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TUESDAY, FEBRUARY 14, 1995

SESSION OF 1995

179TH OF THE GENERAL ASSEMBLY

No. 12

SENATE

TUESDAY, February 14, 1995

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the Chair.

PRAYER

The Chaplain, Reverend Dr. JOHN REITZ, Pastor of Skyline View Brethren in Christ Church, Harrisburg, offered the following prayer:

Let us pray.

Almighty God, maker of heaven and earth, sovereign over all governments and every nation, we pause at the start of this Session of our State Senate to beseech Your gracious help and to acknowledge that before we represent any of our constituents, we represent You.

I pray for the leaders of our country, and most specifically for our Governor, for our Lieutenant Governor, and for each of our Senators. In the deliberations of this day, grant them patience and kindness, protect them from aimless jealousy and pride, reveal any tendency towards rudeness or self-interest, grant them forgiveness as they forgive others, encourage them in their quest to lessen the evil in the communities of our State, and help them this day to celebrate the truth.

May each woman and man in this Session today act justly, love mercy, and walk ever more humbly with the living God. I ask this in the name of the king of kings and the Lord of lords. Amen.

The PRESIDENT. The Chair thanks Reverend Reitz, who is the guest today of Senator Shumaker.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request legislative leaves for Senator Jones and Senator Williams.

The PRESIDENT. Senator Mellow requests legislative leaves for Senator Jones and Senator Williams. Without objection, those leaves will be granted.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of

February 13, 1995.

The Clerk proceeded to read the Journal of the preceding Session.

Senator LOEPER. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

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

The yeas and nays were required by Senator LOEPER and were as follows, viz:

YEAS--50

Table listing names of Senators who voted 'YEAS' in four columns: Afflerbach, Gerlach, Madigan, Shaffer; Andrezeski, Greenleaf, Mellow, Shumaker; Armstrong, Hart, Mowery, Stapleton; Baker, Heckler, Musto, Stewart; Belan, Helfrick, O'Pake, Stout; Bell, Holl, Peterson, Tartaglione; Bodack, Hughes, Porterfield, Tilghman; Brightbill, Jones, Punt, Tomlinson; Corman, Jubelirer, Rhoades, Uliana; Dawida, Kasunic, Robbins, Wagner; Delp, LaValle, Salvatore, Wenger; Fisher, Lemmond, Schwartz, Williams; Fumo, Loeper.

NAYS--0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

SPECIAL ORDER OF BUSINESS SOLEMN TRIBUTE OF RESPECT

The PRESIDENT. The Chair would like to call upon, in a special moment, the gentleman from Allegheny, Senator Dawida. We would like to take a moment and acknowledge a tragedy that occurred in the city of Pittsburgh last night. The Chair would ask your attention as Senator Dawida addresses the loss of three firefighters in Pittsburgh.

Senator DAWIDA. Mr. President, everyone in this room has cause to know of the bravery of people who go forth every day in our districts and fight fires, particularly on cold winter days. Unfortunately, in Pittsburgh last night three firefighters lost their lives, and I would ask that the Senate have a moment of silent reflection and prayer for their heroism and for their service to not only the city of Pittsburgh but to the people of

the community. We all know people who have done this before, and we should all be very much aware that without the brave behavior of thousands of Pennsylvanians, life would not go on for the rest of us as it does now.

So on behalf of the Allegheny delegation, and I believe all of us, we would ask for a moment of silence for Fire Captain Thomas Brooks, Firefighter Marc Kolenda, and Firefighter Patty Conroy, who may well be the first female firefighter to have lost her life defending and helping the people of her community.

The PRESIDENT. The Senate will please rise.

(Whereupon, the Senate en bloc stood in a moment of silence in solemn respect to the memory of Fire Captain THOMAS BROOKS, Firefighter MARC KOLENDA, and Firefighter PATRICIA CONROY.)

The PRESIDENT. The Chair thanks Senator Dawida and would point out that the tragedy last night may well mark the loss of the first female firefighter in the history of the Commonwealth, as well as the injuries of three additional firefighters, in the tragedy that occurred in that Pittsburgh home.

#### SPECIAL ORDER OF BUSINESS GUESTS OF SENATOR MICHAEL A. O'PAKE PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, this week is National Vocational Education Week, and as you probably noticed if you visited the East Wing, there are displays set up by various vocational educational schools from throughout the Commonwealth.

Visiting the Senate gallery this afternoon, Mr. President, are a group of students whom we are very proud of from the Reading-Muhlenberg Vo-Tech School. They are here with two of their instructors, Thomas P. Mohn and Dave Keen. They have done some excellent work actually building a new car. I would ask that you extend your usual warm welcome to this group, and then I have another group of visitors that I would like to introduce.

The PRESIDENT. Would the guests of Senator O'Pake please rise so the Senate may give you its usual warm welcome.

(Applause.)

Senator O'PAKE. Mr. President, cooperating with them in their project was the Metropolitan Edison-GPU Company, and it just so happens that also in the gallery are a group of visitors from the GPU Public Affairs Committee. They are here with Gary Miner, who is the Director of Governmental Affairs, and several other Berks Countians, and I would ask the Senate to extend its warm welcome to these visitors from GPU.

The PRESIDENT. Would those guests also rise so the Senate may acknowledge their presence.

(Applause.)

#### SPECIAL ORDER OF BUSINESS LINCOLN DAY ADDRESS

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Delp.

Senator DELP. Mr. President, it is indeed a privilege and an honor to stand before this body today to pay tribute to our 16th President, Abraham Lincoln.

As is the tradition with this address, today I represent my freshman colleagues, but I can only assume that I was selected merely on the basis that I share President Lincoln's height. But as I look back on the esteemed men and women who preceded me, I realize what an honor has truly been bestowed upon me.

As part of my preparation, I read some of the speeches that were delivered in past years. I noticed that some of the speeches focused on the fact that President Lincoln was a great Republican. While it is true that President Lincoln was the first Republican President of the United States, I do not intend today to canonize Abraham Lincoln as the great Republican. Instead, I would like to focus my remarks on the fact that Abraham Lincoln was truly a great American.

Without a doubt, President Lincoln served this country through its most trying times. During his tenure the very fabric of our nation was being ripped apart at its seams over the issue of slavery. The easy way out for President Lincoln would have been to let the status quo stand. He could have let the southern States remain slave States and he could have allowed those States that were opposed to slavery to remain abolitionist States. However, he realized, and I will use his own words, that "a house divided against itself cannot stand." Abraham Lincoln was a man of principle, and although his position regarding slavery brought him criticism from both the left and the right, he stuck to his principles and guided this country through its only civil war, a war that pitted brother against brother, family against family, and friend against friend.

Mr. President, another of his distinguishing traits was his incredible perseverance. He displayed this trait literally from his earliest youth. Although his parents were both illiterate and their means modest, Abraham Lincoln managed to overcome these hurdles to not only learn to read and write but to gain admittance into the bar and to serve as a prominent attorney in the State of Illinois.

Mr. President, I would also like to note that while it was true that Abraham Lincoln was brought up in Illinois, his family heritage traces back to Berks County, Pennsylvania, where his great-grandparents lived as Quakers.

There is one final reason, though, why I believe Abraham Lincoln was truly a great American. Abraham Lincoln's entire life was pitted with tragedy. His mother died while he was very young. Two women to whom he was betrothed died unexpectedly, and when he finally married Mary Todd, two of his children died in their infancy. He was an unsuccessful businessman. He had an undistinguished career in the State legislature. He was a one-term Congressman who chose not to run for reelection because he was certain he would face defeat. Subsequently, he lost the United States Senate race to Stephen

Douglas. And finally, at the zenith of his career, after attaining the Presidency of the United States, one of the most powerful countries of the world, he realized that his country was at a crucial crossroads and that his leadership would be critical in determining our nation's destiny.

Mr. President, my point is simply this: after all these trials and tribulations, at no point did Abraham Lincoln give up. Every step along the way Abraham Lincoln simply reasserted himself to both his principles and his faith in God.

Mr. President, while preparing this speech, I compared the problems that Abraham Lincoln faced with the problems that we face here today. And while I certainly do not believe that we are on the verge of a civil war, I do believe that our country and our State are at a crossroads. The issues that Lincoln faced are instead replaced with the problems of homelessness, hunger, teenage pregnancy, the ravages of drug and alcohol abuse, and the seemingly senseless violent crime that continues to plague our streets. While the problems that I have outlined do not have easy solutions, I have no doubt that each and every one of my colleagues here has the desire and the ability to fashion real solutions to these real problems. I would simply ask of all my colleagues, in the spirit of Abraham Lincoln, that we all show the perseverance that is necessary to lead our State through our crossroads and beyond.

Thank you, Mr. President.

## HOUSE MESSAGE

### HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

The Clerk of the House of Representatives informed the Senate that the House has concurred in resolution from the Senate, entitled:

Recess adjournment.

## EXECUTIVE NOMINATIONS

### EXECUTIVE SESSION

Motion was made by Senator SALVATORE,

That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to.

### NOMINATION TAKEN FROM THE TABLE

Senator SALVATORE. Mr. President, I call from the table a certain nomination and ask for its consideration.

The Clerk read the nomination as follows:

### SECRETARY OF COMMERCE

January 17, 1995

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas B. Hagen, 5727 Grubb

Road, Erie 16506, Erie County, Forty-ninth Senatorial District, for appointment as Secretary of Commerce, to serve until the third Tuesday of January 1999 and until his successor shall have been appointed and qualified, vice The Honorable Andrew T. Greenberg, Harrisburg, resigned.

THOMAS J. RIDGE  
Governor

On the question,

Will the Senate advise and consent to the nomination?

The PRESIDENT. The Chair recognizes the gentleman from Butler, Senator Shaffer.

Senator SHAFFER. Mr. President, I am pleased to rise today and ask for the full support of my colleagues in the Senate for Governor Ridge's nomination to head the State Department of Commerce.

Thomas B. Hagen is a native of Pennsylvania whose resume shows he has spent 40 years with the Erie Insurance Group, a life, property, and casualty agent. Now, that might sound like a long time to be with one company in this day and age, when career success is often measured in the number of companies that one has worked for, but Tom Hagen's time with Erie Insurance Group was well spent. He was achieving success the old fashioned way, climbing the ladder from a job as a part-time file clerk to the office of Chief Executive Officer, building a Pennsylvania firm into a billion dollar business as he rose in the ranks.

Tom Hagen is truly a man with business savvy that will benefit all Pennsylvanians in the years ahead, and I believe his know-how will help create jobs for our fellow citizens. In meeting with him over the last several weeks and during his participation in the public hearings of the Committee on Community and Economic Development on his nomination, I was particularly impressed, as were my colleagues, with his support for two ideas that I think are crucial to Pennsylvania's economic growth.

First, he agrees that Pennsylvania's business taxes are too high. You and I know that the State's tax climate is abysmal, and all economic development programs that we have are doomed to failure unless and until we can bring our business tax climate back into line with those of other States. With the confirmation of Mr. Hagen, all of us who want to cut business taxes and thereby increase employment opportunities will gain an advocate in Tom Hagen. He will be a valuable partner for our efforts to bring taxes back in line.

Mr. Hagen also agrees that our State workers' compensation program is flawed. Rates are too high, and these rates are killing business and industry and, yes, killing job opportunities for Pennsylvanians. Along with these issues, Mr. President, Tom Hagen believes we need to help more firms expand into foreign markets and agrees that the real goal of the Department of Commerce can be boiled down to one basic idea, bringing more job opportunities to State residents.

Therefore, Mr. President, I hope all my colleagues will join me in supporting Thomas B. Hagen, and I ask for your affirmative vote on his nomination for Secretary of Commerce.

Thank you, Mr. President.

And the question recurring,  
Will the Senate advise and consent to the nomination?

The yeas and nays were required by Senator SALVATORE and were as follows, viz:

YEAS—50

Afflerbach	Gerlach	Madigan	Shaffer
Andrezeski	Greenleaf	Mellow	Shumaker
Armstrong	Hart	Mowery	Stapleton
Baker	Heckler	Musto	Stewart
Belan	Helfrick	O'Pake	Stout
Bell	Holl	Peterson	Tartaglione
Bodack	Hughes	Porterfield	Tilghman
Brightbill	Jones	Punt	Tomlinson
Corman	Jubelirer	Rhoades	Uliana
Dawida	Kasunic	Robbins	Wagner
Delp	LaValle	Salvatore	Wenger
Fisher	Lemmond	Schwartz	Williams
Fumo	Loeper		

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

**NOMINATION TAKEN FROM THE TABLE**

Senator SALVATORE. Mr. President, I call from the table a certain nomination and ask for its consideration.

The Clerk read the nomination as follows:

SECRETARY OF REVENUE

January 19, 1995

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert A. Judge, 1054 Stratford Road, Glenolden 19036, Delaware County, Twenty-sixth Senatorial District, for appointment as Secretary of Revenue, to serve until the third Tuesday of January 1999 and until his successor shall have been appointed and qualified, vice Eileen Healy McNulty, New Cumberland, whose term expired.

THOMAS J. RIDGE  
Governor

On the question,  
Will the Senate advise and consent to the nomination?

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Hart.

Senator HART. Mr. President, as chair of the Senate Committee on Finance and chair of the committee which reported Robert Judge's nomination to our floor for consideration, I rise in support of the nomination of Robert A. Judge, Sr., as our new Secretary of Revenue.

I have known him personally for a number of years as a very enthusiastic and energetic man who puts all of his energies into the task at hand. I further got to know him during the nominations process and got to know a lot about his qualities and his qualifications for the position of Secretary of

Revenue. He has a very good combination of public and private sector service, Mr. President. He served as county treasurer in his home county. He understands the practical impacts of revenue collection. He also served in the private sector as an accountant, which shows that he has a sensitivity toward businesses in the Commonwealth.

As he said in his opening statement before our committee, he is interested in better utilizing revenue programs, as well as implementing new innovations which would not only aid the State's revenue collections but also make the Department of Revenue more user-friendly to the taxpayers, practitioners, and general public as a whole. Mr. President, I think that is a cry that most of us have given throughout the past, working here in the Senate and dealing with our constituents, regarding the Department of Revenue. I think it is a goal that makes him more than worthy of becoming our next Secretary of Revenue.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I will just be brief in my remarks, but I could not let this opportunity go by before taking a vote on the confirmation of Robert Judge, Sr., to also indicate that Bob Judge is a native Delaware Countian. He is someone whom both the gentleman from Delaware, Senator Bell, and I supported before the Committee on Finance. We have a knowledge of Bob's outstanding performance and qualifications in his various duties of public office in Delaware County, as well as his many activities not only as a parent but within his community as well.

I just wanted to add our wholehearted endorsement to the nomination of Robert Judge, Sr., as Secretary of Revenue.

The PRESIDENT. And the record will reflect the sentiments of Senator Loeper and Senator Bell.

And the question recurring,  
Will the Senate advise and consent to the nomination?

The yeas and nays were required by Senator SALVATORE and were as follows, viz:

YEAS—50

Afflerbach	Gerlach	Madigan	Shaffer
Andrezeski	Greenleaf	Mellow	Shumaker
Armstrong	Hart	Mowery	Stapleton
Baker	Heckler	Musto	Stewart
Belan	Helfrick	O'Pake	Stout
Bell	Holl	Peterson	Tartaglione
Bodack	Hughes	Porterfield	Tilghman
Brightbill	Jones	Punt	Tomlinson
Corman	Jubelirer	Rhoades	Uliana
Dawida	Kasunic	Robbins	Wagner
Delp	LaValle	Salvatore	Wenger
Fisher	Lemmond	Schwartz	Williams
Fumo	Loeper		

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

**NOMINATION TAKEN FROM THE TABLE**

Senator SALVATORE. Mr. President, I call from the table a certain nomination and ask for its consideration.

The Clerk read the nomination as follows:

**SECRETARY OF GENERAL SERVICES**

January 17, 1995

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Gary E. Crowell, 857 Hillside Drive, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, for appointment as Secretary of General Services, to serve until the third Tuesday of January 1999 and until his successor shall have been appointed and qualified, vice The Honorable David L. Jannetta, Mechanicsburg, whose term expired.

THOMAS J. RIDGE  
Governor

On the question,

Will the Senate advise and consent to the nomination?

The PRESIDENT. The Chair recognizes the gentleman from Luzerne, Senator Lemmond.

Senator LEMMOND. Mr. President, on February 7 of this year the Committee on State Government voted unanimously for the approval of Gary Crowell to be the Secretary of the Department of General Services. This department is not one of the true glamour spots of the administration, but all of us here certainly know that it has much to do with the nuts and bolts of our Commonwealth and how we are perceived and how we continue to do business.

Gary is eminently qualified for the post. He has previously served with the State Chamber of Commerce in their Administration and Finance Division, as executive director of our Independent Regulatory Review Commission, has been Deputy Secretary of the Department of General Services, where he will now assume a leadership role, but we know him mostly for the wonderful service he gave to us as our Chief Clerk here in the Senate of Pennsylvania. He is committed, and has reaffirmed this at his hearing, to serving our Governor and all of the people of our Commonwealth with honesty, integrity, and dedication, virtues which he clearly demonstrated when he served us.

I urge unanimous approval of Gary Crowell as the Secretary of the Department of General Services, and, if I may, I would like to yield to his own Senator, Senator Mowery.

The PRESIDENT. The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, I would just like to add the fact that he has been a good neighbor, a great constituent, and I am sure he is going to do a wonderful job on behalf of the Commonwealth of Pennsylvania.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Bell.

Senator BELL. Mr. President, unfortunately, I was not

present at the meeting of the Committee on State Government to say what I am going to say right now. Of course, all of us know Gary Crowell. He did a beautiful job here in the Senate. But within a day or two after he was named Acting Secretary, he and I had a conversation about the Transportation and Safety building, the place where the awful fire took place last June. People are still working in that building, and Gary Crowell, when he became Acting Secretary, came in running, and he is working hard to get the people relocated to leased offices, to get into collecting what insurance we can collect, and he is already doing a yeoman's job. I speak most highly of him.

And the question recurring,

Will the Senate advise and consent to the nomination?

The yeas and nays were required by Senator SALVATORE and were as follows, viz:

**YEAS—50**

Afflerbach	Gerlach	Madigan	Shaffer
Andrezeski	Greenleaf	Mellow	Shumaker
Armstrong	Hart	Mowery	Stapleton
Baker	Heckler	Musto	Stewart
Belan	Helfrick	O'Pake	Stout
Bell	Holl	Peterson	Tartaglione
Bodack	Hughes	Porterfield	Tilghman
Brightbill	Jones	Punt	Tomlinson
Corman	Jubelirer	Rhoades	Uliana
Dawida	Kasunic	Robbins	Wagner
Delp	LaValle	Salvatore	Wenger
Fisher	Lemmond	Schwartz	Williams
Fumo	Loeper		

**NAYS—0**

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

**EXECUTIVE SESSION RISES**

Senator SALVATORE. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to.

**CALENDAR**

**THIRD CONSIDERATION CALENDAR**

**BILL ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 3 (Pr. No. 725) --** The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, further providing for definitions and for the schedule of compensation.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, today we have before us House Bill No. 3, which is a change to the Workers' Compensation Law, and I would like to give the following rationale for its adoption. It has bipartisan sponsorship, and I think it is very important for the economic benefit of individual workers, as well as the economic benefit of the Commonwealth and our ability to have businesses here, that we adopt this.

It changes the Workers' Compensation Law by adding to the changes previously adopted in Act 44, specifically relating to hearing loss. When we did Act 44 the decision was made not to tackle this particular provision, and it could be argued that it might have been in that reform, but it is a unique part of the Workers' Compensation Law because it refers to a condition rather than to a particular trauma that occurs in a work-related context. Because of that, it has created some problems for all of us who deal with this, including the workers' compensation referees, as well as those company representatives and individuals who have had to deal with it.

Right now the law requires that all awards for hearing loss be for a 100-percent, full hearing loss, and, therefore, it requires a worker to argue that he has had a full hearing loss even when, pragmatically, everyone knows that that is not correct. It is an all-or-nothing judgment, and so it is unfair to the worker who has had a partial hearing loss. This clarifies the law. It creates a situation of fairness, predictability, and clarity, and it does so by incorporating the standards of the AMA. I think that while it can be argued that perhaps these standards are not ideal or perfect, on the other hand they do represent the professional judgment of the AMA and they are used by three-quarters of the States.

Another reason for concern is that many of our small companies in Pennsylvania have had a large number of hearing loss claims, and for many small or medium sized companies the amounts of those claims might make the difference between their ability to stay in business and not staying in business or whether to move out of Pennsylvania.

I will also refer here to the retroactivity question which many Members have raised with me, and it was dealt with when the bill came over from the House. Through an unintended consequence of the wording they used, there was a lack of clarity as to what the standard of retroactivity would be. Through an amendment that was adopted in the committee, introduced by myself, it did make it clear that even with the adoption of House Bill No. 3, no one would lose a claim even though the judgment would be under the new standards.

I would like to make this point. The retroactivity provision is not just a technical part of this bill. If we do not pass the bill in its current form, it really would make the bill meaningless in terms of a benefit to the workers and to the companies of this State. It is very important that the standards be applied, regardless of the time of filing, that would be fair and would be proportional to the actual loss. And that is, Mr. President,

what this bill provides, that the amount of award would be proportional to the actual hearing loss. It does not take a benefit away. If someone has a complete hearing loss, they become eligible to receive the complete hearing loss award, but it does say if it is less than that, and it can be determined by the audiometric testing, then that is the appropriate proportional award that they would get.

I hope that my colleagues will join me in supporting House Bill No. 3.

### RECONSIDERATION OF HB 3

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, I move to reconsider the vote by which the bill passed on third consideration.

The motion was agreed to.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator RHOADES offered the following amendment No. A0900:

Amend Sec. 3, page 5, lines 24 and 25, by striking out all of said lines and inserting: Section 3. The

Amend Sec. 3, page 6, lines 3 through 6, by striking out all of said lines

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, this amendment would strike language that would make the provisions of House Bill No. 3 retroactive for Section 306(c)(8)(i), (ii) and (iv). Instead, the amendment would ensure that the bill's provisions would take effect at the time of its enactment. As a result, the language of House Bill No. 3 would not apply to unresolved hearing loss claims filed before the State.

The issue here is one of basic fairness, it is about playing by the rules. We in the General Assembly set the rules, and these rules have been defined as being contractual. Within that contractual agreement the employee gave up the right to sue the company. We set these rules for workers' compensation claims and expect Pennsylvanians to live by them. Workers who are currently engaged in hearing loss claims are playing fair, playing by the rules that we set in statutes that are in effect now. Those men and women who are simply doing what this legislature requires of them should not have the rules that govern the claims process change in the middle of the game.

The understanding that exists between an employee and an employer regarding compensation or compensation for injury is a contractual agreement. Courts have so determined that. The law of governing workers' compensation claims at the time that the contract is sealed is a part of this agreement. It is understood that the statute in force at the time is a de facto part of the employment contract. It is one of the rules of the game to which all sides agree. The standards for workmen's compensation then is fixed by the law in place when an employee

suffers an injury on the job. Numerous courts have ruled in this regard and so upheld the compensation standard in force when the claim is made.

But what happens if the General Assembly votes today to allow this retroactivity clause to stand? What happens to a worker who has filed a claim that has not made its way through an insurance company's review process? What happens to a worker who has filed a claim that has been nominally approved by a workers' compensation judge, but whose claim has not been paid prior to the passage of this legislation? What happens to workers who have filed legitimate claims for hearing loss under the current statute who could have the rug pulled out from under them and their legitimate claims by this new formula? Their fate is uncertain. The legal ramifications of this action are unclear.

However, I feel confident that we could be doing working people, people who play by the rules that we set, a great wrong by changing those rules without considering their consequences. I encourage my colleagues to consider the plight of these Pennsylvanians and support this amendment, an amendment that will ensure that claimants receive the basic legal fairness that our democratic system requires.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, I request a "no" vote on this amendment for the following reason. Fairness is not just on one side of this issue. It is a question of balancing the fairness criterion on both sides of this.

If the statute is unfair, which I would maintain it is, that requires a worker to maintain that he has had a full hearing loss when he has not had that full hearing loss and requires the case to be dealt with on that all-or-nothing basis, that is not a fair system. I think that is agreed to all the way around by all parties to this discussion. So if the system was unfair, to maintain that it should be continued in its unfair state is really to go against the logic of why it is necessary to correct it. It does not close anyone off from filing, and that is what is guaranteed by the amendment that has been added in the Senate, but it does say that the new standards will apply.

The three groups mentioned by my colleague, two of them are transitional and, in my opinion, would clearly not fall within the new law, but the last group, to say that anyone who has filed is a large and basically a limitless number, that, in my opinion, should be dealt with under the new law as it is fairly written. In other words, if you have had a hearing loss and it can be established that it was attributable to your work, you will be compensated in the proper proportion to what the hearing loss is. That is really the essence of the law, and I would request a "no" vote.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, there are just two points I would like to make. One is if this does not affect retroactivity, then why is it within the bill if it is not going to change the procedure? The second thing, too, is if you look at the

AMA guidelines that have been established, it is only a tone test. It is not a total test. Aside from the audiological test, this is also an audiometric test. It is also used beyond this point to see if someone has lost hearing.

The other point we say is from a standpoint of saying a person has lost 100 percent of their hearing, and if you check with hearing specialists, you will begin to find out that that hearing range can vary all the way down to almost 65 percent, in some cases even 85 percent, where it has been adjudged or adjured whether a person has a hearing disability and it has been defined in law as for all practical intents and purposes. So there has to be more than just a tone test and a deciding upon a percentage before we look at if someone really has a disability or just a hearing loss, and I think we have to learn to distinguish between both of those and understand what we are doing when we pass this particular bill.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, on that point, I would just point out that I would like to quote from Dr. Robert Sataloff of the Jefferson Medical College in Philadelphia and the author of a textbook on occupational hearing loss in which he maintains that this test is the best test. It is used in three-fourths of all States, and, to quote him, "is the best, most predictable one available...You have to have tests that are credible."

Some of what has just been covered is not actually in this amendment and is appropriate for discussion on the bill in general, so I will reserve further comment until that time.

The PRESIDENT. The Chair recognizes the gentleman from Venango, Senator Peterson.

Senator PETERSON. Mr. President, I rise to oppose the amendment to repeal or to remove the retroactivity clause. In my view, what really happened in this case is a court decision really twisted the rules to where we all realize they are not fair and do not make sense and that is why we are here fixing them. But the bill as drafted, with the retroactivity clause, does not prevent anybody who has duly had a hearing loss from receiving a fair compensation—I want to emphasize, a fair compensation—for their loss of hearing.

We all know that there are companies which have had hundreds of claims filed by past employees here just all of a sudden being brought about by certain groups. This could have awesome negative impacts on the future financial stability of those companies if they would lose all of those cases. It does not make sense. What we need is a fairness that when people have an injury they are rewarded appropriately. That is what the current draft of this legislation does. To go back, I think, would be a terrible mistake for the economic future of Pennsylvania and for the claimants, too.

#### LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Dawida and Senator Fumo.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Dawida and Senator Fumo. Without objection, those leaves will be granted.

And the question recurring,  
Will the Senate agree to the amendment?

Senator MELLOW. Mr. President, may I also be recognized on the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I would also join in opposition to the amendment. Mr. President, my reading of the bill the way it came over from the House of Representatives could have been in some concern to the arguments that were presented by the gentleman from Schuylkill, Senator Rhoades, but I very honestly believe that the amendment that was placed in the bill in the Senate Committee on Labor and Industry properly addresses the issue.

Mr. President, this is a continuation of what we really started with the gentleman from Bradford, Senator Madigan, several years ago to totally reform workers' compensation, and we did so in 1993 and 1994. Then also in 1994 we passed a bill in this body dealing with hearing loss, and we passed it rather substantially. Mr. President, this is a continuation. That bill did not finally pass the House of Representatives, but this is a continuation to totally reform the Pennsylvania Workers' Compensation Act. I believe this particular amendment is not needed in the bill, and I would ask for a negative vote.

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Porterfield.

Senator PORTERFIELD. Mr. President, I rise in support of the amendment and, again, stress fairness to all those individuals out there who have problems that need to be addressed. And in this set of circumstances we are being very unfair to those individuals who currently have filings or situations and they are in dire need of the attention that they should get and the compensation that they should receive due to the loss that they are suffering or have suffered. To turn this into a retroactive piece of legislation is just not the way to go.

I rise in support of the amendment, and I urge my colleagues who know my position on this to support this amendment.

Thank you.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator RHOADES and were as follows, viz:

YEAS—21

Andrezeski	Greenleaf	O'Pake	Stewart
Belan	Hughes	Porterfield	Stout
Bell	Jones	Rhoades	Tartaglione
Bodack	Kasunic	Schwartz	Wagner
Dawida	LaValle	Stapleton	Williams
Fumo			

NAYS—29

Afflerbach	Hart	Madigan	Salvatore
Armstrong	Heckler	Mellow	Shaffer
Baker	Helfrick	Mowery	Shumaker
Brightbill	Holl	Musto	Tilghman
Corman	Jubelirer	Peterson	Tomlinson
Delp	Lemmond	Punt	Uliana
Fisher	Loeper	Robbins	Wenger
Gerlach			

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Shaffer has been called from the floor, and I request a temporary Capitol leave on his behalf.

The PRESIDENT. Senator Loeper requests a temporary Capitol leave for Senator Shaffer. Without objection, that leave will be granted.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

Senator KASUNIC offered the following amendment No. A0825:

Amend Sec. 2 (Sec. 306), page 2, line 26, by striking out "binaural" and inserting: monaural

Amend Sec. 2 (Sec. 306), page 2, line 27, by inserting after "Guides": except that the frequency of five hundred hertz shall be replaced by the frequency of four thousand hertz in the monaural calculation

Amend Sec. 2 (Sec. 306), page 2, line 29, by striking out "binaural" and inserting: monaural

Amend Sec. 2 (Sec. 306), page 2, line 29, by inserting after "impairment": for each ear

Amend Sec. 2 (Sec. 306), page 2, line 30, by striking out "the Impairment Guides" and inserting: this paragraph

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

The PRESIDENT. On the amendment, the Chair recognizes the gentleman from Fayette, Senator Kasunic.

Senator KASUNIC. Mr. President, I rise today to offer this amendment to House Bill No. 3. The purpose of offering this amendment would be to change the hertz level from 3000 to 4000. The reason is that obviously it is just simply too low, in my opinion, to adequately test for industrial hearing loss. The types of noise which lead to industrial hearing loss are metal grinding, whistles blowing, and other high frequency noises. Workers such as steelworkers, coal miners, metal shop workers, firemen, both obviously paid and volunteers who serve our communities, would simply not be able to collect compensation that is rightfully due them under the bill in its current form because of the 3000 hertz maximum.

Mr. President, the range used in this legislation is not even within the average speech frequencies that we all know. This amendment is fair in that it simply moves the range of the test



within the normal speech range. The amendment would also change the type of test used to a monaural test instead of a binaural test. This means, for example, that each individual ear would be tested instead of both ears. Because of the type of injury we are dealing with, it is very possible for one ear to be affected and not the other.

For example, a firefighter who has been working and driving the engine truck for several years, for 10 years, 15, maybe 20 or 30 years, he would be more susceptible to hearing loss on his left side because, in most cases, this is where the whistle would be, and it would be unfair to test that same firefighter without testing each individual ear. And although hearing is not affected in both ears, I believe that the individual may very well still be suffering from hearing loss disability.

So, Mr. President, I would encourage an affirmative vote on this amendment in the spirit of fairness to all working men and women of this Commonwealth.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, I appreciate the gentleman's consideration as we had discussed it in committee, and I will, at this time, just repeat briefly some of the arguments that we engaged in at that time. The reason that the AMA standard is utilized is because it is a national, professionally recognized standard, and it is a standard. It has been determined by audiologists and otolaryngologists, who are the specialists who treat this particular type of problem, and it is their considered opinion that the hertz range in the AMA standards is that that is most preferable, that is most credible, and that it is the one that applies to people's hearing loss attributable to working conditions.

I might just say on the example of the firemen about whom Channel 6 recently did a series, on which they received a large amount of response, they covered the problem of Philadelphia firemen who are on full hearing loss awards and who are also fully functioning, full-time firemen. Obviously, there is something wrong with the system in which this condition can exist, and that expose I think helped bring a lot of attention to this problem.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, I rise to support the amendment. I would like to read into the record part of a letter that was received from a Dr. Stephen M. Froman, F-R-O-M-A-N, who is an otolaryngologist. That is an ear, nose, and throat doctor, and I may use that term continuously instead of using the title.

Let me just break in some of the parts which I think can define this and not go through the whole letter.

"The AMA formula is a formula that utilizes the pure tone values (the ability to hear a particular pitch of sound) at 500, 1000, 2000, and 3000 Hz." I am going to say hertz. I am not sure if it is megahertz or hertz, but it is the Hz figure. "Based on these results utilizing the mathematical calculations, a percentage of hearing loss is arrived at. It is stated that this

formula is 'generally and broadly accepted as a just standard for determining degree of hearing loss.' It is stated that 23 States utilize the current AMA formula. I might point out that 29 States do not utilize the AMA formula. Aside from that more trivial retort, I would like to point out to you that when [ear, nose, and throat doctors] are discussing a patient's degree of hearing loss, we, in my experience, never utilize the AMA formula percentages to describe a patient's hearing loss. We describe the complete results of the audiologic testing which include both the patient's pure tone audiometry (the ability to hear different pitches of sound) and a patient's speech audiometry testing. Speech audiometry measures the patient's ability to hear spoken words as opposed to merely being able to hear pitches of sound. When we discuss the pure tone audiometry, we discuss the results between 500 and 8000 Hz. The AMA formula, as I mentioned, takes into account only those frequency results at 500, 1000, 2000, and 3000 Hz." So there is a difference between the AMA test between 3000 and 8000 that the experts use. "Patients who suffer hearing loss due to exposure to loud levels of noise develop their greatest hearing loss at 4000 Hz. This frequency which is within the speech frequencies is not taken into account in the AMA formula. Years of experience have taught us that a patient's ability to hear and understand conversation is directly tied to the results of their pure tone hearing results at these higher frequencies. We are able to document this with speech audiometry testing, specifically, with speech discrimination testing which is a standard audiologic test performed in all [ear, nose, and throat doctors'] offices. Discrimination measures a patient's ability to hear slight differences between words that sound alike. Discrimination ability is an audiologic skill that is essential in a patient's ability to participate in conversations in everyday life. Patients with high frequency nerve losses (as occurs from exposure to industrial noise sources) will frequently score poorly on their discrimination testing. In addition, patients who have suffered noise induced hearing loss, hearing is generally preserved in the lower frequencies." That is all we are going to be testing for. "Patients with high frequency neurosensory hearing loss around 4000 Hz will frequently describe significant difficulty in their ability to participate in conversations with family members; to understand what is being said on the television or the movie; to understand what a waitress is saying; to participate in meetings and other conversations in their social and daily life."

One other thing I would point out, too, from the AMA Guide, and I am not going to read the whole thing to you unless I have to get into it later on, but basically it says, "The AMA recognizes these defects and does not recommend sole reliance on the *Guides* for every case." Even they admit that one test by itself is not sufficient.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Belan.

Senator BELAN. Mr. President, very briefly, I guess I can stand up here and say I had the opportunity to work at U.S. Steel in Homestead for 15 years. I can stand here and tell you what I went through for 15 years in an enclosed shop with 10 employees, and in this shop was all metal to metal. For in-

stance, there was an air hammer with chisel against a cold saw. There was a grinding of a saw by an emery wheel onto a metal saw. There was wedging of a chisel against a metal saw. There was hammering, a 10-pound sledge against a metal saw, 8 hours a day or longer. I did that for 15 years. Ten of us worked in that shop. My brother worked in the open hearth and the soaking pits. He has no hearing today. My father worked in the open hearth for 30-some years. My father-in-law worked in the soaking pits for close to 40 years, and I have seen in those 15 years, and even longer, that many of these people, many of these men and women, cannot hear today. Some of them are not here today.

But you see, Mr. President, it is not that easy to say the mill did not cause this. I was fortunate to work in a mill. It helped raise some of my family, as did my mother, my father, my in-laws. But it is not the hearing loss at that time, it is what counts today. You cannot get hearing aids at times to appease my brother, for instance, or my brother-in-law, who was a welder. They cannot hear today.

So I stand here today, I rise to support the amendment of the gentleman from Fayette, Senator Kasunic. As the gentleman from Westmoreland, Senator Porterfield, says, we have to start taking care of our people. I work with the Lions Club. I work in clubs to help people, the deaf, and it is not a pretty sight. So I ask my colleagues here today to approve this amendment to help this bill.

With that, Mr. President, I thank you, and I ask for an affirmative vote.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, I would like to express my appreciation to the gentleman from Allegheny, Senator Belan, for that firsthand account. I would point out that there is no benefit that is being lost here. It takes away no rights. Where there is full hearing loss, there is a full hearing award. The important point about this is that it is a truly proportional test.

Coming back to the previous arguments that were read by the gentleman from Schuylkill, Senator Rhoades, I would like to point out that every State surrounding us - Virginia, New York, New Jersey, West Virginia - all have 3000 or less hertz as their standards. And more importantly, the speech differential test is one that is widely recognized. In fact, it is universally recognized to be a very, very subjective test, and that is the problem with the standards right now, that they are totally subjective. That is the advantage of adopting the AMA standards. If the AMA standards change, then our law will also change so that we will be keeping up with the best professional standards.

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Kasunic.

Senator KASUNIC. Mr. President, just very briefly, a few things to point out, and I would be remiss if I did not. The AMA itself warns that its own guidelines are used to measure impairment or what is wrong with the health of the individual. It does not measure disability, which is the gap between what the individual can do and what the individual needs to do. This

is stated in "Guides to the Evaluation of Permanent Impairment," Third Edition, American Medical Association, 1988, pages 1-2.

Mr. President, what we are asking to do here, we are not asking to go to extremes here. The levels as we know it, they run from 500 to 8000. What we are looking for is the middle ground, 4000 is the middle ground, 4000 hertz is the speech range. I believe the gentleman from Chester, Senator Baker, mentioned earlier that some of these firemen to whom I referred may have a hearing loss or a disability yet may be working and they may be functioning, but I question their ability to communicate at home with their families, with their friends. Loss of hearing is measured -- 4000 hertz is the speech range, and this is where we distinguish nouns and pronouns and consonants, words and sentences, and I certainly believe that if a person cannot do this, he is suffering from some sort of disability and loss of hearing.

It was alluded to very eloquently by the gentleman from Allegheny, Senator Belan, about family and friends, and I, too, coming from southwestern Pennsylvania where we do have this type of industry, I do have friends who are much younger than I am who simply cannot hear, friends who, when we are out in the woods on a hunting trip or maybe on a lake fishing, cannot distinguish or hear noises. They cannot hear those birds singing. I am sitting there, I hear them, I am asking them if they can hear a certain noise or a certain animal, or whatever. Sometimes they think I am lying to them because they simply cannot hear.

So, as I said, in fairness to the working men and women in Pennsylvania, I think it is time that we take care of our own. We are not asking for the world here, we are simply asking to move up to the next level from 3000 to 4000 hertz. I do not think that is unreasonable. I think that is something we can all deal with and we can live with, and I ask for an affirmative vote on this amendment.

Thank you, Mr. President.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Corman has been called to his office, and I would request a temporary Capitol leave on his behalf.

The PRESIDENT. Senator Loeper requests a temporary Capitol leave for Senator Corman. Without objection, that leave will be granted.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator KASUNIC and were as follows, viz:

YEAS—20

Andrezeski	Fumo	O'Pake	Stewart
Belan	Hughes	Porterfield	Stout
Bell	Jones	Rhoades	Tartaglione

Bodack	Kasunic	Schwartz	Wagner
Dawida	LaValle	Stapleton	Williams

## NAYS—30

Afflerbach	Greenleaf	Madigan	Salvatore
Armstrong	Hart	Mellow	Shaffer
Baker	Heckler	Mowery	Shumaker
Brightbill	Helfrick	Musto	Tilghman
Corman	Holl	Peterson	Tomlinson
Delp	Jubelirer	Punt	Uliana
Fisher	Lemmond	Robbins	Wenger
Gerlach	Loeper		

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I rise to oppose Senate Bill No. 3. It seems to me, Mr. President, that what we have here before us in the form of House Bill No. 3 is a measure that pits our government and our law against our ordinary working men and women and their families in this Commonwealth.

House Bill No. 3 takes away the rights of our workers to just compensation if they sustain a job-related hearing loss but do not immediately discover the loss and fail to file a claim within 3 years of when they were last exposed to that noise that caused the impairment. Instead of giving workers 3 years from the time they actually discovered job-related hearing loss, as is the case with the current law, this legislative scheme establishes a 3-year statute of limitations based not on the discovery of hearing loss by an injured worker but based solely on the arbitrary criteria of when a worker was last exposed to a disabling job-site noise.

Mr. President, in other words, what this bill does is it turns the table on our injured workers, making them ineligible to be compensated for their injury unless the job-related hearing loss shows up within a definite and capricious time period. What is more, this bill invites a legitimate constitutional challenge based on its retroactive provisions, which would make all pending claims subject to the restrictions of the new law.

Finally, Mr. President, this bill places a limitation on the types of testing conducted to determine our hearing loss and hearing disabilities. Mr. President, this bill, in my view, is just another attempt by big business and the insurance industry to pad their profits at the expense of injured workers right here in Pennsylvania.

I urge a "no" vote, Mr. President.

And the question recurring,  
Will the Senate agree to the bill on third consideration?  
It was agreed to.

And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Tartaglione.

Senator TARTAGLIONE. Mr. President, I rise today to oppose final passage of House Bill No. 3. Some of my opposition to this legislation is the result of the speed with which House Bill No. 3 has been pushed through this Chamber. Despite my objections, the Senate Committee on Labor and Industry spirited an amended version of this bill to the Senate floor just last week without a full and careful discussion and hearing on its merits. I firmly believe the Senate has not spent enough time reviewing the legislation, its details, and the impact that its enactment would have on working people in Pennsylvania. I had also hoped that the Senate Committee on Labor and Industry could hold hearings on this issue so that we could be absolutely certain we as a body have given this important bill the amount of careful review and consideration it requires.

Furthermore, if the Senate really stands ready to rush House Bill No. 3 through this Chamber, then I must also rise to express my other and more fundamental reason for opposing its passage. I believe House Bill No. 3 will result in the denial of workers' compensation benefits to working men and women who lose some of their ability to hear as a result of exposure to noise at the workplace. The American Medical Association guidelines used in this legislation fail to recognize the fact that hearing loss is a disability rather than an impairment.

In short, I believe House Bill No. 3 would deny benefits to individuals whose hearing loss has a significant effect on their daily lives but which does not meet the arbitrary medical parameters set forth in the bill.

As it stands today, House Bill No. 3 would also deny compensation to claims which have not yet been paid or awarded. Make no mistake, this retroactive action would deny benefits to those who have already been awarded compensation. It penalizes those whose claims are simply awaiting further action on their paperwork. This clause may have caused some insurers to stall and delay benefits to those who have legally and sincerely worked through the workers' compensation process and been awarded a settlement but are awaiting payment for their disability.

The arbitrary 3-year statute of repose is another reason to oppose passage of this legislation. Those who learn of a hearing loss after 3 years of their last exposure can no longer be eligible for compensation.

In summary, Mr. President, House Bill No. 3 has been rushed through this Chamber. It will make qualifying for compensation exceedingly difficult, and it places unrealistic restrictions on those who have already proven their disability and on those who have already suffered hearing loss for exposure at the workplace but have yet to discover the extent of their disability.

Thank you, Mr. President.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a temporary Capitol leave for Senator Belan.

The PRESIDENT. Senator Mellow requests a temporary Capitol leave for Senator Belan. Without objection, that leave will be granted.

And the question recurring,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, let me just express my appreciation to all those who have cooperated in this bill, to the gentleman from Lackawanna, Senator Mellow, and the gentleman from Bradford, Senator Madigan, who played such a key role in Act 44, and I think this is a logical follow-up to that, and all those who have participated in this.

I might just say quickly that the issue has been jelling for at least 3 years, and certainly our committee was cognizant of all attitudes on the bill and there was full opportunity for all those on the committee to express themselves. I would ask for an "aye" vote.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair notes the presence of Senator Shaffer on the floor, and his temporary Capitol leave will be cancelled.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—31

Afflerbach	Greenleaf	Madigan	Salvatore
Armstrong	Hart	Mellow	Shaffer
Baker	Heckler	Mowery	Shumaker
Brightbill	Helfrick	Musto	Tilghman
Corman	Holl	O'Pake	Tomlinson
Delp	Jubelirer	Peterson	Uliana
Fisher	Lemmond	Punt	Wenger
Gerlach	Loeper	Robbins	

NAYS—19

Andrezeski	Fumo	Porterfield	Stout
Belan	Hughes	Rhoades	Tartaglione
Bell	Jones	Schwartz	Wagner
Bodack	Kasunic	Stapleton	Williams
Dawida	LaValle	Stewart	

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

SB 374 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

SB 1 (Pr. No. 525) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the recycling of existing industrial and commercial sites; further defining the cleanup liability of new industries and tenants; establishing a framework for setting environmental remediation standards; establishing the Voluntary Cleanup Loan Fund and the Industrial Land Recycling Fund to aid industrial site cleanups; assigning powers and duties to the Environmental Quality Board and the Department of Environmental Resources; and making repeals.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

BILLS ON SECOND CONSIDERATION

SB 11 (Pr. No. 12) -- The Senate proceeded to consideration of the bill, entitled:

An Act limiting environmental liability for economic development agencies, financiers and fiduciaries.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

SB 12 (Pr. No. 13) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing grants for conducting assessments of abandoned industrial sites; establishing a fund; providing for funding; and imposing duties upon the Department of Commerce.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

HOUSE CONCURRENT RESOLUTION NO. 2, CALLED UP

Senator LOEPER, without objection, called up from page 2 of the Calendar, House Concurrent Resolution No. 2, entitled:

A Concurrent Resolution to create a commission of public and private cost-minded leaders of this Commonwealth to study the management of current government operations and make recommendations of cost-cutting measures.

On the question,  
Will the Senate concur in the resolution?

**SENATE CONCURS IN HOUSE CONCURRENT  
RESOLUTION NO. 2**

Senator LOEPER. Mr. President, I move that the Senate do concur in House Concurrent Resolution No. 2.

The motion was agreed to and the resolution was concurred in.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

**UNFINISHED BUSINESS  
CONGRATULATORY RESOLUTIONS**

The PRESIDENT laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Mariessa Armentrout, Lesa Manning, Marisol Tellez, Joel Bernard and to Shirley Ward by Senator Baker.

Congratulations of the Senate were extended to Eric S. Rosenberger by Senator Gerlach.

Congratulations of the Senate were extended to Marjorie H. Lewis by Senator Lemmond.

Congratulations of the Senate were extended to Florence Kathryn Ruth by Senator Mowery.

Congratulations of the Senate were extended to Joseph J. Vogel by Senator Peterson.

Congratulations of the Senate were extended to Joy Lynn Reda by Senator Robbins.

Congratulations of the Senate were extended to Letty Derman Thall and to Donald Birts by Senator Schwartz.

**CONDOLENCE RESOLUTION**

The PRESIDENT laid before the Senate the following resolution, which was read, considered and adopted:

Condolences of the Senate were extended to the family of the late Carolyn Lucille Ogletree Thomas by Senator Williams.

**RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I move that we recess the Regular Session until the conclusion of the Special Session.

The motion was agreed to.

The PRESIDENT. The Senate will stand in recess.

**AFTER RECESS**

The PRESIDENT. The time of recess having expired, the Senate will come to order.

**HOUSE MESSAGE**

**HOUSE CONCURS IN SENATE AMENDMENTS  
TO HOUSE BILL**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 3**.

**BILL SIGNED**

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the presence of the Senate signed the following bill:

**HB 3.**

**ADJOURNMENT**

Senator HECKLER. Mr. President, I move that the Senate do now adjourn until Monday, February 27, 1995, at 2 p.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

The motion was agreed to.

The Senate adjourned at 6:30 p.m., Eastern Standard Time.