker thanks the gentleman and would ask the speaker to maintain his points towards the amendment.

The gentleman is still in order and may proceed.

Mr. TURZAI. Yes, Mr. Speaker.

I would ask that everybody please vote against the amendment and then ultimately support the underlying bill. Thank you.

The SPEAKER. For what purpose does the gentleman, Mr. Sturla, rise?

Mr. STURLA. To be recognized on the amendment.

The SPEAKER. The gentleman would be in order. I would suggest that we try to get most of the members in place other than the maker of the amendment, the maker of the bill, and generally the leaders have a little extra discretion. But the gentleman is in order.

Mr. STURLA. I understand that, Mr. Speaker, and I had not planned on speaking, because usually the person that offers the amendment is afforded the opportunity to go last. But since she was not, I did not think I was violating any rule here, because it was obviously violated by the majority leader, if that was the case.

The SPEAKER. The gentleman will suspend.

There is no rule about who speaks last. It is simply a custom that is generally afforded, and the two floor leaders are generally given a little more leeway over the other members. But the gentleman is in order on the amendment.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is about the victims. It is about whether or not victims will have justice in the end. There has been some argument put forward here that this is really only about how the guilty divide up the liability and that that is all we really need to be concerned about. It is about one guilty party and another guilty party and figuring out who has the most liability among those guilty parties. The reality is, if you have been found liable, you are at least partially guilty. And so what the amendment tries to do is to protect the victim from those guilty parties in a reasonable, rational manner.

So I would suggest that if you have any credibility in terms of victims' rights, you look at this amendment seriously and vote "yes," and if all you are really concerned about is protecting guilty parties from another guilty party, then go ahead and vote "no." Thank you, Mr. Speaker.

The SPEAKER. For what purpose does the gentleman, Mr. Schroder, rise?

Mr. SCHRODER. To use my second time at the microphone on this amendment.

The SPEAKER. The Speaker would certainly have to recognize you for the second time and hope that we can try to abide by the customs in the future. But the gentleman is in order.

Mr. SCHRODER. I understand, Mr. Speaker, and I appreciate that. I was not going to get up but for the misguided remarks of the previous speaker.

First of all, let us get one thing straight. The concept of guilt has no place in an action in civil liability. It is not guilt. It is not anything that is close to the concept of guilt. And I take strong exception to the thought and the idea that only the plaintiff can be a victim in a civil lawsuit. Mr. Speaker, defendants have been victimized in civil lawsuits for years in this Commonwealth because of the doctrine of joint and several liability, and they will continue to be victimized under the Harper amendment, and that is why we should defeat the amendment. Thank you.

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

(Members proceeded to vote.)

LEAVE OF ABSENCE

Mr. HANNA. Mr. Speaker?

The SPEAKER. For what purpose does the gentleman seek recognition?

Mr. HANNA. To place the gentleman from Philadelphia, Mr. JOHNSON, on leave.

The SPEAKER. Without objection, the leave will be granted.

CONSIDERATION OF HB 1 CONTINUED

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

The following roll call was recorded:

YEAS—89

Barbin	DePasquale	Keller, W.	Petrarca
Bishop	Dermody	Kirkland	Preston
Boyle, B.	DeWeese	Kortz	Ravenstahl
Bradford	Donatucci	Kotik	Readshaw
Brennan	Fabrizio	Kula	Roebuck
Briggs	Frankel	Longiotti	Sabatina
Brown, V.	Freeman	Mahoney	Sainato
Brownlee	Galloway	Mann	Samuelson
Burns	George	Markosek	Santarsiero
Buxton	Gerber	Matzie	Santoni
Caltagirone	Gergely	McGeehan	Shapiro
Carroll	Gibbons	Mirabito	Smith, K.
Cohen	Goodman	Mullery	Smith, M.
Conklin	Haluska	Mundy	Staback
Costa, D.	Hanna	Murphy	Sturla
Costa, P.	Harhai	Myers	Thomas
Curry	Harkins	Neuman	Vitali
Daley	Harper	O'Brien, D.	Wagner
Davidson	Hennessey	O'Brien, M.	Waters
Davis	Hornaman	Parker	White
Deasy	Josephs	Pashinski	Williams
DeLissio	Kavulich	Payton	Youngblood
DeLuca			

NAYS—109

Adolph	Farry	Major	Roae
Aument	Fleck	Maloney	Rock
Baker	Gabler	Marshall	Ross
Barrar	Geist	Marsico	Saccone
Bear	Gillen	Masser	Saylor
Benninghoff	Gillespie	Metcalfe	Scavello
Bloom	Gingrich	Metzgar	Schroder
Boback	Godshall	Miccarelli	Simmons
Boyd	Grell	Micozzie	Sonney
Brooks	Grove	Millard	Stephens
Brown, R.	Hackett	Miller	Stern
Causar	Hahn	Milne	Stevenson
Christiana	Harhart	Moul	Swanger
Clymer	Harris	Murt	Tallman
Cox	Heffley	Mustio	Taylor
Creighton	Helm	O'Neill	Tobash
Culver	Hess	Oberlander	Toepel
Cutler	Hickernell	Payne	Toohil
Day	Hutchinson	Peifer	Truitt
Delozier	Kampf	Petri	Turzai
Denlinger	Kauffman	Pickett	Vereb
DiGirolamo	Keller, F.	Pyle	Vulakovich

Dunbar	Keller, M.K.	Quigley	Watson
Ellis	Killion	Quinn	Wheatley
Emrick	Knowles	Rapp	
Evankovich	Krieger	Reed	Smith, S.,
Evans, J.	Lawrence	Reese	Speaker
Everett	Maher	Reichley	

NOT VOTING—0

EXCUSED—5

Boyle, K.	Evans, D.	Johnson	Perry
Cruz			

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

The SPEAKER. The House will be at ease for a minute.

The House will come to order.

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

MOTION FOR PREVIOUS QUESTION

The SPEAKER. For what purpose does the gentleman, Mr. Killion, seek recognition?

Mr. KILLION. Thank you, Mr. Speaker. To make a motion.

The SPEAKER. The gentleman is in order.

Mr. KILLION. Mr. Speaker, we have been at this several hours, and we all can count and we have been watching the board. And my good friends on the Democrat side and my good friends on the Republican side I care about greatly. I would like to save us all a lot of time, and I would like to make a motion to move to the previous question.

Mr. DERMODY. Mr. Speaker? Mr. Speaker?

The SPEAKER. The gentleman, Mr. Killion—

Mr. DERMODY. Point of order, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Killion, moves the previous question on HB 1.

Those who support this motion will rise—

Mr. DERMODY. A point of order, Mr. Speaker.

I would like to make a motion to lay HB 1 on the table.

The SPEAKER. The gentleman has not been recognized.

Let me clarify that. The gentleman is out of order because we have not completed the acceptance of this motion.

The gentleman, Mr. Killion, moves the previous question on HB 1. Those who second this motion will rise and remain standing until their names are recorded. Twenty members are required.

Mr. DERMODY. A point of order, Mr. Speaker.

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

Mr. DERMODY. Mr. Speaker, I would like to make a motion to lay HB 1 on the table. Actually, I would like to make a motion, not a point of order. I would like to make a motion to lay HB 1 on the table.

The SPEAKER. The gentleman is not in order until we see if there are 20 seconds to this motion. This motion is in the process of being responded to.

POINT OF ORDER

Mr. DERMODY. Mr. Speaker, may I? A point of order, Mr. Speaker.

The SPEAKER. The gentleman may state his point of order.

Mr. DERMODY. I believe that a motion to lay a bill on the table takes precedence over a motion to move the question.

The SPEAKER. Would the gentleman come to the podium, just so we can clarify.

(Conference held at Speaker's podium.)

The SPEAKER. Will the members please take their seats.

Those who second this motion will rise and remain standing in their seats until their names are recorded. Twenty members are required.

Mr. Turzai; Mr. Adolph; Mr. Reed; Ms. Major; Mr. Saylor; Mr. Metcalfe; Mr. Causer; Mr. Pyle; Ms. Rapp; Mr. Millard; Mr. Miller; Mr. Maher; Mr. Fleck; Mr. Schroder; Mr. Moul; Mr. Barrar; Mr. Cox; Mr. Sonney; Mr. Grell; Mrs. Swanger; Mr. Keller; Mr. Grove.

The motion for the previous question has been made and seconded.

MOTION TO TABLE

Mr. DERMODY. Mr. Speaker?

The SPEAKER. For what purpose does the gentleman rise?

Mr. DERMODY. I rise to make a motion, Mr. Speaker.

The SPEAKER. The gentleman may state his motion.

Mr. DERMODY. The motion is to lay HB 1 on the table.

The SPEAKER. The question to table takes priority over a motion to move the previous question.

The question before the House is, shall HB 1 be tabled?

On the question,

Will the House agree to the motion?

The SPEAKER. Would the gentleman like to seek recognition on debate on that motion?

Mr. DERMODY. Yes, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. DERMODY. Mr. Speaker, we are here today in one of the most important questions this legislature will face in this session. We have been here a long time, there is no question, and we need to be here longer. We have several important substantive amendments that should be heard, that should be debated. They are amendments that will protect senior citizens, that will protect victims of sexual abuse, among several others. It is outrageous that we would cut off debate in the middle of this important debate on this legislation at this point in time. The debate on these amendments ought to be heard, and we want to lay this bill on the table until we have the opportunity to debate these amendments, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

The Speaker recognizes the majority leader, Mr. Turzai.

Mr. TURZAI. Thank you very much.

The motion to lay on the table, we are opposed to that motion. The fact of the matter is, a Judiciary Committee informational meeting was held on the underlying bill, and both sides of the issue were certainly represented at the good

chairman from Dauphin County's hearing. There was agreement with the chairman, the Democratic chair from Berks County, to have that hearing, and it certainly vetted out all of the issues that are in play.

In addition, this exact language has been before the House of Representatives in 2002 and 2006 and has been significantly discussed in the public forum for many years. The fact of the matter is, on the amendment that was just placed into debate, there was significant debate, and all of the issues that really are underlying the differences in policy between those that are in favor of joint liability and those that are against joint liability were certainly raised. No one did not have an opportunity with respect to that particular amendment to raise the policy difference that arose from the joint liability reform debate.

Sir, I would ask that everybody vote against the motion to lay on the table so that we can proceed with our work here today in voting on the motion to move the previous question. Thank you.

The SPEAKER. For the information of the members, a motion to table is debatable by the maker of the motion, by the maker of the bill that would be the subject of the motion, and by the two floor leaders.

Yes, Mr. Dermody, that would mean it is you.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, this may have been debated here on the floor of the House back – what was it? – in 2004 or 2006. Half the members who are in this General Assembly right now were not here then. They have never been part of this debate. They ought to be part of this debate. It is wrong to shut us off and to stop debate on these most important amendments by a motion to move the previous question. Frankly, it is outrageous conduct.

And as I understand it, the witnesses that were available at the Judiciary Committee, I mean, several witnesses were not called at the Judiciary Committee hearing on these issues that were asked to be called. So now is the time for us to hear from those folks. Now is the time to hear from our members on these issues and to let us debate the amendments that are on this bill. It is the right thing to do, Mr. Speaker.

Please vote in favor of this amendment and give you all a chance to discuss these issues. Thank you, Mr. Speaker.

The SPEAKER. The question before the House is, shall HB 1 be laid on the table? Does the majority leader seek recognition?

Mr. TURZAI. Yes, sir.

The SPEAKER. The gentleman is in order, on the motion to table.

Mr. TURZAI. I just want to please put on the record, having spoken with the good chair of the Judiciary Committee from Dauphin County, that the statement about witnesses were not called is inaccurate, that all witnesses were in fact called and that it was a full and debated hearing on the issue of joint liability reform.

Thank you, sir.

The SPEAKER. The question before the House is, shall HB 1 be laid on the table? Those in favor of tabling HB 1 will vote "yes," will vote "aye"; those opposed to tabling HB 1 will vote "no."

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—89

Barbin	DePasquale	Kirkland	Preston
Bishop	Dermody	Kortz	Ravenstahl
Boyle, B.	DeWeese	Kotik	Readshaw
Bradford	Donatucci	Kula	Roebuck
Brennan	Fabrizio	Longietti	Sabatina
Briggs	Frankel	Mahoney	Sainato
Brown, V.	Freeman	Mann	Samuelson
Brownlee	Galloway	Markosek	Santarsiero
Burns	George	Matzie	Santoni
Buxton	Gerber	McGeehan	Shapiro
Caltagirone	Gergely	Mirabito	Smith, K.
Carroll	Gibbons	Mullery	Smith, M.
Cohen	Goodman	Mundy	Staback
Conklin	Haluska	Murphy	Sturla
Costa, D.	Hanna	Myers	Thomas
Costa, P.	Harhai	Neuman	Vitali
Curry	Harkins	O'Brien, D.	Wagner
Daley	Harper	O'Brien, M.	Waters
Davidson	Hornaman	Parker	Wheatley
Davis	Josephs	Pashinski	White
Deasy	Kavulich	Payton	Williams
DeLissio	Keller, W.	Petrarca	Youngblood
DeLuca			

NAYS—109

Adolph	Farry	Maher	Reichley
Aument	Fleck	Major	Roae
Baker	Gabler	Maloney	Rock
Barrar	Geist	Marshall	Ross
Bear	Gillen	Marsico	Saccone
Benninghoff	Gillespie	Masser	Saylor
Bloom	Gingrich	Metcalf	Scavello
Boback	Godshall	Metzgar	Schroder
Boyd	Grell	Miccarelli	Simmons
Brooks	Grove	Micozzie	Sonney
Brown, R.	Hackett	Millard	Stephens
Causar	Hahn	Miller	Stern
Christiana	Harhart	Milne	Stevenson
Clymer	Harris	Moul	Swanger
Cox	Heffley	Murt	Tallman
Creighton	Helm	Mustio	Taylor
Culver	Hennessey	O'Neill	Tobash
Cutler	Hess	Oberlander	Toepel
Day	Hickernell	Payne	Toohil
Delozier	Hutchinson	Peifer	Truitt
Denlinger	Kampf	Petri	Turzai
DiGirolamo	Kauffman	Pickett	Vereb
Dunbar	Keller, F.	Pyle	Vulakovich
Ellis	Keller, M.K.	Quigley	Watson
Emrick	Killion	Quinn	
Evankovich	Knowles	Rapp	Smith, S., Speaker
Evans, J.	Krieger	Reed	
Everett	Lawrence	Reese	

NOT VOTING—0

EXCUSED—5

Boyle, K.	Evans, D.	Johnson	Perry
Cruz			

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

The SPEAKER. The motion for the previous question having been made and seconded, those in favor of the motion to move the previous question will vote "aye"; those opposed will vote "no."

Mr. DERMODY. Mr. Speaker? Mr. Speaker?

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

(Members proceeded to vote.)

Mr. McGEEHAN. A point of order, Mr. Speaker. Mr. Speaker?

VOTE STRICKEN

The SPEAKER. The clerk will strike the vote.

MOTION TO ADJOURN

The SPEAKER. Who is seeking recognition? For what purpose does the gentleman rise?

Mr. McGEEHAN. I would like to make a motion, Mr. Speaker.

The SPEAKER. The gentleman will state his motion.

Mr. McGEEHAN. Thank you, Mr. Speaker.

Mr. Speaker, I am being denied the ability to offer a substantive amendment—

The SPEAKER. The gentleman will state his motion.

Mr. McGEEHAN. Thank you, Mr. Speaker.

Mr. Speaker, I move that this House adjourn.

Mr. Speaker, my constituents are denied the right—

The SPEAKER. The gentleman will suspend.

Would the gentleman like to stipulate as to when we would reconvene? A motion to adjourn until what time? When?

Mr. McGEEHAN. Mr. Speaker, Monday at 1 o'clock.

The SPEAKER. A motion has been made to adjourn this House until Monday, April 11, at 1 o'clock.

Those in favor of adjourning until Monday will vote "aye"; those opposed will vote "no."

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

The following roll call was recorded:

YEAS—88

Barbin	DeLuca	Kirkland	Preston
Bishop	DePasquale	Kortz	Ravenstahl
Boyle, B.	Dermody	Kotik	Readshaw
Bradford	DeWeese	Kula	Roebuck
Brennan	Donatucci	Longietti	Sabatina
Briggs	Fabrizio	Mahoney	Sainato
Brown, V.	Frankel	Mann	Samuelson
Brownlee	Freeman	Markosek	Santarsiero
Burns	Galloway	Matzie	Santoni
Buxton	George	McGeehan	Shapiro
Caltagirone	Gerber	Mirabito	Smith, K.
Carroll	Gergely	Mullery	Smith, M.
Cohen	Gibbons	Mundy	Staback

Conklin	Goodman	Murphy	Sturla
Costa, D.	Haluska	Myers	Thomas
Costa, P.	Hanna	Neuman	Vitali
Curry	Harhai	O'Brien, D.	Wagner
Daley	Harkins	O'Brien, M.	Waters
Davidson	Hornaman	Parker	Wheatley
Davis	Josephs	Pashinski	White
Deasy	Kavulich	Payton	Williams
DeLissio	Keller, W.	Petrarca	Youngblood

NAYS—110

Adolph	Farry	Lawrence	Reese
Aument	Fleck	Maher	Reichley
Baker	Gabler	Major	Roae
Barrar	Geist	Maloney	Rock
Bear	Gillen	Marshall	Ross
Benninghoff	Gillespie	Marsico	Saccone
Bloom	Gingrich	Masser	Saylor
Boback	Godshall	Metcalfe	Scavello
Boyd	Grell	Metzgar	Schroder
Brooks	Grove	Miccarelli	Simmons
Brown, R.	Hackett	Micozzie	Sonney
Causer	Hahn	Millard	Stephens
Christiana	Harhart	Miller	Stern
Clymer	Harper	Milne	Stevenson
Cox	Harris	Moul	Swanger
Creighton	Heffley	Murt	Tallman
Culver	Helm	Mustio	Taylor
Cutler	Hennessey	O'Neill	Tobash
Day	Hess	Oberlander	Toepel
Delozier	Hickernell	Payne	Toohil
Denlinger	Hutchinson	Peifer	Truitt
DiGirolamo	Kampf	Petri	Turzai
Dunbar	Kauffman	Pickett	Vereb
Ellis	Keller, F.	Pyle	Vulakovich
Emrick	Keller, M.K.	Quigley	Watson
Evankovich	Killion	Quinn	
Evans, J.	Knowles	Rapp	Smith, S.,
Everett	Krieger	Reed	Speaker

NOT VOTING—0

EXCUSED—5

Boyle, K.	Evans, D.	Johnson	Perry
Cruz			

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

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

The SPEAKER. The motion for the previous question having been made and seconded, those in favor of the motion for the previous question will vote "aye"; those opposed, "no." An "aye" vote is a vote to end all debate and bring the House to an immediate vote.

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

The following roll call was recorded:

YEAS—109

Adolph	Farry	Maher	Reichley
Aument	Fleck	Major	Roae
Baker	Gabler	Maloney	Rock
Barrar	Geist	Marshall	Ross
Bear	Gillen	Marsico	Saccone
Benninghoff	Gillespie	Masser	Saylor
Bloom	Gingrich	Metcalfe	Scavello
Boback	Godshall	Metzgar	Schroder
Boyd	Grell	Miccarelli	Simmons
Brooks	Grove	Micozzie	Sonney
Brown, R.	Hackett	Millard	Stephens
Causer	Hahn	Miller	Stern
Christiana	Harhart	Milne	Stevenson
Clymer	Harris	Moul	Swanger
Cox	Heffley	Murt	Tallman
Creighton	Helm	Mustio	Taylor
Culver	Hennessey	O'Neill	Tobash
Cutler	Hess	Oberlander	Toepel
Day	Hickernell	Payne	Toohil
Delozier	Hutchinson	Peifer	Truitt
Denlinger	Kampf	Petri	Turzai
DiGirolamo	Kauffman	Pickett	Vereb
Dunbar	Keller, F.	Pyle	Vulakovich
Ellis	Keller, M.K.	Quigley	Watson
Emrick	Killion	Quinn	
Evankovich	Knowles	Rapp	Smith, S.,
Evans, J.	Krieger	Reed	Speaker
Everett	Lawrence	Reese	

NAYS—89

Barbin	DePasquale	Kirkland	Preston
Bishop	Dermody	Kortz	Ravenstahl
Boyle, B.	DeWeese	Kotik	Readshaw
Bradford	Donatucci	Kula	Roebuck
Brennan	Fabrizio	Longietti	Sabatina
Briggs	Frankel	Mahoney	Sainato
Brown, V.	Freeman	Mann	Samuelson
Brownlee	Galloway	Markosek	Santarsiero
Burns	George	Matzie	Santoni
Buxton	Gerber	McGeehan	Shapiro
Caltagirone	Gergely	Mirabito	Smith, K.
Carroll	Gibbons	Mullery	Smith, M.
Cohen	Goodman	Mundy	Staback
Conklin	Haluska	Murphy	Sturla
Costa, D.	Hanna	Myers	Thomas
Costa, P.	Harhai	Neuman	Vitali
Curry	Harkins	O'Brien, D.	Wagner
Daley	Harper	O'Brien, M.	Waters
Davidson	Hornaman	Parker	Wheatley
Davis	Josephs	Pashinski	White
Deasy	Kavulich	Payton	Williams
DeLissio	Keller, W.	Petrarca	Youngblood
DeLuca			

NOT VOTING—0

EXCUSED—5

Boyle, K.	Evans, D.	Johnson	Perry
Cruz			

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

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

REMARKS SUBMITTED FOR THE RECORD

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

Mr. McGEEHAN. Thank you, Mr. Speaker.

Mr. Speaker, would it be appropriate for me to be recognized to ask that the House, to ask that remarks on my motion be submitted for the record?

The SPEAKER. The gentleman may submit his remarks for the record.

Mr. McGEEHAN. Thank you, Mr. Speaker.

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

Mr. Speaker, not being allowed to debate my amendment which was timely filed, I (and thereby my constituents) were denied a constitutional right to debate as is required by the Pennsylvania and U.S. Constitutions. Pennsylvania Constitution Article III ensures a vote on every order, resolution, or bill, to record that vote. Article I mandates that there be no interference with the free exercise of the right to vote.

The U.S. Constitution in the 14th Amendment confirms the right of due process of law. A motion to lay on the table and prevent my amendment from being properly debated was a direct violation of Article I, sections 2, 5, and 13; Article II, section 12; and Article III of the Pennsylvania Constitution.

This motion is a provision which disenfranchises my constituents and enables the majority to table my amendment without a debate and vote. The U.S. and Pennsylvania Constitutions provide at the very least that all pieces of legislation be fully debated and that all the "yeas" and "nays" be counted. This also violates HR 22, Session of 2007, specifically rules 27 and 28, as well as HR 1, Session of 2005, PN 113.

Thank you, Mr. Speaker.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 705, PN 719**, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, in county officers, further providing for enumeration of elected officers.

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

Mr. **FREEMAN** offered the following amendment No. **A00830**:

Amend Bill, page 1, lines 17 through 21; page 2, line 1, by striking out all of said lines on said pages and inserting

(f) The office of jury commissioner may be abolished by referendum at the option of each county whenever electors equal to at least five per centum of the highest vote cast for any office in the county at the last preceding general election shall file a petition with the county board of elections or the governing body of the county adopts, by a majority vote, a resolution to place such a question on the ballot and a copy of the resolution is filed with the county board of

elections for a referendum on the question of abolishing the office of jury commissioner. The referendum shall not take place in any year in which the office of jury commissioner is on the ballot. Proceedings under this subsection shall be in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." Upon approval of the referendum the office of jury commissioner shall expire at the completion of the current jury commissioners' terms of office.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, the lady from Lebanon and I are in general agreement on the aim of her legislation, which is to allow counties the option to abolish the office of jury commissioner. However, we go about it in a different way.

Under her legislation, that decision would rest solely with the county commissioners. They would be the ones to determine whether or not to abolish the office of jury commissioner. Under the amendment we have before you, my amendment, we would require a referendum by the voters to make that final determination. In this amendment, the commissioners would still be able to put the question on the ballot, but it would be the voters of that county which would ultimately decide whether or not to retain the office of jury commissioner or to abolish it.

Also contained within my amendment would be an option to allow the voters themselves to initiate that referendum process, thereby ensuring that if the county commissioners did not wish to act upon this issue, the voters could still bring the issue forward in a referendum.

Whenever we alter a form of government, it is always best to go back to the voters for their approval in that process. To deny them of the opportunity to weigh in on that decision means that in this case, we would leave that decision of whether or not to continue the office of jury commissioner ultimately in the hands of only two commissioners. That is a very arbitrary determination.

I agree with the lady's basic premise that the office of jury commissioner probably is, by and large, obsolete, but it has been brought to my attention many times in the times that we had discussed this issue, both in committee and through discussion with jury commissioners around the State, that there are jury commissioners who do do their job with due diligence and who do function in an appropriate way to fulfill their mandate as a county row office. I think it is best to leave that decision in the hands of the voter and not let two county commissioners make the decision for them.

I would note that when we dealt with this issue in the last session, the language of this amendment was contained in the lady's bill. So when we voted overwhelmingly to pass her bill, it was with this referendum requirement in that legislation.

If we believe as a body that the office of jury commissioner should be abolished, that it is antiquated, there is no need for it, why not just have legislation that would abolish it outright? But the underlying premise of this legislation and of my amendment is that we believe that decision should be left to the counties. The only difference is, in the original bill, that decision would reside with two commissioners. With my legislation, the voters

would weigh in, the jury commissioners would have the opportunity to make their case as to why they felt the office should continue, and through a voter referendum, the final issue would be decided.

I urge the members of this House to stand with the voters of their counties and allow them to make the ultimate decision on whether or not the office of jury commissioner should continue or whether in fact the voters believe it should be abolished. That is what they would do if they endorsed my amendment, and I urge a "yes" vote.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the lady, Mrs. Swanger, from Lebanon County.

Mrs. SWANGER. Thank you, Mr. Speaker.

With all due respect to my friend and colleague from Northampton County, I ask for a "no" vote on his amendment. If you recall, last session I introduced these bills two different ways, to allow the commissioners to have the option and also to allow the referendum. And if you also recall, the commissioner option was the one that was passed by the Senate. This is also the option that is very adamantly supported by the County Commissioners Association, and they have written me a reason that says while a referendum is appropriate for material changes in government, my bill does not materially change the structure of government. Therefore, they feel that the referendum option is not necessary.

Keep in mind that this is an unfunded mandate on counties. It costs our counties presently over \$700,000 a year, and in many, many counties, these positions are obsolete and not necessary. I think the county commissioners know what is best for their county. In these times of economic hardships, I hope you will support this cost-saving measure by voting "no" on the amendment. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Berks County, Mr. Gillen.

Mr. GILLEN. I appreciate the passion of my friend from Northampton County. I would recommend a "no" vote with regard to the amendment.

I was a county commissioner in Berks County, and if you will, we had a referendum on this issue in Berks County. The campaign was based on me running for the office to have it eliminated, and that voice received assent by an overwhelming victory. This body here legislatively eliminated the office that I ran for, and so at the conclusion of my jury commissioner term, the office was abolished in Berks County. And up until now, we have a savings of about a half million dollars, and over the course of the last 6 years in Berks County, we have not had to raise the property tax.

So I would encourage the defeat of this particular amendment. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the gentleman from York County, Mr. Saylor, is recognized.

Mr. SAYLOR. Thank you, Mr. Speaker.

I rise as well to support the gentelady from Lebanon County. The gentleman from Berks County made a great explanation of this would cost the county governments more money, and I think county commissioners throughout the State

have been very clear in their endorsement of Representative Swanger's bill as it is. So I would ask the members of this General Assembly to cast a "no" vote on the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Freeman, for the second time on the amendment.

Mr. FREEMAN. Thank you, Mr. Speaker. I will not speak long.

I just would urge my members to let the voters decide. That is what my amendment is all about. We should not have a decision on restructuring county government in the hands of two commissioners. It should be the voters who weigh in and decide.

So let the voters speak. Please vote for my amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—93

Barbin	Dermody	Kirkland	Readshaw
Benninghoff	DeWeese	Kortz	Reed
Bishop	Donatucci	Kotik	Reese
Boback	Emrick	Kula	Reichley
Boyle, B.	Fabrizio	Longietti	Roae
Bradford	Frankel	Maher	Roebuck
Brennan	Freeman	Mahoney	Sabatina
Briggs	Gabler	Mann	Sainato
Brooks	George	Markosek	Samuelson
Brown, V.	Gerber	Matzie	Santarsiero
Brownlee	Gergely	McGeehan	Shapiro
Buxton	Gibbons	Millard	Smith, K.
Causer	Godshall	Mirabito	Smith, M.
Cohen	Haluska	Myers	Staback
Conklin	Hanna	O'Brien, M.	Sturla
Costa, D.	Harhai	Parker	Thomas
Costa, P.	Harkins	Pashinski	Vitali
Curry	Hennessey	Payton	Wagner
Daley	Hornaman	Peifer	Waters
Davidson	Hutchinson	Petrarca	Wheatley
Davis	Josephs	Preston	White
Deasy	Kavulich	Rapp	Williams
DeLissio	Keller, W.	Ravenstahl	Youngblood
DeLuca			

NAYS—105

Adolph	Farry	Major	Rock
Aument	Fleck	Maloney	Ross
Baker	Galloway	Marshall	Saccone
Barrar	Geist	Marsico	Santoni
Bear	Gillen	Masser	Saylor
Bloom	Gillespie	Metcalfe	Scavello
Boyd	Gingrich	Metzgar	Schroder
Brown, R.	Goodman	Miccarelli	Simmons
Burns	Grell	Micozzie	Sonney
Caltagirone	Grove	Miller	Stephens
Carroll	Hackett	Milne	Stern
Christiana	Hahn	Moul	Stevenson
Clymer	Harhart	Mullery	Swanger
Cox	Harper	Mundy	Tallman
Creighton	Harris	Murphy	Taylor
Culver	Heffley	Murt	Tobash
Cutler	Helm	Mustio	Toepel
Day	Hess	Neuman	Toohil
Delozier	Hickernell	O'Brien, D.	Truitt

Denlinger	Kampf	O'Neill	Turzai
DePasquale	Kauffman	Oberlander	Vereb
DiGirolamo	Keller, F.	Payne	Vulakovich
Dunbar	Keller, M.K.	Petri	Watson
Ellis	Killion	Pickett	
Evankovich	Knowles	Pyle	Smith, S.,
Evans, J.	Krieger	Quigley	Speaker
Everett	Lawrence	Quinn	

NOT VOTING—0

EXCUSED—5

Boyle, K.	Evans, D.	Johnson	Perry
Cruz			

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

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

LEAVES OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman from Adams County, Mr. MOUL, and the gentleman from Berks County, Mr. COX. Without objection, the leaves will be granted.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 707, PN 721**, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for enumeration of elected officers.

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

Mr. **FREEMAN** offered the following amendment No. **A00829**:

Amend Bill, page 1, lines 12 through 17, by striking out all of said lines and inserting

(d) The office of jury commissioner may be abolished by referendum at the option of each county whenever electors equal to at least five per centum of the highest vote cast for any office in the county at the last preceding general election shall file a petition with the county board of elections or the governing body of the county adopts, by a majority vote, a resolution to place such a question on the ballot and a copy of the resolution is filed with the county board of elections for a referendum on the question of abolishing the office of jury commissioner. The referendum shall not take place in any year in which the office of jury commissioner is on the ballot. Proceedings under this subsection shall be in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." Upon approval of the referendum the office of jury commissioner shall expire at the completion of the current jury commissioners' terms of office.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman from Northampton, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker. I will not delay the House.

For all the reasons previously stated, I urge the members to let the voters make the decision on whether jury commissioners should continue in their county. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the lady from Lebanon County, Mrs. Swanger.

Mrs. SWANGER. Thank you, Mr. Speaker.

And for all the reasons that I stated on the last bill, I urge a "no" vote on this amendment. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, a point of clarification.

I just want to make sure that I am not in some time warp somewhere. We are debating whether or not to eliminate the jury commissioner's position, and in order to do that, we called the previous question on whether or not to end debate on whether or not people who had been sexually abused could find redress in the courts?

The SPEAKER. Was that a parliamentary inquiry?

Mr. STURLA. Yes.

The SPEAKER. The gentleman was recognized to debate the amendment that is before us. I did not hear him indicate he wanted a parliamentary inquiry. Would he like to clarify what—

Mr. STURLA. Thank you, Mr. Speaker. I just want to clarify that we are doing a bill about whether or not to eliminate—

The SPEAKER. The gentleman will suspend.

Mr. STURLA. Thank you.

The SPEAKER. The gentleman has been recognized for the purpose of debating the amendment.

Mr. STURLA. Thank you, Mr. Speaker.

I have no comments on this. I just wanted to make sure this was actually what we were doing instead of what we had been doing previously.

Mr. SAYLOR. Mr. Speaker?

The SPEAKER. The question is, will the House agree to the amendment?

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

(Members proceeded to vote.)

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman from Delaware County, Mr. MICOZZIE. Without objection, leave will be granted.

CONSIDERATION OF HB 707 CONTINUED

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

The following roll call was recorded:

YEAS—93

Barbin	DePasquale	Kirkland	Reed
Bishop	Dermody	Kortz	Reese
Boback	DeWeese	Kotik	Reichley
Boyle, B.	Donatucci	Kula	Roae
Bradford	Emrick	Longietti	Roebuck
Brennan	Fabrizio	Maher	Sabatina
Briggs	Frankel	Mahoney	Sainato
Brooks	Freeman	Mann	Samuelson
Brown, V.	Gabler	Markosek	Santarsiero
Brownlee	Gerber	Matzie	Schroder
Burns	Gergely	McGeehan	Shapiro
Buxton	Gibbons	Millard	Smith, K.
Causar	Godshall	Mirabito	Smith, M.
Cohen	Haluska	Myers	Staback
Conklin	Hanna	O'Brien, M.	Sturla
Costa, D.	Harhai	Parker	Thomas
Costa, P.	Harkins	Payton	Vitali
Curry	Hennessey	Peifer	Wagner
Daley	Hornaman	Petrarca	Waters
Davidson	Hutchinson	Preston	Wheatley
Davis	Josephs	Rapp	White
Deasy	Kavulich	Ravenstahl	Williams
DeLissio	Keller, W.	Readshaw	Youngblood
DeLuca			

NAYS—102

Adolph	Fleck	Lawrence	Quinn
Aument	Galloway	Major	Rock
Baker	Geist	Maloney	Ross
Barrar	George	Marshall	Saccone
Bear	Gillen	Marsico	Santoni
Benninghoff	Gillespie	Masser	Saylor
Bloom	Gingrich	Metcalfe	Scavello
Boyd	Goodman	Metzgar	Simmons
Brown, R.	Grell	Miccarelli	Sonney
Caltagirone	Grove	Miller	Stephens
Carroll	Hackett	Milne	Stern
Christiana	Hahn	Mullery	Stevenson
Clymer	Harhart	Mundy	Swanger
Creighton	Harper	Murphy	Tallman
Culver	Harris	Murt	Taylor
Cutler	Heffley	Mustio	Tobash
Day	Helm	Neuman	Toepel
Delozier	Hess	O'Brien, D.	Toohil
Denlinger	Hickernell	O'Neill	Truitt
DiGirolamo	Kampf	Oberlander	Turzai
Dunbar	Kauffman	Pashinski	Vereb
Ellis	Keller, F.	Payne	Vulakovich
Evankovich	Keller, M.K.	Petri	Watson
Evans, J.	Killion	Pickett	
Everett	Knowles	Pyle	Smith, S.,
Farry	Krieger	Quigley	Speaker

NOT VOTING—0

EXCUSED—8

Boyle, K.	Cruz	Johnson	Moul
Cox	Evans, D.	Micozzie	Perry

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

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

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 295, PN 248**, entitled:

An Act amending the act of April 23, 2002 (P.L.298, No.39), known as the Main Street Act, further providing for the duration of grants.

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

(Bill analysis was read.)

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

The question is, shall the bill pass finally?

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

The following roll call was recorded:

YEAS—193

Adolph	Ellis	Knowles	Reed
Aument	Emrick	Kortz	Reese
Baker	Evankovich	Krieger	Reichley
Barbin	Evans, J.	Kula	Roae
Barrar	Everett	Lawrence	Rock
Bear	Fabrizio	Longietti	Roebuck
Benninghoff	Farry	Maher	Ross
Bishop	Fleck	Mahoney	Sabatina
Bloom	Frankel	Major	Saccone
Boback	Freeman	Maloney	Sainato
Boyd	Gabler	Mann	Samuelson
Boyle, B.	Galloway	Markosek	Santarsiero
Bradford	Geist	Marshall	Santoni
Brennan	George	Marsico	Saylor
Briggs	Gerber	Masser	Scavello
Brooks	Gergely	Matzie	Schroder
Brown, R.	Gibbons	McGeehan	Shapiro
Brown, V.	Gillen	Metzgar	Simmons
Brownlee	Gillespie	Miccarelli	Smith, K.
Burns	Gingrich	Millard	Smith, M.
Buxton	Godshall	Miller	Sonney
Caltagirone	Goodman	Milne	Staback
Carroll	Grell	Mirabito	Stephens
Causar	Grove	Mullery	Stern
Christiana	Hackett	Mundy	Stevenson
Clymer	Hahn	Murphy	Sturla
Cohen	Haluska	Murt	Swanger
Conklin	Hanna	Mustio	Tallman
Costa, D.	Harhai	Myers	Taylor
Costa, P.	Harhart	Neuman	Thomas
Creighton	Harkins	O'Brien, D.	Tobash
Culver	Harper	O'Brien, M.	Toepel

Curry	Harris	O'Neill	Toohil
Cutler	Heffley	Oberlander	Truitt
Daley	Helm	Parker	Turzai
Davidson	Hennessey	Pashinski	Vereb
Davis	Hess	Payne	Vitali
Day	Hickernell	Payton	Vulakovich
Deasy	Hornaman	Peifer	Wagner
DeLissio	Hutchinson	Petrarca	Waters
Delozier	Josephs	Petri	Watson
DeLuca	Kampf	Pickett	Wheatley
Denlinger	Kauffman	Preston	White
DePasquale	Kavulich	Pyle	Williams
Dermody	Keller, F.	Quigley	Youngblood
DeWeese	Keller, M.K.	Quinn	
DiGirolamo	Keller, W.	Rapp	Smith, S.,
Donatucci	Killion	Ravenstahl	Speaker
Dunbar	Kirkland	Readshaw	

NAYS—2

Kotik Metcalfe

NOT VOTING—0

EXCUSED—8

Boyle, K.	Cruz	Johnson	Moul
Cox	Evans, D.	Micozzie	Perry

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.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 176, PN 709**, entitled:

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

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

BILL TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that HB 176 be removed from the active calendar and placed on the tabled calendar.

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

The SPEAKER. For the information of the members, there will be no further votes this afternoon.

BILLS RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 1;
HB 140;
HB 389;
HB 390;
HB 399;
HB 438;
HB 520;
HB 589;
HB 705;
HB 707;
HB 728;
HB 915; and
HB 986.

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be removed from the tabled calendar and placed on the active calendar:

HB 278;
HB 279;
HB 280;
HB 281;
HB 282;
HB 284;
HB 286;
HB 287;
HB 288;
HB 289;
HB 290;
HB 291;
HB 294;
HB 712;
HB 960;
HB 1251;
HB 1254; and
HB 1261.

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

VOTE CORRECTION

The SPEAKER. We are about to take the adjournment motion. Is there any more business before the House?

Does the gentleman, Mr. Marshall, seek recognition? For what purpose?

Mr. MARSHALL. Thank you, Mr. Speaker.

The SPEAKER. For what purpose does the gentleman seek recognition?

Mr. MARSHALL. To clarify a vote.

The SPEAKER. To correct a vote?

Mr. MARSHALL. Yes, sir.

The SPEAKER. The gentleman is in order.

Mr. MARSHALL. The Freeman amendment, amendment A829, I was recorded as a negative. I would like to be recorded affirmative.

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

Mr. MARSHALL. Thank you.

ANNOUNCEMENT BY MR. CLYMER

The SPEAKER. For what purpose does the gentleman, Mr. Clymer, seek recognition?

Mr. CLYMER. Mr. Speaker, unanimous consent to mention a resolution that will be introduced tomorrow.

The SPEAKER. Under unanimous consent, the gentleman is recognized.

Mr. CLYMER. Mr. Speaker, a number of our colleagues have already signed on, but this is a resolution designating April 12, 2011, as the official beginning of Pennsylvania's Civil War 100th anniversary. And I know that it seems as though years go by very quickly, but it is 150 years when that first shot was fired by the Confederates on Fort Sumter. So to commemorate that special event, we have this resolution.

As I said, many members have already signed on. This will be available yet today, and then tomorrow it will be introduced. So I would ask members to let me know if they want to sign on to this resolution. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

VOTE CORRECTION

The SPEAKER. For what purpose does the gentleman, Mr. Marshall, seek recognition?

Mr. MARSHALL. To correct the vote, Mr. Speaker.

The SPEAKER. The gentleman is in order. You are not correcting the correction, are you?

Mr. MARSHALL. No, sir.

On amendment 705 I was also recorded in the negative, and I would like to be recorded affirmative.

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

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. Seeing no further business before the House, the Speaker recognizes the gentleman, Mr. Masser, from Northumberland County, who moves that this House do adjourn until Monday, April 11, 2011, at 1 p.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 6:19 p.m., e.d.t., the House adjourned.