

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, JUNE 7, 1988

SESSION OF 1988

172D OF THE GENERAL ASSEMBLY

No. 37

### HOUSE OF REPRESENTATIVES

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

#### THE SPEAKER (K. LEROY IRVIS) IN THE CHAIR

##### PRAYER

REV. DR. DAVID R. HOOVER, chaplain of the House of Representatives, from McConnellsburg, Pennsylvania, offered the following prayer:

Almighty, Everlasting God, Thou hast given us the promise of a divine life with Thee. Bestow upon us, we pray Thee, the power of Thy spirit, that, quickened by the indwelling of Thy presence, we may lay hold on eternal life by strong faith in Thee. Through this strong faith in Thee, enable us to be saved for all eternity and live as grateful children of Thine. To Thee we pour out the burdens of our hearts and lives, we reach out to Thee for the forgiveness which Thou hast to give, and we seek to expend our talents to Thee in the extension of Thy kingdom, world without end. Amen.

##### PLEDGE OF ALLEGIANCE

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

##### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal for Monday, June 6, 1988, will be postponed until that Journal is in print, and the Chair hears no such objection.

##### HOUSE BILLS INTRODUCED AND REFERRED

No. 2527 By Representatives HASAY, BELFANTI, TIGUE, MRKONIC, McHALE, JAROLIN, DIETTERICK, JACKSON, YANDRISSEVITS, GRUPPO, WAMBACH, SIRIANNI, PRESSMANN, LASHINGER, NAHILL, SAURMAN, MOEHLMANN, CESSAR, FISCHER, HAYDEN, BIRMELIN, STABACK, WOZNIAK, HAYES, MORRIS, HUTCHINSON, COY, DISTLER, F. TAYLOR, KUKOVICH,

ARTY, J. L. WRIGHT, KENNEY, HALUSKA, DUFFY, ANGSTADT, BATTISTO, WOGAN, MICHLOVIC, MILLER, KASUNIC, J. TAYLOR, OLASZ, SCHULER, GEIST, CARLSON, GODSHALL, ARGALL, ITKIN, PUNT, PITTS, FOSTER, WASS, SERAFINI, VEON, LEVDANSKY, STUBAN, FOX, JOHNSON, MAINE, PERZEL, CARN, BOYES, PETRARCA, RAYMOND, SEVENTY, DOMBROWSKI, BOOK, B. SMITH, BURD, VAN HORNE, REINARD, DALEY, McCALL, STEIGHNER, MAYERNIK, S. H. SMITH, D. W. SNYDER, DORR, PISTELLA, McVERRY, PHILLIPS, BUNT, HERSHEY, MOWERY, PICCOLA, GLADECK, NOYE, WESTON, BOWSER, G. SNYDER, HERMAN and TRELLO

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for veterans' litigation awards.

Referred to Committee on MILITARY AND VETERANS AFFAIRS, June 7, 1988.

No. 2528 By Representatives O'DONNELL, HAYES, IRVIS, SWEET, RYBAK, HECKLER, LASHINGER, MELIO, KENNEY, BATTISTO, McVERRY, NAHILL, PRESSMANN, KUKOVICH, RAYMOND, JOSEPHS, FOX, D. W. SNYDER, J. L. WRIGHT, KASUNIC, MORRIS, McHALE, DeLUCA, MAINE, MAIALE, SEVENTY, J. TAYLOR, DIETTERICK, BURD, REINARD, FISCHER, O'BRIEN, COHEN, DAWIDA, OLASZ, ROEBUCK, ARTY, FEE, JACKSON, LaGROTTA, VAN HORNE, FARGO, HALUSKA, ANGSTADT, TIGUE, YANDRISSEVITS, COY, BUNT, CIVERA, KITCHEN, PITTS, HAYDEN, REBER, WOGAN, DALEY, HAGARTY, FLICK, HERMAN, BORTNER, MICHLOVIC, PISTELLA, JOHNSON, LINTON, BELARDI, SAURMAN and TRELLO

An Act providing for the issuance of certain bonds; and providing for further duties of the Pennsylvania Higher Education Assistance Agency.

Referred to Committee on EDUCATION, June 7, 1988.

### HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 296

(Concurrent) By Representatives JAROLIN, WAMBACH, FEE, NAHILL, MARKOSEK, LETTERMAN, KUKOVICH, CARLSON, GEIST, ITKIN, COLAFELLA, PUNT, DeLUCA, RAYMOND, BATTISTO, TIGUE, VEON, PRESSMANN, PISTELLA, MOWERY, BUNT, JOHNSON, RYBAK, PETRARCA, TRELLO, KOSINSKI, MAINE, DURHAM, DIETTERICK, CAWLEY, HASAY, STEIGHNER, KASUNIC, COY, STUBAN, SHOWERS, F. TAYLOR and BELARDI

Memorializing Congress to enact H.R.4221 which would exempt employer-paid benefits, including unused sick leave and vacation leave.

Referred to Committee on RULES, June 7, 1988.

### LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the gentleman from Lawrence, Mr. Fee. Do you have any requests for leaves?

Mr. FEE. Yes, Mr. Speaker. The gentleman from Philadelphia, Mr. MAIALE, for today.

The SPEAKER. The gentleman will be excused.

The Chair recognizes the minority whip.

Mr. HAYES. Thank you, Mr. Speaker.

I request a leave for the lady from Lancaster County, Mrs. HONAMAN, for the day.

The SPEAKER. The lady will be excused. The Chair thanks the gentleman.

### SENATE MESSAGE

#### HOUSE AMENDMENTS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 938, PN 2089**.

### SENATE MESSAGE

#### HOUSE BILL CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 2112, PN 2894**, with information that the Senate has passed the same without amendment.

### BILLS SIGNED BY SPEAKER

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

#### HB 2112, PN 2894

An Act designating certain bridges crossing the Susquehanna River at Sunbury as the Thomas A. Edison Bridge and the Joseph Priestley Bridge.

#### SB 938, PN 2089

An Act amending the act of July 3, 1987 (P. L. 459, No. 9A), entitled "General Appropriation Act of 1987," adding, increasing and decreasing certain State and Federal appropriations to the various components of the Executive Department.

### REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Godshall. Why do you rise?

Mr. GODSHALL. Thank you, Mr. Speaker.

I would like to make a notation for the record that yesterday I was not in my seat when amendments Nos. 2887, 2892, and 2890 to HR 293 were voted on. If I had been in my seat, I would have voted in the affirmative. Thank you.

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

### WELCOME

The SPEAKER. We have with us today Billy Lieb, who is a guest page here today, and in the gallery his grandparents, Mr. and Mrs. William Lieb. They are the guests of Jeff Piccola and Merle Phillips. Wave so we can see you. There they are. Welcome to the hall of the House. We are delighted to have you, and we are delighted to have Billy here.

### DEMOCRATIC CAUCUS

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

Mr. ITKIN. Mr. Speaker, I would like to advise the Democratic members that caucus will begin at 10:45. We hope everyone will be there. We are anticipating the Governor to be in the caucus to talk to us. Reiterating: Caucus at 10:45 a.m.; the Governor will be present.

The SPEAKER. The Democratic members are urged to be present in caucus at 10:45. The Governor will be there to speak to the Democratic Caucus. Members are urged to be in caucus at 10:45.

### ANNOUNCEMENT BY SPEAKER

The SPEAKER. For the information of the members, the Chair will be taking no action during the morning hours; neither will the Chair take a master roll call until we come back here this afternoon. The reason for that is obvious. There are members of the floor of the House who wish to be with Marv Miller at this time.

We will be coming back on the floor at approximately 2:30, but it may be a few minutes before or a few minutes after that. There will be votes taken and they will be very important votes taken this afternoon, but we shall not be taking any action on the floor of the House this morning.

### REPUBLICAN CAUCUS

The SPEAKER. Is there a need for a Republican caucus?

The Chair recognizes the gentleman from Perry, Mr. Noye.

Mr. NOYE. Thank you, Mr. Speaker.

The Republicans will caucus immediately on the announcement of the recess in the Republican caucus room.

The SPEAKER. Republican caucus on the declaration of the recess. Democratic caucus at 10:45.

### RECESS

The SPEAKER. The House will stand in recess subject to the call of the Chair. Now please note that. If the Chair finds that we have enough business to transact at 1:45 instead of 2 o'clock, the Chair will be calling us to order at 1:45. Right now it appears that we will not be back here until 2 o'clock.

The House stands in recess subject to the call of the Chair.

### AFTER RECESS

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

### CALENDAR

#### BILLS ON SECOND CONSIDERATION

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

**HB 2298, PN 3344.**

\* \* \*

The House proceeded to second consideration of **HB 2429, PN 3346**, entitled:

An Act amending the act of December 15, 1986 (P.L.1610, No.181), known as the "Rabies Prevention and Control in Domestic Animals and Wildlife Act," further providing for testing.

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

#### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that HB 2429 be recommitted to the Committee on Appropriations for a fiscal note.

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

\* \* \*

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

**SB 1109, PN 2082; HB 1662, PN 2072; HB 2276, PN 3342; HB 2460, PN 3291; HB 2461, PN 3292; and SB 245, PN 255.**

\* \* \*

The House proceeded to second consideration of **SB 1267, PN 1777**, entitled:

An Act requiring all counties of the first class to place on the election ballot for the November 8, 1988, general election a non-binding referendum question relating to changing the current system of selecting judges for the courts of common pleas.

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

#### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that SB 1267 be recommitted for a fiscal note to the Committee on Appropriations.

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

\* \* \*

The House proceeded to second consideration of **HB 1928, PN 3358**, entitled:

An Act providing for drug testing in public and private employment; providing for testing standards; and further providing for the duties of the Department of Health and the Department of Labor and Industry.

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

#### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that HB 1928 be recommitted for a fiscal note to the Committee on Appropriations.

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

\* \* \*

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

**SB 1176, PN 2083.**

\* \* \*

The House proceeded to second consideration of **HB 1987, PN 2532**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, removing provisions relating to certain vehicle emission inspection requirements.

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

### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that **HB 1987** be recommitted for a fiscal note to the Committee on Appropriations.

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

\* \* \*

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

**HB 2280, PN 3343.**

\* \* \*

The House proceeded to second consideration of **HB 2332, PN 3345**, entitled:

An Act authorizing and directing the Department of Transportation, with the approval of the Governor, to convey to the United States Department of Interior portions of certain State highways located in Montgomery and Chester Counties, Pennsylvania.

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

### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that **HB 2332** be recommitted to the Committee on Appropriations for a fiscal note.

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

\* \* \*

The House proceeded to second consideration of **HB 2417, PN 3223**, entitled:

An Act designating a section of Route 255 in Elk County, Pennsylvania, as the General Edward Meyer Boulevard.

On the question,

Will the House agree to the bill on second consideration?

### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that **HB 2417** be recommitted to the Committee on Appropriations for a fiscal note.

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

\* \* \*

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

**HB 2418, PN 3224; and HB 2425, PN 3356.**

\* \* \*

The House proceeded to second consideration of **HB 2427, PN 3233**, entitled:

An Act designating a bridge over the Allegheny River in Allegheny County, as the Joseph F. Bonetto Memorial Bridge.

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

### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that **HB 2427** be recommitted for a fiscal note to the Committee on Appropriations.

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

\* \* \*

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

**HB 2495, PN 3355.**

\* \* \*

The House proceeded to second consideration of **SB 741, PN 850**, entitled:

An Act designating a certain portion of U.S. Route 1 in Bucks County as the Martin Luther King, Jr., Expressway.

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

### BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.  
Mr. MANDERINO. Mr. Speaker, I move that **SB 741** be recommitted to the Committee on Appropriations for a fiscal note.

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

\* \* \*

The House proceeded to second consideration of **SB 1323, PN 1867**, entitled:

An Act designating the new bridge at Hyner, Pennsylvania, in Chapman Township, Clinton County, as the Gold Star Mothers Bridge in honor and memory of veterans and their mothers.

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

**BILL RECOMMENDED**

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that SB 1323 be recommended to the Committee on Appropriations for a fiscal note.

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

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 1995, PN 2560**, entitled:

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," adding and amending definitions; further providing for powers and duties of the department and of the Environmental Quality Board; and providing for certain handling of foundry sand.

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

**BILL TABLED**

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that HB 1995 be placed upon the tabled calendar.

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

**BILL REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that HB 1995 be lifted from the tabled calendar and placed on the active calendar.

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

**MASTER ROLL CALL**

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

The following roll call was recorded:

**PRESENT—194**

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Distler    | Kosinski   | Reber         |
| Angstadt    | Dombrowski | Kukovich   | Reinard       |
| Argall      | Donatucci  | LaGrotta   | Richardson    |
| Arty        | Dorr       | Langtry    | Rieger        |
| Barley      | Duffy      | Lashingier | Ritter        |
| Battisto    | Durham     | Leh        | Robbins       |
| Belardi     | Evans      | Lescovitz  | Roebuck       |
| Belfanti    | Fargo      | Letterman  | Rudy          |
| Billow      | Farmer     | Levdansky  | Ryan          |
| Birmelin    | Fattah     | Linton     | Rybak         |
| Black       | Fee        | Livengood  | Saloom        |
| Blaum       | Fischer    | Lloyd      | Saurman       |
| Book        | Flick      | Lucyk      | Scheetz       |
| Bortner     | Foster     | McCall     | Schuler       |
| Bowley      | Fox        | McClatchy  | Semmel        |
| Bowser      | Freeman    | McHale     | Serafini      |
| Boyes       | Freind     | McVerry    | Seventy       |
| Brandt      | Gallen     | Maine      | Showers       |
| Broujos     | Gamble     | Manderino  | Sirianni      |
| Bunt        | Gannon     | Manmiller  | Smith, B.     |
| Burd        | Geist      | Markosek   | Smith, S. H.  |
| Burns       | George     | Mayernik   | Snyder, D. W. |
| Bush        | Gladeck    | Melio      | Snyder, G.    |
| Caltagirone | Godshall   | Merry      | Staback       |
| Cappabianca | Gruitza    | Michlovic  | Stairs        |
| Carlson     | Gruppo     | Micozzie   | Steighner     |
| Carn        | Hagarty    | Moehlmann  | Stuban        |
| Cawley      | Haluska    | Morris     | Sweet         |
| Cessar      | Harper     | Mowery     | Taylor, E. Z. |
| Chadwick    | Hasay      | Mrkonik    | Taylor, F.    |
| Civera      | Hayden     | Murphy     | Taylor, J.    |
| Clark       | Hayes      | Nahill     | Tigue         |
| Clymer      | Heckler    | Noye       | Trello        |
| Cohen       | Herman     | O'Brien    | Van Horne     |
| Colafella   | Hershey    | O'Donnell  | Veon          |
| Cole        | Hess       | Olasz      | Vroon         |
| Cornell     | Howlett    | Oliver     | Wambach       |
| Corrigan    | Hughes     | Perzel     | Wass          |
| Cowell      | Hutchinson | Petrarca   | Weston        |
| Coy         | Itkin      | Petrone    | Wiggins       |
| DeLuca      | Jackson    | Phillips   | Wogan         |
| DeVerter    | Jadlowiec  | Piccola    | Wozniak       |
| DeWeese     | Jarolin    | Pievsky    | Wright, D. R. |
| Daley       | Johnson    | Pistella   | Wright, J. L. |
| Davies      | Josephs    | Pitts      | Wright, R. C. |
| Dawida      | Kasunic    | Pressmann  | Yandrisevits  |
| Dempsey     | Kennedy    | Preston    |               |
| Dietterick  | Kenney     | Punt       | Irvis,        |
| Dininni     | Kitchen    | Raymond    | Speaker       |

**ADDITIONS—0**

**NOT VOTING—0**

**EXCUSED—3**

**LEAVES ADDED—1**

Honaman

Maiale

Miller

McVerry

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

**HB 1875, PN 2365**

By Rep. COWELL

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, providing that service in the Cadet Nurse Corps shall constitute creditable non-school service and creditable nonstate service.

EDUCATION.

**HB 2338, PN 3117**

By Rep. COWELL

An Act amending the act of January 18, 1952 (1951 P. L. 2111, No. 600), referred to as the "State College Faculty Compensation Law," further providing for payments to co-operating teachers; and making editorial changes.

EDUCATION.

**LEAVE OF ABSENCE**

The SPEAKER. The Chair recognizes the minority whip.

Mr. HAYES. Mr. Speaker, if you would return to leaves of absence, please?

The SPEAKER. Without objection, the Chair does return to leaves.

Mr. HAYES. Thank you, Mr. Speaker.

I would request a leave for the gentleman from Allegheny County, Representative McVERRY, for the remainder of today's session.

The SPEAKER. The leave is granted, there being no objection.

Mr. HAYES. Thank you.

**LIBRARY CONTEST WINNERS PRESENTED**

The SPEAKER. The Chair wishes to call to your attention we have some distinguished guests here at the podium. These are the children of Pennsylvania, some of whom will be the leaders of the next generation, and some of you who are leaders of this generation better pay attention to them. They are winners of the Library/First Amendment Essay Contest. They are Corrie Wagner, who comes from Frank LaGrotta's district - Corrie, put your hand up; Christina Alberts, who comes from Jim Manderino's district - Christina; Wendy Frushon, who comes from Mr. Belardi's district - Wendy; Katie Ryan, who comes from Mr. McClatchy's district - Katie; Emily Chivers, who comes from Jim Merry's district; and Jolanea Wilson, who comes from Mr. Dininni's district.

Now I want to reveal something to you which makes me a bit ashamed. We have among these children a 9-year-old redhead who at 9 years of age has already written three books. They are books which are registered in her library. They have the library card attached to them. She is a legitimate author, and the rest of us ought to be a bit ashamed. Raise your hand again so they see you, Katie.

Their mothers and fathers and the librarians are to the left of the Speaker. Please rise so we can welcome you.

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, is it any wonder that that 9-year-old literary genius is named Katie Ryan, which was my beloved mother's name and one of my daughters' name.

The SPEAKER. I knew you would get into it someday. Well, I will tell you one thing, she has written three beautiful little books, and she did all the handprinting herself and all the illustrations herself. I think we have a right to be proud of every single one of these children.

Children, we welcome you here to the House of Representatives. We are delighted that you came to visit us. Please come again.

I am informed that some of the mothers and fathers are in the gallery. Will you please rise so we can welcome you - the mothers and fathers of these children. Thank you for bringing them to us.

One more announcement. For the male members of the House of Representatives, you will notice there was not a single boy who qualified as a winner. That may begin to tell you something.

**ANNOUNCEMENT BY SPEAKER**

The SPEAKER. Seriously now, I would like your attention just for a moment. I want to make an announcement about Bill Telek.

The Chair was informed at 9:30 this morning and did not release the information, in case any of you have not been told, the district attorney of Dauphin County has arraigned and indicted under criminal homicide the young man who was found driving Bill Telek's automobile, and the district attorney indicates that he has a case. He says that he has the hammer which he believes was the murder weapon. He told me that he has evidence—and he did not reveal, as he certainly should not have, what that evidence is—that he found in the apartment of the young man who was arrested. He says that the young man had in his possession marijuana at the time of the arrest. There are indications that the investigation of the police will be continuing.

I have spoken to a number of news media people on behalf of the members of this assemblage. I have said that we are not pleased with anything, that we still have a sense of anger at the senseless and brutal killing of a very gentle and grandfatherly man, but that we are makers of laws and we are content to have this defendant tried in a court of law, and if he is found guilty—and here I speak for me and not just for you—I said I hope he pays the full penalty of the law.

You may sometimes think that there are more people out there who dislike us than who like us. I want to read a little note which came to me from a woman named Lydia Ringeisen from Berlin, Pennsylvania, and she is writing it about William Telek's death. She addresses it to all Pennsylvania State Representatives.

When we hear of something like this elsewhere, we consider it just another fact of life and death. But, when it happens to one of our own, in our State, in our Capitol, it touches us all very deeply. You have

lost one among your honorable Body. So have we lost a fine Representative.

It is my prayer that God will watch over all of you as you continue to serve us and Him.

I shall thank the lady in the name of the House of Representatives for stating it so beautifully, and I shall give her our mutual gratitude that there are people out there who care what happens to us.

### CONDOLENCE RESOLUTION ADOPTED

The SPEAKER. We have one unpleasant task to perform now before we go on with the voting - the death of a former member, Russell Kowalyshyn.

The doors of the House will now be closed. Members will now take their seats and there will be no further conversation.

The clerk will read the resolution.

The following resolution was read:

HOUSE OF REPRESENTATIVES  
HARRISBURG, PA.  
OFFICE OF THE CHIEF CLERK  
RESOLUTION

WHEREAS, Russell Kowalyshyn, former State Representative of the 138th Legislative District, passed away recently at the age of sixty-nine; and

WHEREAS, A 1940 Phi Beta Kappa graduate of Lehigh University, Mr. Kowalyshyn earned his master's degree at Columbia University in 1941 and graduated from Dickinson School of Law in 1951. He was elected to the Pennsylvania House of Representatives in 1965 and served until 1985; and

WHEREAS, During his stint as legislator, Mr. Kowalyshyn was a member of the House Appropriations Committee and chairman of the Sub-Committee on Banking and Savings and Loan Association. A member of the Speaker's Committee on Budgeting reform, he sponsored legislation to eliminate the local occupation tax, to control vehicular noise pollution, and the Reform of the Pennsylvania Motor Vehicles Insurance Statute. He served eight years as chairman of the Insurance Committee, chairman of the Conservation Committee and the Select Committee for Safe Drinking Water; and

WHEREAS, An assistant district attorney for Northampton County for eight years, Mr. Kowalyshyn maintained a law office in Northampton. In addition, he served a six-year term on the Northampton Area School Board. A captain in the Army during World War II, he was a past commander of VFW Post 4714; a member of the Northampton Air Pollution Control Board since 1957; a director of Merchants National Bank of Allentown and a member of Assumption of Virgin Mary Ukrainian Orthodox Church; now therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania pause in its deliberations to mourn the passing of Russell Kowalyshyn, a distinguished businessman, dedicated community leader and concerned citizen whose numerous contributions to his community and to this Commonwealth are recognized with great pride, gratitude and respect; extend heartfelt condolences to his mother, two brothers and four sisters; and be it further

RESOLVED, That a copy of this resolution be delivered to the Family of Russell Kowalyshyn.

We hereby certify that the foregoing is an exact copy of a resolution introduced in the House of Representatives by the Honorable Frank W. Yandrisevits, William C. Rybak, Robert L. Freeman, Leonard Q. Gruppo and John F. Pressmann, and

unanimously adopted by the House of Representatives on the 6th day of June 1988.

K. Leroy Irvis  
Speaker of the House  
ATTEST:  
John J. Zubeck  
Chief Clerk

On the question,  
Will the House adopt the resolution?

The SPEAKER. Members and all guests will rise and stand in place.

(Members and all visitors stood.)

The SPEAKER. The resolution is unanimously adopted.

The doors of the House may now be opened.

### WELCOME

The SPEAKER. We are going to get busy here and we do not want to miss some of our fine senior citizens.

A Bensalem senior citizens group is up in the balcony. Welcome to the hall of the House. We are delighted to have you here.

### BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 1852, PN 3341**, entitled:

An Act providing for the cleanup of hazardous waste sites; providing further powers and duties of the Department of Environmental Resources and the Environmental Quality Board; providing for response and investigations for liability and cost recovery; establishing the Hazardous Sites Cleanup Fund; providing for certain fees and for enforcement, remedies and penalties; making an appropriation.

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

Mr. GEORGE offered the following amendments No. A2937:

Amend Sec. 902, page 57, line 10, by striking out "ACTIONS" where it appears the second time and inserting responses

Amend Sec. 902, page 57, line 18, by striking out "ACTIONS" and inserting responses

Amend Sec. 902, page 57, line 27, by striking out "ACTIONS" and inserting responses

Amend Sec. 902, page 59, line 5, by striking out "510" and inserting

511

Amend Sec. 902, page 59, line 18, by removing the period after "PARTIES" and inserting

and a listing of sites where mixed funding as described in section 902(a)(3) was utilized for cleanup.

Amend Sec. 902, page 60, line 6, by striking out "510" and inserting

511

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

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, this amendment has been drawn because during the hearings of the Conservation Committee, general concerns were established that in order to assure that the environment would no longer be placed in a state of degradation, that inspectors needed a tool so they could be assured of the continuation and the control of the environment would be enhanced. This amendment simply insists that if an inspector or an employee of the Commonwealth goes into a facility and has reason to believe, after he has received a warrant, that the information he sees is important and important for him to do his work, that he is able to take those reports and utilize those reports in his research and his continuation of his inspectorial duties.

I would ask that we would agree with this amendment.

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

Mr. REBER. Mr. Speaker, I am just inquiring of the gentleman, Mr. George, if the number on the board is identical to the amendment that he was explaining.

The SPEAKER. What number did the clerk read, 2937? A2937 was read.

Mr. GEORGE. Mr. Speaker, the gentleman is accurate, and we have the amendments out of order. I apologize to him and every member.

Now, this amendment is in reality a tool to allow that a report to the General Assembly will be provided so that we can be assured that the money that is spent, after the enactment of this legislation, has been spent properly. This is merely a report, a note for an oversight to the General Assembly.

I ask that we adopt this.

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I, too, would join in support of the amendment offered by the gentleman, Mr. George. I certainly think that the annual reporting for the mixed funding - in essence, funding from both the Federal Superfund dollars as well as State-derived dollars - should be appropriately reported.

I would urge all members to support the amendment. Thank you.

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

The following roll call was recorded:

YEAS—186

|          |            |            |         |
|----------|------------|------------|---------|
| Acosta   | Distler    | Kitchen    | Reber   |
| Angstadt | Dombrowski | Kosinski   | Reinard |
| Argall   | Donatucci  | LaGrotta   | Rieger  |
| Arty     | Dorr       | Langtry    | Ritter  |
| Barley   | Duffy      | Lashingier | Robbins |
| Battisto | Durham     | Leh        | Roebuck |
| Belardi  | Evans      | Lescovitz  | Rudy    |
| Belfanti | Fargo      | Levdansky  | Ryan    |
| Billow   | Farmer     | Linton     | Rybak   |

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Birmelin    | Fee        | Livengood | Saloom        |
| Black       | Fischer    | Lloyd     | Scheetz       |
| Blaum       | Flick      | Lucyk     | Schuler       |
| Book        | Foster     | McCall    | Semmel        |
| Bortner     | Fox        | McClatchy | Serafini      |
| Bowley      | Freeman    | McHale    | Seventy       |
| Boyes       | Freind     | Maine     | Showers       |
| Brandt      | Gallen     | Manderino | Sirianni      |
| Broujos     | Gamble     | Manmiller | Smith, B.     |
| Bunt        | Gannon     | Markosek  | Smith, S. H.  |
| Burd        | Geist      | Mayernik  | Snyder, D. W. |
| Bush        | George     | Melio     | Snyder, G.    |
| Caltagirone | Gladeck    | Merry     | Staback       |
| Cappabianca | Godshall   | Michlovic | Stairs        |
| Carlson     | Gruitza    | Micozzie  | Steighner     |
| Carn        | Gruppo     | Moehlmann | Stuban        |
| Cawley      | Hagarty    | Morris    | Sweet         |
| Cessar      | Haluska    | Mowery    | Taylor, E. Z. |
| Chadwick    | Harper     | Mrkonic   | Taylor, F.    |
| Civera      | Hasay      | Murphy    | Taylor, J.    |
| Clark       | Hayden     | Nahill    | Tigue         |
| Clymer      | Hayes      | Noye      | Trello        |
| Cohen       | Heckler    | O'Brien   | Van Horne     |
| Colafella   | Herman     | O'Donnell | Veon          |
| Cole        | Hershey    | Olasz     | Vroon         |
| Cornell     | Hess       | Oliver    | Wambach       |
| Corrigan    | Howlett    | Perzel    | Wass          |
| Cowell      | Hughes     | Petrarca  | Weston        |
| Coy         | Hutchinson | Petrone   | Wiggins       |
| DeLuca      | Itkin      | Phillips  | Wogan         |
| DeVerter    | Jackson    | Piccola   | Wozniak       |
| DeWeese     | Jadlowiec  | Pievsky   | Wright, D. R. |
| Daley       | Jarolin    | Pistella  | Wright, J. L. |
| Davies      | Johnson    | Pitts     | Wright, R. C. |
| Dawida      | Josephs    | Pressmann | Yandrisevits  |
| Dempsey     | Kasunic    | Preston   |               |
| Dietterick  | Kennedy    | Punt      | Irvis,        |
| Dininni     | Kenney     | Raymond   | Speaker       |

NAYS—0

NOT VOTING—7

|        |          |            |         |
|--------|----------|------------|---------|
| Bowser | Fattah   | Letterman  | Saurman |
| Burns  | Kukovich | Richardson |         |

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

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

Mr. GEORGE offered the following amendments No. A2936:

Amend Sec. 1106, page 72, lines 5 through 22, by striking out all of said lines and inserting

An agent or employee of the department may apply to any Commonwealth official authorized to issue a search warrant for the purposes of searching any property, building, premise, or place, of seizing any book, record or other physical evidence, of conducting tests, or of taking samples of any solid waste. Such warrant shall be issued upon probable cause. It shall be sufficient probable cause to show any of the following:

- (1) that the search, seizure, test or sampling is pursuant to a general administrative plan to determine compliance with this act;
- (2) that the agent or employee has reason to believe that a violation of this act has occurred or may occur; or



(3) that the agent or employee has been refused access to the property, building, premise or place, has been refused possession of any book, record or physical evidence, or has been prevented from conducting tests or taking samples.  
Amend Sec. 1114, page 77, line 26, by inserting after "act" or civil actions for releases of hazardous substances,

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

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, this amendment is the one that I explained earlier. It was out of rotation, but very, very necessary in order to allow the inspector or the employee of the Commonwealth to be able to have before him and contain and protect information that might be noteworthy or necessary in order for him to be able to control the activities which he is empowered to control.

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

Mr. REBER. Mr. Speaker, I would urge support of this amendment as well. I think it clarifies a court case existing in western Pennsylvania and certainly conforms with necessary due process.

I would urge support.

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

The following roll call was recorded:

YEAS—190

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Dininni    | Kosinski  | Reber         |
| Angstadt    | Distler    | Kukovich  | Reinard       |
| Argall      | Dombrowski | LaGrotta  | Rieger        |
| Arty        | Donatucci  | Langtry   | Ritter        |
| Barley      | Dorr       | Lashinger | Robbins       |
| Battisto    | Duffy      | Leh       | Roebuck       |
| Belardi     | Durham     | Lescovitz | Rudy          |
| Belfanti    | Evans      | Letterman | Ryan          |
| Billow      | Fargo      | Levdansky | Rybak         |
| Birmelin    | Farmer     | Linton    | Saloom        |
| Black       | Fee        | Livengood | Saurman       |
| Blaum       | Fischer    | Lloyd     | Scheetz       |
| Book        | Foster     | Lucyk     | Schuler       |
| Bortner     | Fox        | McCall    | Semmel        |
| Bowley      | Freeman    | McClatchy | Serafini      |
| Bowser      | Freind     | McHale    | Seventy       |
| Boyes       | Gallen     | Maine     | Showers       |
| Brandt      | Gamble     | Manderino | Sirianni      |
| Broujos     | Gannon     | Manmiller | Smith, B.     |
| Bunt        | Geist      | Markosek  | Smith, S. H.  |
| Burd        | George     | Mayernik  | Snyder, D. W. |
| Burns       | Gladeck    | Melio     | Snyder, G.    |
| Bush        | Godshall   | Merry     | Staback       |
| Caltagirone | Gruitza    | Michlovic | Stairs        |
| Cappabianca | Gruppo     | Micozzie  | Steighner     |
| Carlson     | Hagarty    | Moehlmann | Stuban        |
| Carn        | Haluska    | Morris    | Sweet         |
| Cawley      | Harper     | Mowery    | Taylor, E. Z. |
| Cessar      | Hasay      | Mrkonic   | Taylor, F.    |
| Chadwick    | Hayden     | Murphy    | Taylor, J.    |
| Civera      | Hayes      | Nahill    | Tigue         |
| Clark       | Heckler    | Noye      | Trello        |
| Clymer      | Herman     | O'Brien   | Van Horne     |
| Cohen       | Hershey    | O'Donnell | Veon          |
| Colafella   | Hess       | Olasz     | Vroon         |
| Cole        | Howlett    | Oliver    | Wambach       |
| Cornell     | Hughes     | Perzel    | Wass          |

|            |            |           |               |
|------------|------------|-----------|---------------|
| Corrigan   | Hutchinson | Petrarca  | Weston        |
| Cowell     | Itkin      | Petrone   | Wiggins       |
| Coy        | Jackson    | Phillips  | Wogan         |
| DeLuca     | Jadlowiec  | Piccola   | Wozniak       |
| DeVerter   | Jarolin    | Pievsky   | Wright, D. R. |
| DeWeese    | Johnson    | Pistella  | Wright, J. L. |
| Daley      | Josephs    | Pitts     | Wright, R. C. |
| Davies     | Kasunic    | Pressmann | Yandrisevits  |
| Dawida     | Kennedy    | Preston   |               |
| Dempsey    | Kenney     | Punt      | Irvis,        |
| Dietterick | Kitchen    | Raymond   | Speaker       |

NAYS—0

NOT VOTING—3

|        |       |            |
|--------|-------|------------|
| Fattah | Flick | Richardson |
|        |       | EXCUSED—4  |

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

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

Mr. STEIGHNER offered the following amendments No. A2931:

Amend Sec. 102, page 5, by inserting between lines 26 and 27

(11) It is the intent of the General Assembly that the department shall undertake such measures and steps as are necessary to expedite the siting, review, permitting and development of hazardous waste treatment and disposal facilities within this Commonwealth, in order to protect public health and safety, foster economic growth and protect the environment.

Amend Sec. 102, page 5, line 27, by striking out "(11)" and inserting

(12)

Amend Sec. 502, page 21, line 12, by inserting after "ecosystems,"

the maximum usage of available Federal funds for sites which qualify for the National Priority List,

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

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Butler, Mr. Steighner.

Mr. STEIGHNER. Thank you, Mr. Speaker.

Again, this is amendment No. A2931.

Mr. Speaker, currently there is no hazardous waste site located within the confines of the Commonwealth. This situation has proved to be extremely costly, not only to the businesses across the State but to the consumers in Pennsylvania as well.

This amendment offers language that would allow the department to expedite the siting and permitting process so the department can act on a timely basis. If this is the case, obviously it would be a major protection and assistance to not only the operator but to the public in general.

I would ask for the approval of the House.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, I feel we should accept this amendment.

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

Mr. REBER. Mr. Speaker, during the course of public hearings on the Superfund issue, one of the major concerns was the siting issue. I think we are going to be given an opportunity today to move at this from a number of fronts. I think this is the first of those fronts, and I would urge adoption. Thank you.

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

The following roll call was recorded:

YEAS—192

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Distler    | Kosinski  | Reber         |
| Angstadt    | Dombrowski | Kukovich  | Reinard       |
| Argall      | Donatucci  | LaGrotta  | Rieger        |
| Arty        | Dorr       | Langtry   | Ritter        |
| Barley      | Duffy      | Lashinger | Robbins       |
| Battisto    | Durham     | Leh       | Roebuck       |
| Belardi     | Evans      | Lescovitz | Rudy          |
| Belfanti    | Fargo      | Letterman | Ryan          |
| Billow      | Farmer     | Levdansky | Rybak         |
| Birmelin    | Fattah     | Linton    | Saloom        |
| Black       | Fee        | Livengood | Saurman       |
| Blaum       | Fischer    | Lloyd     | Scheetz       |
| Book        | Flick      | Lucyk     | Schuler       |
| Bortner     | Foster     | McCall    | Semmel        |
| Bowley      | Fox        | McClatchy | Serafini      |
| Bowser      | Freeman    | McHale    | Seventy       |
| Boyes       | Freind     | Maine     | Showers       |
| Brandt      | Gallen     | Manderino | Sirianni      |
| Broujos     | Gamble     | Manmiller | Smith, B.     |
| Bunt        | Gannon     | Markosek  | Smith, S. H.  |
| Burd        | Geist      | Mayernik  | Snyder, D. W. |
| Burns       | George     | Melio     | Snyder, G.    |
| Bush        | Gladeck    | Merry     | Staback       |
| Caltagirone | Godshall   | Michlovic | Stairs        |
| Cappabianca | Gruitza    | Micozzie  | Steighner     |
| Carlson     | Gruppo     | Moehlmann | Stuban        |
| Carn        | Hagarty    | Morris    | Sweet         |
| Cawley      | Haluska    | Mowery    | Taylor, E. Z. |
| Cessar      | Harper     | Mrkoncic  | Taylor, F.    |
| Chadwick    | Hasay      | Murphy    | Taylor, J.    |
| Civera      | Hayden     | Nahill    | Tigue         |
| Clark       | Hayes      | Noye      | Trello        |
| Clymer      | Heckler    | O'Brien   | Van Horne     |
| Cohen       | Herman     | O'Donnell | Veon          |
| Colafella   | Hershey    | Olasz     | Vroon         |
| Cole        | Hess       | Oliver    | Wambach       |
| Cornell     | Howlett    | Perzel    | Wass          |
| Corrigan    | Hughes     | Petrarca  | Weston        |
| Cowell      | Hutchinson | Petrone   | Wiggins       |
| Coy         | Itkin      | Phillips  | Wogan         |
| DeLuca      | Jackson    | Piccola   | Wozniak       |
| DeVerter    | Jadlowiec  | Pievsky   | Wright, D. R. |
| DeWeese     | Jarolin    | Pistella  | Wright, J. L. |
| Daley       | Johnson    | Pitts     | Wright, R. C. |
| Davies      | Josephs    | Pressmann | Yandrisevits  |
| Dawida      | Kasunic    | Preston   |               |
| Dempsey     | Kennedy    | Punt      | Irvis,        |
| Dietterick  | Kenney     | Raymond   | Speaker       |
| Dininni     | Kitchen    |           |               |

NAYS—0

NOT VOTING—1

Richardson

EXCUSED—4

Honaman      McVerry      Maiale      Miller

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

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

Mr. LLOYD offered the following amendments No. A2946:

Amend Sec. 103, page 8, by inserting between lines 7 and 8 The term shall not include an element, substance, compound or mixture from a coal mining operation under the jurisdiction of the department or from a site eligible for funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. § 1201 et seq.), nor shall the term include natural gas, natural gas liquids, liquified natural gas or synthetic gas usable for fuel or mixtures of natural gas and synthetic gas usable for fuel, except for the purposes of an emergency response.

Amend Sec. 103, page 9, line 27, by removing the period after "fuel" and inserting or an element, substance, compound or mixture from a coal mining operation under the jurisdiction of the department or from a site eligible for funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. § 1201 et seq.).

Amend Sec. 501, page 18, line 9, by inserting after "and" , if further response action is deemed appropriate, the department may notify the owner, operator or any other responsible party of such release or threat of a release and allow such person or persons to investigate and undertake an appropriate response, or

Amend Sec. 501, page 18, line 27, by striking out "or" where it appears the third time

Amend Sec. 501, page 18, line 29, by removing the period after "use" and inserting

; or  
(iv) from a coal mining operation under the jurisdiction of the department or from a site eligible for funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. § 1201 et seq.).

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

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is intended to make clear that wastes from coal mining are not considered to be hazardous under this bill, and also, with one restriction, that natural gas is not considered to be a contaminant or hazardous substance.

Coal is exempted from Act 97. The regulation of hazardous waste and other solid waste is regulated under a number of statutes which deal particularly with cleaning up coal problems, and this amendment would make sure that that exemption stays in the Superfund legislation.

In addition to that, there is one other provision of importance, and that is that under the bill, if remedial action is required, the Department of Environmental Resources is instructed to investigate and take whatever steps are necessary to remediate. This amendment recognizes that as a "may" provision. The department "may" call upon the responsible person, that particular company, to take that action to make that initial response in order to get the situation under control.

An example of where this would be particularly important, let us assume that a natural gas pipeline were to erupt, and under this amendment, under those circumstances natural gas would be considered a hazardous substance. The logical thing to do is to call the gas company and get them there on the site to try to fix things immediately. This language is just intended to make sure that that is an option available to the department.

I ask for support of the amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, the maker of the amendment is accurate. Some time ago there was a statute, and it was so flexible that irreparable harm could come about. This tightens it up, and I feel it should be placed in the bill.

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

Mr. REBER. Mr. Speaker, I support the amendment as explained by the maker.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Schuylkill, Mr. Lucyk.

Mr. LUCYK. Mr. Speaker, I would like to ask Representative Lloyd a few questions on this amendment.

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

Mr. LUCYK. Mr. Speaker, would this amendment apply to coal ash?

Mr. LLOYD. This amendment is designed to make sure that coal ash is not considered a hazardous substance or a contaminant.

Mr. LUCYK. So in your words then I would not have to offer a separate amendment dealing with coal ash, that coal ash, coal-afterburn-producing ash, is covered by this amendment, that it would not be a hazardous waste?

Mr. LLOYD. That is correct. You would not need that amendment.

Mr. LUCYK. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lackawanna, Mr. Serafini, on the amendment.

Mr. SERAFINI. Mr. Speaker, would the maker of the amendment answer a question, please?

The SPEAKER. Mr. Lloyd indicates he will stand for further interrogation. You may proceed.

Mr. SERAFINI. Mr. Speaker, would this also include highly sulfuric breaker rock and residues from strip mining operations or mining operations?

Mr. LLOYD. It would include those waste products from coal mining that are part of normal mining operations. So any acid-bearing waste would be regulated under the coal mining statutes the way it is now.

Mr. SERAFINI. Well, would that mean then that a high sulfur content in breaker rock would be treated different from sulfur from a manufacturing process even though it was the same type of sulfur?

Mr. LLOYD. This amendment would simply say that if it is waste from a coal mine, it is to be treated the way the law currently says it is to be treated. If it is not allowed to be stored onsite, if it has to be disposed of at a hazardous waste site, that would continue to be the case. If it is, under the hazardous waste law, hazardous, it continues to be hazardous waste.

Mr. SERAFINI. So then this would not differentiate any hazardous waste from a manufacturing facility from hazardous waste that could be or might be exposed from a mining operation.

Mr. LLOYD. If it is hazardous waste under Act 97, it continues to be hazardous waste.

Mr. SERAFINI. Thank you, Mr. Speaker. I support the amendment.

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

The following roll call was recorded:

YEAS—188

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Distler    | LaGrotta   | Reinard       |
| Angstadt    | Dombrowski | Langtry    | Rieger        |
| Argall      | Donatucci  | Lashingner | Ritter        |
| Arty        | Dorr       | Leh        | Robbins       |
| Barley      | Duffy      | Lescovitz  | Roebuck       |
| Battisto    | Durham     | Letterman  | Rudy          |
| Belardi     | Evans      | Levdanský  | Ryan          |
| Belfanti    | Fargo      | Linton     | Rybak         |
| Billow      | Farmer     | Livengood  | Saloom        |
| Birmelin    | Fee        | Lloyd      | Saurman       |
| Black       | Fischer    | Lucyk      | Scheetz       |
| Blaum       | Flick      | McCall     | Schuler       |
| Book        | Foster     | McClatchy  | Semmel        |
| Bortner     | Fox        | McHale     | Serafini      |
| Bowley      | Freind     | Maine      | Seventy       |
| Bowser      | Gamble     | Manderino  | Showers       |
| Boyes       | Gannon     | Manmiller  | Sirianni      |
| Brandt      | Geist      | Markosek   | Smith, B.     |
| Broujos     | George     | Mayermik   | Smith, S. H.  |
| Bunt        | Gladeck    | Melio      | Snyder, D. W. |
| Burd        | Godshall   | Merry      | Snyder, G.    |
| Burns       | Gruitza    | Michlovic  | Staback       |
| Bush        | Gruppo     | Micozzie   | Stairs        |
| Caltagirone | Hagarty    | Moehlmann  | Steighner     |
| Cappabianca | Haluska    | Morris     | Stuban        |
| Carlson     | Harper     | Mowery     | Sweet         |
| Carn        | Hasay      | Mrkonic    | Taylor, E. Z. |
| Cawley      | Hayden     | Murphy     | Taylor, F.    |
| Cessar      | Hayes      | Nahill     | Taylor, J.    |
| Chadwick    | Heckler    | Noye       | Tigue         |
| Civera      | Herman     | O'Brien    | Trello        |
| Clark       | Hershey    | O'Donnell  | Van Horne     |
| Clymer      | Hess       | Olasz      | Veon          |
| Cohen       | Howlett    | Oliver     | Vroon         |
| Colafella   | Hughes     | Perzel     | Wambach       |
| Cole        | Hutchinson | Petrarca   | Wass          |
| Cornell     | Itkin      | Petrone    | Weston        |
| Corrigan    | Jackson    | Phillips   | Wiggins       |
| Coy         | Jadlowiec  | Piccola    | Wogan         |
| DeLuca      | Jarolin    | Pievsky    | Wozniak       |

|            |          |           |               |
|------------|----------|-----------|---------------|
| DeVerter   | Johnson  | Pistella  | Wright, D. R. |
| DeWeese    | Josephs  | Pitts     | Wright, J. L. |
| Daley      | Kasunic  | Pressmann | Wright, R. C. |
| Davies     | Kennedy  | Preston   | Yandrisevits  |
| Dawida     | Kenney   | Punt      |               |
| Dempsey    | Kitchen  | Raymond   | Irvis,        |
| Dietterick | Kosinski | Reber     | Speaker       |
| Diminni    | Kukovich |           |               |

NAYS—1

Freeman

NOT VOTING—4

|        |        |        |            |
|--------|--------|--------|------------|
| Cowell | Fattah | Gallen | Richardson |
|--------|--------|--------|------------|

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. HAYDEN offered the following amendments No. A2939:

Amend Sec. 502, page 20, line 21, by striking out "The department shall establish a temporary list" and inserting

(1) The department shall establish a temporary list

Amend Sec. 502, page 21, by inserting between lines 4 and 5

(2) The temporary list shall be composed of the sites following in priority those sites meeting the requirements of the national priority listing of Appendix A of 40 CFR Part 300, but which do not qualify for national priority listing.

(3) The department, when it deems necessary for the response to a release or for the protection of public health, safety or welfare or the environment, may include additional sites to the temporary list.

Amend Sec. 502, page 21, line 15, by inserting after "placement"

or removal

Amend Sec. 502, page 21, line 23, by removing the period after "person" and inserting

, nor shall the placement of the site upon either the temporary or permanent priority list preclude any responsible person from undertaking a voluntary cleanup pursuant to this act.

(d) Listing.—Ninety days prior to the placement of a site upon the permanent list, the department shall notify the known responsible persons of the proposed listing. The site shall not be placed upon the list if a responsible person enters into a settlement with the department which provides for the abatement of the release or threatened release. Once a site has been placed upon the list, it shall be removed upon the determination by the department that the responsible person has complied with the terms of the settlement and has initiated a cleanup.

(e) Rights preserved.—Nothing in this act shall be interpreted to deprive any interested or aggrieved person of their inherent right to bring an action in mandamus to correct department actions under the standards currently recognized in Pennsylvania equity practice.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is attempting to address an issue as to where our priority money will go from this program that we are setting up. It sets up and establishes a temporary list of priorities as to where we think the State money should go, and as to which particular regulations we are going to use, we are going to adopt the existing Federal regulations as they relate to where you are going to place your priority money. In addition, we have the authority for the department to continue to enact regulations for permanent listing. This does not hold the department to the Federal standard but simply uses that in the interim.

The purpose for this is twofold. One is to let particular individual sites know if they are going to be targeted for expenditures by State funds, and two, to encourage them to work cooperatively with the department prior to having their sites listed. This is an effective tool at the Federal level which we are trying to implement also at the State level.

I would ask for the support of the members.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, I believe the intent of this amendment is to assure that the Federal Superfund project does in fact accept their responsibility, and therefore, by a temporary list, inadvertently there would be some State jobs that eventually could be handled by the Federal Government, and I would believe we could support this amendment.

Mr. HAYDEN. Yes; that is one of the intents of the amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber, on the amendment.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, since the inception of concern in this General Assembly, specifically in the House in 1984 and leading up to today's debate, there has always been a concern for the appropriate listing and prioritizing and recognizing of these sites. I would certainly support the amendment of Representative Hayden.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—192

|          |            |            |            |
|----------|------------|------------|------------|
| Acosta   | Distler    | Kosinski   | Reinard    |
| Angstadt | Dombrowski | Kukovich   | Richardson |
| Argall   | Donatucci  | LaGrotta   | Rieger     |
| Arty     | Dorr       | Langtry    | Ritter     |
| Barley   | Duffy      | Lashingier | Robbins    |
| Battisto | Durham     | Leh        | Roebuck    |
| Belardi  | Evans      | Lescovitz  | Rudy       |
| Belfanti | Fargo      | Letterman  | Ryan       |
| Billow   | Farmer     | Levdansky  | Rybak      |
| Birmelin | Fattah     | Linton     | Saloom     |
| Black    | Fee        | Livengood  | Saurman    |
| Blaum    | Fischer    | Lloyd      | Scheetz    |
| Book     | Flick      | Lucyk      | Schuler    |
| Bortner  | Foster     | McCall     | Semmel     |
| Bowley   | Fox        | McClatchy  | Serafini   |
| Bowser   | Freeman    | McHale     | Seventy    |
| Boyes    | Freind     | Maine      | Showers    |
| Brandt   | Gallen     | Manderino  | Sirianni   |
| Broujos  | Gamble     | Manmiller  | Smith, B.  |

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Bunt        | Gannon     | Markosek  | Smith, S. H.  |
| Burd        | Geist      | Mayernik  | Snyder, D. W. |
| Burns       | George     | Melio     | Snyder, G.    |
| Bush        | Gladeck    | Merry     | Staback       |
| Caltagirone | Godshall   | Michlovic | Stairs        |
| Cappabianca | Gruitza    | Micozzie  | Steighner     |
| Carlson     | Gruppo     | Moehlmann | Stuban        |
| Carn        | Hagarty    | Mowery    | Sweet         |
| Cawley      | Haluska    | Mrkonic   | Taylor, E. Z. |
| Cessar      | Harper     | Murphy    | Taylor, F.    |
| Chadwick    | Hasay      | Nahill    | Taylor, J.    |
| Civera      | Hayden     | Noye      | Tigue         |
| Clark       | Hayes      | O'Brien   | Trello        |
| Clymer      | Heckler    | O'Donnell | Van Horne     |
| Cohen       | Herman     | Olasz     | Veon          |
| Colafella   | Hershey    | Oliver    | Vroon         |
| Cole        | Hess       | Perzel    | Wambach       |
| Cornell     | Howlett    | Petrarca  | Wass          |
| Corrigan    | Hughes     | Petrone   | Weston        |
| Cowell      | Hutchinson | Phillips  | Wiggins       |
| Coy         | Itkin      | Piccola   | Wogan         |
| DeLuca      | Jackson    | Pievsky   | Wozniak       |
| DeVerter    | Jadlowiec  | Pistella  | Wright, D. R. |
| DeWeese     | Jarolin    | Pitts     | Wright, J. L. |
| Daley       | Johnson    | Pressmann | Wright, R. C. |
| Davies      | Josephs    | Preston   | Yandrisevits  |
| Dawida      | Kasunic    | Punt      |               |
| Dempsey     | Kennedy    | Raymond   | Irvis,        |
| Dieterick   | Kenney     | Reber     | Speaker       |
| Dininni     | Kitchen    |           |               |

NAYS—0

NOT VOTING—1

Morris

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. HAYDEN offered the following amendments No. A2948:

Amend Sec. 102, page 7, line 10, by removing the period after "activities" and inserting by enabling the department to enter into settlement agreements with responsible persons to perform response activities that protect human health and the environment; by enabling the department to enter into settlement agreements with responsible persons to settle a minor portion of response costs; and by authorizing the department to utilize moneys from the fund established by this act to enter into settlement agreements that allow the department, when necessary to achieve a cleanup, to pay for a portion of the costs associated with response activities.

Amend Sec. 505, page 31, by inserting between lines 9 and 10

(g) Voluntary settlements.—The department, in its discretion, may enter into an agreement with any person, including a person who may be liable under section 701, to perform any response action when the department determines that such action will be properly done in accordance with the department's standards and after such person has submitted a plan and obtained the department's approval of such plan. Whenever practicable and in the public interest, the department may enter into agreements under this section in order to expedite efficient remedial action and minimize litigation. The decision of the department to use or not to use the procedures of this subsection is not subject to judicial review.

Amend Bill, page 49, by inserting between lines 18 and 19 Section 706. De minimis settlements.

(a) Authorization.—The department may enter into a de minimis settlement with any person or group of persons who have demonstrated to the department's satisfaction that the following conditions have been met:

(1) The volume of hazardous substances contributed by that party to the site is minimal in comparison to the volume of hazardous substances contributed at the site by all known and financially viable responsible persons.

(2) The remaining responsible persons have sufficient resources to implement the response action proposed by the department either alone or in combination with funds made available by the department under section 902(a)(3).

(3) The persons seeking the de minimis settlement provide an amount which is significantly greater than the cost of their individual contribution as a percentage of the volume contributed to the site cleanup.

(4) The entry of a de minimis settlement will expedite the implementation of the remedial response. A de minimis settlement may provide that the parties to the settlement will have no further responsibility for the release which is addressed by the proposed remedial action.

(b) Discretion.—The decision to enter into a de minimis settlement is within the sole discretion of the department. No person has a right to participate in a de minimis settlement and the department's decision whether or not to enter into a settlement shall not be deemed to be a final action subject to review under Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) or section 1921-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Section 707. Nonbinding allocation of liability.

Within 120 days of the request of any responsible person, the department shall make a nonbinding allocation of responsibility among the known responsible persons. The request shall not prohibit or delay any action authorized under this act. The department's nonbinding allocation shall not be deemed to be a final action subject to review under Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) or section 1921-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, nor shall it confer a right or duty upon the department or any person.

Section 708. Voluntary acceptance of responsibility.

A responsible person who voluntarily undertakes a response action approved by the department shall not be liable for any further response action provided that:

(1) The responsible person completes the remedial response approved by the department.

(2) The responsible person demonstrates that the remedial response taken is preventing any release of hazardous substances from the site.

Section 709. Mediation.

Upon the request of any responsible person, the department may appoint an independent mediator recognized by the American Arbitration Association to resolve any dispute among the responsible persons. The expenses of the mediator shall be paid by the parties to the mediation. Any agreement reached during the mediation shall be binding upon the parties to the agreement, and shall create a presumption in favor of the parties as to all matters addressed by the agreement. This presumption shall operate against any responsible person who fails after notice, to participate in the mediation. The mediation shall not prohibit or delay any action authorized by this act.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

This amendment is consistent with what we are trying to do with the State program, which is to encourage potentially responsible parties who may face liability under the statute to come to agreements for cleanup with the department. It encourages settlements. It encourages the opportunity for potentially responsible parties to mediate their differences and incorporates a number of settlement provisions which we think will add to the encouragement on the part of potentially responsible parties to address the issues that the department identifies at their sites.

In addition, it also permits the department to plan a remedial action plan for a particular site and permits the operator of that site to go ahead and carry out that remedial action under the supervision of DER, which was one of the concerns a number of members had raised during the course of the hearings.

I would ask for the support of the membership.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—191

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Distler    | Kitchen   | Reber         |
| Angstadt    | Dombrowski | Kosinski  | Reinard       |
| Argall      | Donatucci  | Kukovich  | Rieger        |
| Arty        | Dorr       | LaGrotta  | Ritter        |
| Barley      | Duffy      | Langtry   | Robbins       |
| Battisto    | Durham     | Lashinger | Roebuck       |
| Belardi     | Evans      | Leh       | Rudy          |
| Belfanti    | Fargo      | Lescovitz | Ryan          |
| Billow      | Farmer     | Letterman | Rybak         |
| Birmelin    | Fattah     | Levdansky | Saloom        |
| Black       | Fee        | Linton    | Saurman       |
| Blaum       | Fischer    | Livengood | Scheetz       |
| Book        | Flick      | Lloyd     | Schuler       |
| Bortner     | Foster     | Lucyk     | Semmel        |
| Bowley      | Fox        | McCall    | Serafini      |
| Bowser      | Freeman    | McClatchy | Seventy       |
| Boyes       | Freind     | McHale    | Showers       |
| Brandt      | Gallen     | Maine     | Sirianni      |
| Broujos     | Gamble     | Manderino | Smith, B.     |
| Bunt        | Gannon     | Manmiller | Smith, S. H.  |
| Burd        | Geist      | Markosek  | Snyder, D. W. |
| Burns       | George     | Mayernik  | Snyder, G.    |
| Bush        | Gladeck    | Melio     | Staback       |
| Caltagirone | Godshall   | Merry     | Stairs        |
| Cappabianca | Gruitza    | Michlovic | Steighner     |
| Carlson     | Gruppo     | Micozzie  | Stuban        |
| Carn        | Hagarty    | Moehlmann | Sweet         |
| Cawley      | Haluska    | Mowery    | Taylor, E. Z. |
| Cessar      | Harper     | Mrkonc    | Taylor, F.    |
| Chadwick    | Hasay      | Murphy    | Taylor, J.    |
| Civera      | Hayden     | Nahill    | Tigue         |
| Clark       | Hayes      | Noye      | Trello        |
| Clymer      | Heckler    | O'Brien   | Van Horne     |
| Cohen       | Herman     | O'Donnell | Veon          |
| Colafella   | Hershey    | Olasz     | Vroon         |
| Cole        | Hess       | Oliver    | Wambach       |
| Cornell     | Howlett    | Perzel    | Wass          |
| Corrigan    | Hughes     | Petrarca  | Weston        |
| Cowell      | Hutchinson | Petrone   | Wiggins       |
| Coy         | Itkin      | Phillips  | Wogan         |
| DeLuca      | Jackson    | Piccola   | Wozniak       |

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|-----------|-----------|-----------|---------------|
| DeVerter  | Jadlowiec | Pievsy    | Wright, D. R. |
| DeWeese   | Jarolin   | Pistella  | Wright, J. L. |
| Daley     | Johnson   | Pitts     | Wright, R. C. |
| Davies    | Josephs   | Pressmann | Yandrisevits  |
| Dawida    | Kasunic   | Preston   |               |
| Dempsey   | Kennedy   | Punt      | Irvis,        |
| Dieterick | Kenney    | Raymond   | Speaker       |
| Dininni   |           |           |               |

NAYS—0

NOT VOTING—2

Morris Richardson

EXCUSED—4

Honaman McVerry Maiale Miller

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

On the question recurring,

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

Mr. MURPHY offered the following amendments No. A2933:

Amend Bill, page 79, by inserting between lines 2 and 3 Section 1301. Studies.

The Department of Commerce shall within one year of the effective date of the act complete a study to investigate the use of the Pennsylvania Industrial Development Authority, the Pennsylvania Economic Revitalization Fund and other economic development grants and loans to encourage the reuse, recycling, recovery, minimization and treatment which results in detoxification of hazardous waste.

Amend Sec. 1301, page 79, line 3, by striking out "1301" and inserting 1302

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Speaker.

This amendment directs the Department of Commerce to investigate the variety of economic grants and loan programs and to encourage their reuse in recycling, recovery, and treatment of hazardous waste.

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

Mr. REBER. Mr. Speaker, as I said earlier, there are going to be a number of initiatives today to address the siting issue. This is another one of those initiatives that I think will come together to make a well and meaningful package for the remediation site placement in the Commonwealth of Pennsylvania.

I would urge support of the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—192

|          |            |           |         |
|----------|------------|-----------|---------|
| Acosta   | Distler    | Kosinski  | Reber   |
| Angstadt | Dombrowski | Kukovich  | Reinard |
| Argall   | Donatucci  | LaGrotta  | Rieger  |
| Arty     | Dorr       | Langtry   | Ritter  |
| Barley   | Duffy      | Lashinger | Robbins |

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Battisto    | Durham     | Leh       | Roebuck       |
| Belardi     | Evans      | Lescovitz | Rudy          |
| Belfanti    | Fargo      | Letterman | Ryan          |
| Billow      | Farmer     | Levdansky | Rybak         |
| Birmelin    | Fattah     | Linton    | Saloom        |
| Black       | Fee        | Livengood | Saurman       |
| Blaum       | Fischer    | Lloyd     | Scheetz       |
| Book        | Flick      | Lucyk     | Schuler       |
| Bortner     | Foster     | McCall    | Semmel        |
| Bowley      | Fox        | McClatchy | Serafini      |
| Bowser      | Freeman    | McHale    | Seventy       |
| Boyes       | Freind     | Maine     | Showers       |
| Brandt      | Gallen     | Manderino | Sirianni      |
| Broujos     | Gamble     | Manmiller | Smith, B.     |
| Bunt        | Gannon     | Markosek  | Smith, S. H.  |
| Burd        | Geist      | Mayernik  | Snyder, D. W. |
| Burns       | George     | Melio     | Snyder, G.    |
| Bush        | Gladeck    | Merry     | Staback       |
| Caltagirone | Godshall   | Michlovic | Stairs        |
| Cappabianca | Gruitza    | Micozzie  | Steighner     |
| Carlson     | Gruppo     | Moehlmann | Stuban        |
| Carn        | Hagarty    | Morris    | Sweet         |
| Cawley      | Haluska    | Mowery    | Taylor, E. Z. |
| Cessar      | Harper     | Mrkonic   | Taylor, F.    |
| Chadwick    | Hasay      | Murphy    | Taylor, J.    |
| Civera      | Hayden     | Nahill    | Tigue         |
| Clark       | Hayes      | Noye      | Trello        |
| Clymer      | Heckler    | O'Brien   | Van Horne     |
| Cohen       | Herman     | O'Donnell | Veon          |
| Colafella   | Hershey    | Olasz     | Vroon         |
| Cole        | Hess       | Oliver    | Wambach       |
| Cornell     | Howlett    | Perzel    | Wass          |
| Corrigan    | Hughes     | Petrarca  | Weston        |
| Cowell      | Hutchinson | Petrone   | Wiggins       |
| Coy         | Itkin      | Phillips  | Wogan         |
| DeLuca      | Jackson    | Piccola   | Wozniak       |
| DeVerter    | Jadlowiec  | Pievsky   | Wright, D. R. |
| DeWeese     | Jarolin    | Pistella  | Wright, J. L. |
| Daley       | Johnson    | Pitts     | Wright, R. C. |
| Davies      | Josephs    | Pressmann | Yandrisevits  |
| Dawida      | Kasunic    | Preston   |               |
| Dempsey     | Kennedy    | Punt      | Irvis,        |
| Dietterick  | Kenney     | Raymond   | Speaker       |
| Dininni     | Kitchen    |           |               |

NAYS—0

NOT VOTING—1

Richardson

EXCUSED—4

Honaman      McVerry      Maiale      Miller

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

On the question recurring,

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

Mr. MORRIS offered the following amendment No. A2934:

Amend Sec. 103, page 11, line 14, by removing the period after "contaminant" and inserting  
, and excludes the application of fertilizer in agricultural uses in accordance with proper application procedures, controls and loadings.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Chester, Mr. Morris.

Mr. MORRIS. Thank you, Mr. Speaker.

This amendment excludes the application of fertilizer in agricultural uses if it is done in accordance with application procedures, controls, and so on.

I would appreciate a "yes" vote for the farmers.

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, I believe we should accept this amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber, on the amendment.

Mr. REBER. Mr. Speaker, this particular amendment, as the speaker said, does in fact exclude the application of fertilizer so long as the proper techniques under current law or regulation and otherwise are followed.

I would support the amendment as well.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—192

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Distler    | Kosinski  | Reber         |
| Angstadt    | Dombrowski | Kukovich  | Reinard       |
| Argall      | Donatucci  | LaGrotta  | Rieger        |
| Arty        | Dorr       | Langtry   | Ritter        |
| Barley      | Duffy      | Lashinger | Robbins       |
| Battisto    | Durham     | Leh       | Roebuck       |
| Belardi     | Evans      | Lescovitz | Rudy          |
| Belfanti    | Fargo      | Letterman | Ryan          |
| Billow      | Farmer     | Levdansky | Rybak         |
| Birmelin    | Fattah     | Linton    | Saloom        |
| Black       | Fee        | Livengood | Saurman       |
| Blaum       | Fischer    | Lloyd     | Scheetz       |
| Book        | Flick      | Lucyk     | Schuler       |
| Bortner     | Foster     | McCall    | Semmel        |
| Bowley      | Fox        | McClatchy | Serafini      |
| Bowser      | Freeman    | McHale    | Seventy       |
| Boyes       | Freind     | Maine     | Showers       |
| Brandt      | Gallen     | Manderino | Sirianni      |
| Broujos     | Gamble     | Manmiller | Smith, B.     |
| Bunt        | Gannon     | Markosek  | Smith, S. H.  |
| Burd        | Geist      | Mayernik  | Snyder, D. W. |
| Burns       | George     | Melio     | Snyder, G.    |
| Bush        | Gladeck    | Merry     | Staback       |
| Caltagirone | Godshall   | Michlovic | Stairs        |
| Cappabianca | Gruitza    | Micozzie  | Steighner     |
| Carlson     | Gruppo     | Moehlmann | Stuban        |
| Carn        | Hagarty    | Morris    | Sweet         |
| Cawley      | Haluska    | Mowery    | Taylor, E. Z. |
| Cessar      | Harper     | Mrkonic   | Taylor, F.    |
| Chadwick    | Hasay      | Murphy    | Taylor, J.    |
| Civera      | Hayden     | Nahill    | Tigue         |
| Clark       | Hayes      | Noye      | Trello        |
| Clymer      | Heckler    | O'Brien   | Van Horne     |
| Cohen       | Herman     | O'Donnell | Veon          |
| Colafella   | Hershey    | Olasz     | Vroon         |
| Cole        | Hess       | Oliver    | Wambach       |
| Cornell     | Howlett    | Perzel    | Wass          |
| Corrigan    | Hughes     | Petrarca  | Weston        |
| Cowell      | Hutchinson | Petrone   | Wiggins       |
| Coy         | Itkin      | Phillips  | Wogan         |
| DeLuca      | Jackson    | Piccola   | Wozniak       |
| DeVerter    | Jadlowiec  | Pievsky   | Wright, D. R. |
| DeWeese     | Jarolin    | Pistella  | Wright, J. L. |
| Daley       | Johnson    | Pitts     | Wright, R. C. |
| Davies      | Josephs    | Pressmann | Yandrisevits  |
| Dawida      | Kasunic    | Preston   |               |
| Dempsey     | Kennedy    | Punt      | Irvis,        |
| Dietterick  | Kenney     | Raymond   | Speaker       |

Dininni Kitchen

NAYS—0

NOT VOTING—1

Richardson

EXCUSED—4

Honaman McVerry Maiale Miller

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

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

Mr. REBER offered the following amendments No. A2940:

Amend Sec. 503, page 26, line 26, by removing the period after "information" and inserting , including information obtained under subsection(b)(1)(iii).

Amend Sec. 504, page 27, line 22, by striking out "may" and inserting

shall

Amend Sec. 504, page 27, lines 25 and 26, by striking out "by policy statement"

Amend Sec. 504, page 28, line 18, by inserting after "approach"

which is more cost effective

Amend Sec. 506, page 31, line 21, by inserting after "decision"

, including findings of fact, an analysis of the alternatives considered and the reasons for selecting the proposed response action,

Amend Sec. 507, page 35, line 15, by inserting after "section."

A party shall not be liable for punitive damages when a court reviewing the order under section 508 finds that the department's order was invalid as to that party.

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

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, this particular amendment makes confidential the certain financial worth of a responsible party that might be brought out in the remediation process.

Additionally, it provides for specific policy statements in essence to be precluded from the rulemaking definition on page 27 of the legislation, and it has some technical amendments as to alternatives to responses that are more cost effective to be carried out, and therefore, would in fact be permitted.

Finally, on page 31 of the bill it provides for a technique whereby the disclosure of all facts for determinations or decisions must be made. In essence, there has to be an open finding of fact and the basis for those findings.

I would ask adoption of the amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

Mr. Speaker, this amendment does several things to try to reconcile some of the problems raised during the course of the hearings, to tie up some of the due-process concerns that some folks had, and to bring this statute more in line with existing regulations.

I would urge support of the membership for this amendment.

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

The following roll call was recorded:

YEAS—191

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Distler    | Kosinski   | Reinard       |
| Angstadt    | Dombrowski | Kukovich   | Richardson    |
| Argall      | Donatucci  | LaGrotta   | Rieger        |
| Arty        | Dorr       | Langtry    | Ritter        |
| Barley      | Duffy      | Lashingner | Robbins       |
| Battisto    | Durham     | Leh        | Roebuck       |
| Belardi     | Evans      | Lescovitz  | Rudy          |
| Belfanti    | Fargo      | Levdansky  | Ryan          |
| Billow      | Farmer     | Linton     | Rybak         |
| Birmelin    | Fattah     | Livengood  | Saloom        |
| Black       | Fee        | Lloyd      | Saurman       |
| Blaum       | Fischer    | Lucyk      | Scheetz       |
| Book        | Flick      | McCall     | Schuler       |
| Bortner     | Foster     | McClatchy  | Semmel        |
| Bowley      | Fox        | McHale     | Serafini      |
| Bowser      | Freeman    | Maine      | Seventy       |
| Boyes       | Freind     | Manderino  | Showers       |
| Brandt      | Gallen     | Manmiller  | Sirianni      |
| Broujos     | Gamble     | Markosek   | Smith, B.     |
| Bunt        | Gannon     | Mayernik   | Smith, S. H.  |
| Burd        | Geist      | Melio      | Snyder, D. W. |
| Burns       | George     | Merry      | Snyder, G.    |
| Bush        | Gladeck    | Michlovic  | Staback       |
| Caltagirone | Godshall   | Micozzie   | Stairs        |
| Cappabianca | Gruitza    | Moehlmann  | Steighner     |
| Carlson     | Gruppo     | Morris     | Stuban        |
| Carn        | Hagarty    | Mowery     | Sweet         |
| Cawley      | Haluska    | Mrkonic    | Taylor, E. Z. |
| Cessar      | Harper     | Murphy     | Taylor, F.    |
| Chadwick    | Hasay      | Nahill     | Taylor, J.    |
| Civera      | Hayes      | Noye       | Tigue         |
| Clark       | Heckler    | O'Brien    | Trello        |
| Clymer      | Herman     | O'Donnell  | Van Horne     |
| Cohen       | Hershey    | Olasz      | Veon          |
| Colafella   | Hess       | Oliver     | Vroon         |
| Cole        | Howlett    | Perzel     | Wambach       |
| Cornell     | Hughes     | Petrarca   | Wass          |
| Corrigan    | Hutchinson | Petrone    | Weston        |
| Cowell      | Itkin      | Phillips   | Wiggins       |
| Coy         | Jackson    | Piccola    | Wogan         |
| DeLuca      | Jadlowiec  | Pievsky    | Wozniak       |
| DeVerter    | Jarolin    | Pistella   | Wright, D. R. |
| DeWeese     | Johnson    | Pitts      | Wright, J. L. |
| Daley       | Josephs    | Pressmann  | Wright, R. C. |
| Davies      | Kasunic    | Preston    | Yandrisevits  |
| Dawida      | Kennedy    | Punt       |               |
| Dempsey     | Kenney     | Raymond    | Irvis,        |
| Dieterick   | Kitchen    | Reber      | Speaker       |
| Dininni     |            |            |               |

NAYS—0

NOT VOTING—2

Hayden Letterman

EXCUSED—4

Honaman McVerry Maiale Miller



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

On the question recurring,

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

Mr. REBER offered the following amendments No. A2941:

Amend Sec. 103, page 9, lines 17 through 20, by striking out all of said lines and inserting

(v) Other substances designated by the department as detrimental to public health, safety and the environment by regulations promulgated under this act.

Amend Sec. 103, page 13, by inserting between lines 9 and 10

“Service station operator.” A person who owns or operates a motor vehicle service station, filling station, garage or similar operation engaged in selling, repairing or servicing motor vehicles who accepts or undertakes the collection, accumulation and delivery to an oil recycling facility of recycled oil that has been removed from the engine of a motor vehicle or appliance and that is presented for collection, accumulation and delivery to an oil recycling facility. The term includes a government agency that establishes a facility solely for the purpose of accepting recycled oil and owners or operators of refuse collection services who are compelled by law to collect, accumulate and deliver recycled oil to an oil recycling facility.

Amend Sec. 507, page 36, by inserting between lines 6 and 7

(f) Recycled oil.—

(1) When recycled oil is not mixed with any other hazardous substance and is stored, treated, transported and otherwise managed in compliance with regulations or standards promulgated under applicable State and Federal law relating to recycled oil, then all of the following apply:

(i) No person may recover from a service station operator, under section 702(a)(2) or (3), response costs or damages resulting from a release or threatened release of recycled oil.

(ii) Section 1102 does not apply against a service station operator other than a service station operator described in section 702(a)(1).

(2) For purposes of this subsection, a service station operator may presume that a small quantity of used oil is not mixed with other hazardous substances when it has been removed from the engine of a motor vehicle or appliance by the owner of the vehicle or appliance and is presented to the operator for collection, accumulation and delivery to an oil recycling facility.

On the question,

Will the House agree to the amendments?

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I know a number of the members have received communications from the oil recycling industry, so to speak, and the service station operators and their relationship to recycling. Since it seems to be an evolving public policy in the Commonwealth and in the Federal sphere, we certainly should not expect service station dealers providing the service of recycling to be subject to Superfund liability for certain actions which are certainly in furtherance of the public policy.

In essence, this proposed amendment would not excuse service station dealers from liability as owners of a facility from which there is the release of a hazardous substance but

only from a liability as generators or transporters when they are engaged to further the oil recycling business.

This amendment is certainly consistent with Federal Superfund guidelines and practices and concepts and I think blends very well into a comprehensive State program. I would urge its adoption.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

I would only like to add to Mr. Reber's comments that this particular amendment is consistent with the Federal Superfund program and will encourage the continued reuse and recycling of used motor oil, and I would urge the members' support for this amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Mr. Speaker, I do not believe that this amendment hurts the bill whatsoever. We can accept it.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—189

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Dininni    | Kitchen    | Reber         |
| Angstadt    | Distler    | Kosinski   | Reinard       |
| Argall      | Dombrowski | Kukovich   | Rieger        |
| Arty        | Donatucci  | LaGrotta   | Ritter        |
| Barley      | Dorr       | Langtry    | Robbins       |
| Battisto    | Duffy      | Lashingier | Roebuck       |
| Belardi     | Durham     | Leh        | Rudy          |
| Belfanti    | Evans      | Lescovitz  | Ryan          |
| Billow      | Fargo      | Letterman  | Rybak         |
| Birmelin    | Farmer     | Levdansky  | Saloom        |
| Black       | Fattah     | Linton     | Saurman       |
| Blaum       | Fee        | Livengood  | Scheetz       |
| Book        | Fischer    | Lloyd      | Schuler       |
| Bortner     | Flick      | Lucyk      | Semmel        |
| Bowley      | Foster     | McCall     | Serafini      |
| Bowser      | Fox        | McClatchy  | Seventy       |
| Boyes       | Freeman    | McHale     | Showers       |
| Brandt      | Freind     | Maine      | Sirianni      |
| Broujos     | Gallen     | Manderino  | Smith, B.     |
| Bunt        | Gamble     | Manmiller  | Snyder, D. W. |
| Burd        | Gannon     | Markosek   | Snyder, G.    |
| Burns       | Geist      | Mayermik   | Staback       |
| Bush        | George     | Melio      | Stairs        |
| Caltagirone | Gladeck    | Merry      | Steighner     |
| Cappabianca | Godshall   | Micozzie   | Stuban        |
| Carlson     | Gruitza    | Moehlmann  | Sweet         |
| Carn        | Gruppo     | Morris     | Taylor, E. Z. |
| Cawley      | Hagarty    | Mowery     | Taylor, F.    |
| Cessar      | Haluska    | Mrkonic    | Taylor, J.    |
| Chadwick    | Harper     | Murphy     | Tigue         |
| Civera      | Hasay      | Nahill     | Trello        |
| Clark       | Hayden     | Noye       | Van Horne     |
| Clymer      | Hayes      | O'Brien    | Veon          |
| Cohen       | Heckler    | O'Donnell  | Vroon         |
| Colafella   | Herman     | Olasz      | Wambach       |
| Cole        | Hershey    | Oliver     | Wass          |
| Cornell     | Hess       | Perzel     | Weston        |
| Corrigan    | Howlett    | Petrarca   | Wiggins       |
| Cowell      | Hutchinson | Petrone    | Wogan         |
| Coy         | Itkin      | Phillips   | Wozniak       |
| DeLuca      | Jackson    | Piccola    | Wright, D. R. |
| DeVerter    | Jadlowiec  | Pievisky   | Wright, J. L. |
| DeWeese     | Jarolin    | Pistella   | Wright, R. C. |
| Daley       | Johnson    | Pitts      | Yandrisevits  |
| Davies      | Josephs    | Pressmann  |               |

|                                 |                              |                            |                   |
|---------------------------------|------------------------------|----------------------------|-------------------|
| Dawida<br>Dempsey<br>Dietterick | Kasunic<br>Kennedy<br>Kenney | Preston<br>Punt<br>Raymond | Irvis,<br>Speaker |
|---------------------------------|------------------------------|----------------------------|-------------------|

NAYS—0

NOT VOTING—4

|        |           |            |              |
|--------|-----------|------------|--------------|
| Hughes | Michlovic | Richardson | Smith, S. H. |
|--------|-----------|------------|--------------|

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

The SPEAKER. The Chair turns now for the third time to the gentleman from Montgomery, Mr. Reber, who offers the following amendment— The Chair recognizes Mr. Reber.

Mr. REBER. Mr. Speaker, I think there are some other amendments that we are going to take. You might want to check with the majority leader or Mr. Hayden as to the next list, and then we will return to some of my other amendments pursuant to an agreement.

The SPEAKER. We will check. We do not have any information.

The House will stand at ease.

#### REPORT OF COMMITTEE ON COMMITTEES

The SPEAKER. During this hiatus, the Chair wants to place before the House of Representatives the following supplemental report of the Committee on Committees, which the clerk will read.

The following report was read:

Supplemental Report  
Committee on Committees

In the House of Representatives  
June 6, 1988

RESOLVED, that

Representative Andrew Billow, Jr., Cambria County, is elected to the Urban Affairs Committee vice Representative Thomas Caltagirone resigned; and

Representative Joseph Battisto, Monroe County, is elected to the Transportation Committee vice Representative Thomas Caltagirone resigned; and

Representative Nicholas Maiale, Philadelphia County, is elected to the Appropriations Committee vice Representative Thomas Caltagirone resigned; and

Representative Karen Ritter, Lehigh County, is elected to the Judiciary Committee vice Representative Thomas Caltagirone resigned.

Representative Frank LaGrotta, Lawrence County, is elected to the Finance Committee vice Representative Joseph Battisto resigned.

Respectfully submitted,  
Amos K. Hutchinson  
Chairman  
Committee on Committees

On the question,  
Will the House adopt the resolution?  
Resolution was adopted.

#### CONSIDERATION OF HB 1852 CONTINUED

On the question recurring,

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

Mr. REBER offered the following amendment No. A2787:

Amend Sec. 103, page 11, lines 5 through 8, by striking out "The term" in line 5, all of lines 6 and 7 and "directors." in line 8

On the question,

Will the House agree to the amendment?

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, this particular amendment amends on page 11 the definition of "person" under the act and in essence is done to conform the definition of "person" with the definition existing in the Superfund law at the Federal level. It in essence strikes out from that "officers and directors."

I would urge the adoption of the amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

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

The SPEAKER. Mr. Reber indicates he will stand for inter-rogation. You are in order, and you may proceed.

Mr. HAYDEN. Thank you, Mr. Speaker.

Mr. Speaker, my concern with this amendment— And I understand that this legislative body has decided in many circumstances to immunize members of boards of directors from civil liability with the notion that because they are not involved in the daily operations of the business, we should not hold them to that standard of liability.

The one concern that I have with this amendment is, is it your intent that if we have a situation where you have, for instance, a small, closely held company in which case you have a member of a board who is, in addition to being a member of the board, also an operating officer of the facility, that if that particular member of the board is involved in the handling of hazardous waste, that that particular individual would then come within the confines of the other restrictions within the act? My concern is that I understand the notion of directors and members of the board not being involved in daily operations, but I do not think it is your intent to opt out completely those directors who may have direct involvement with the individual operation of the company.

Mr. REBER. Mr. Speaker, I think your concern is to allow in essence a piercing of the corporate veil where in fact we are talking about a corporation in name only which might otherwise be operating as a sole proprietorship or a partnership but for possible tax or financial reasons. It is certainly my intent that we are doing as you suggest with this particular deletion, and that particular type of cause of action would still rest.

Mr. HAYDEN. Thank you, Mr. Speaker.

With that clarification in mind, I would urge the members to support this amendment.

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

The following roll call was recorded:

YEAS—188

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Donatucci  | Langtry    | Richardson    |
| Angstadt    | Dorr       | Lashingier | Rieger        |
| Argall      | Duffy      | Leh        | Ritter        |
| Arty        | Durham     | Lescovitz  | Robbins       |
| Barley      | Evans      | Letterman  | Roebuck       |
| Battisto    | Farmer     | Levdansky  | Rudy          |
| Belardi     | Fattah     | Linton     | Ryan          |
| Billow      | Fee        | Livengood  | Rybak         |
| Birmelin    | Fischer    | Lloyd      | Saloom        |
| Black       | Flick      | Lucyk      | Saurman       |
| Book        | Foster     | McCall     | Scheetz       |
| Bortner     | Fox        | McClatchy  | Schuler       |
| Bowser      | Freind     | McHale     | Semmel        |
| Boyes       | Gallen     | Maine      | Serafini      |
| Brandt      | Gamble     | Manderino  | Seventy       |
| Broujos     | Gannon     | Manmiller  | Showers       |
| Bunt        | Geist      | Markosek   | Sirianni      |
| Burd        | George     | Mayernik   | Smith, B.     |
| Burns       | Gladeck    | Melio      | Smith, S. H.  |
| Bush        | Godshall   | Merry      | Snyder, D. W. |
| Caltagirone | Gruitza    | Michlovic  | Snyder, G.    |
| Cappabianca | Gruppo     | Micozzie   | Staback       |
| Carlson     | Hagarty    | Mochlmann  | Stairs        |
| Carn        | Haluska    | Morris     | Steighner     |
| Cawley      | Harper     | Mowery     | Stuban        |
| Cessar      | Hasay      | Mrkonic    | Sweet         |
| Chadwick    | Hayden     | Murphy     | Taylor, E. Z. |
| Civera      | Hayes      | Nahill     | Taylor, F.    |
| Clark       | Heckler    | Noye       | Taylor, J.    |
| Clymer      | Herman     | O'Brien    | Tigue         |
| Cohen       | Hershey    | O'Donnell  | Trello        |
| Colafella   | Hess       | Olasz      | Van Horne     |
| Cole        | Howlett    | Oliver     | Veon          |
| Cornell     | Hughes     | Perzel     | Vroon         |
| Corrigan    | Hutchinson | Petrarca   | Wambach       |
| Cowell      | Itkin      | Petrone    | Wass          |
| Coy         | Jackson    | Phillips   | Weston        |
| DeLuca      | Jadlowiec  | Piccola    | Wiggins       |
| DeVerter    | Jarolin    | Pievsky    | Wogan         |
| DeWeese     | Johnson    | Pistella   | Wozniak       |
| Daley       | Josephs    | Pitts      | Wright, D. R. |
| Davies      | Kasunic    | Pressmann  | Wright, J. L. |
| Dawida      | Kennedy    | Preston    | Wright, R. C. |
| Dempsey     | Kenney     | Punt       | Yandrisevits  |
| Dietterick  | Kitchen    | Raymond    |               |
| Dininni     | Kosinski   | Reber      | Irvis,        |
| Distler     | Kukovich   | Reinard    | Speaker       |
| Dombrowski  | LaGrotta   |            |               |

NAYS—5

|          |        |       |         |
|----------|--------|-------|---------|
| Belfanti | Bowley | Fargo | Freeman |
| Blaum    |        |       |         |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

WELCOME

The SPEAKER. The Chair welcomes to the hall of the House a summer intern. She will be here working for Representative Elinor Taylor. Her name is Patricia Norwood. She is to the left of the Speaker. Welcome to the hall of the House, Patricia.

CONSIDERATION OF HB 1852 CONTINUED

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

Mr. REBER offered the following amendments No. A2799:

Amend Sec. 703, page 45, lines 24 through 26, by striking out “, agent or contractor of the responsible person or” in line 24, all of line 25 and “agreement or contractual relationship” in line 26 and inserting

or agent

Amend Sec. 703, page 46, by inserting between lines 5 and 6

(4) A strike.

(5) A civil disturbance.

Amend Sec. 703, page 46, line 14, by striking out “negligence” and inserting

gross negligence or reckless conduct

Amend Sec. 703, page 46, line 20, by inserting after “site” unless the site is owned or operated by the State agency or political subdivision

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

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, this is an addition to section 703, which is the defenses-to-liability section of the Superfund bill.

In essence, the bill currently reads that there will be no liability—and it is most important and I must emphasize—where it is caused solely by, and the bill currently references an act of God; an act of war; an act or omission of third parties through their employees, agents, or contractors.

This amendment adds to that particular defense to liability the classic sections that usually exist in a similar type of writing, and that is for those particular situations where a strike or a civil disobedience solely is the cause. If there is anything peripheral to that where responsibility would lie, this particular defense would not apply. It only applies in those sole, specific instances where in fact there is a traditional force of events that is not within the traditional control of the responsible party as is otherwise defined under the act.

I would ask for the adoption of the amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

I have serious concerns about the potential impact of this amendment. I would like to share them with you.

What we are beginning to do here is go far afield from not only what we are trying to do with the Federal program but what we are trying to do with maintaining the integrity and the fiscal sanity of our own State program.

Let me tell you what would happen if this amendment is enacted. This creates an absolute defense to liability, meaning, if you fall within these sections, you are not liable for any percentage of any of the response costs or for any other mechanisms which are triggered under the statute. I will give you a situation. Suppose you have an operator of a facility who, because of some labor strife or some labor difficulty, is in a strike situation. While the strike situation is existing, something happens on the site which is not necessarily caused by a particular striker or by subterfuge or by intentional conduct which results in a release on the site. The problem with making this an absolute defense to liability is that the owner and operator of that facility can then say, I am not liable for any of those response costs. I do not think that is something that we ought to do.

In addition, the notion of civil disturbance. Who is best able to keep order at their particular facility? Certainly the owner and the operator. If we absolve any sense of security at particular facilities which operate with and generate hazardous wastes, then I think not only are we eroding in the concept of strict liability; we are then beginning to erode generally into the concepts of negligence.

Lastly, I would like to say that the only context that I have seen this language come up in, which is a strike or civil disturbance, is when there is an enforcement order either by EPA (Environmental Protection Agency) or by a State in which there are certain time schedules and compliance schedules. If you have a strike and, for whatever reason, you cannot meet those compliance schedules, then the particular enforcement authorities will say, okay, you can now raise that particular issue as a defense to noncompliance with the time schedule, but we are certainly not going to relieve you of obligations under the statute or your obligations for contribution to cleanup costs.

This goes far afield from what we are trying to do, I think, with our State program and certainly is a major digression from what the Federal program does. Accordingly, I would urge a "no" vote on this amendment. Thank you.

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

The following roll call was recorded:

YEAS—91

|          |          |            |               |
|----------|----------|------------|---------------|
| Angstadt | Dininni  | Jackson    | Reber         |
| Arty     | Distler  | Jadlowiec  | Reinard       |
| Barley   | Dorr     | Johnson    | Robbins       |
| Birmelin | Fargo    | Keanedy    | Ryan          |
| Black    | Farmer   | Kenney     | Saurman       |
| Book     | Fischer  | Langtry    | Scheetz       |
| Bowser   | Flick    | Lashingier | Schuler       |
| Boyes    | Foster   | Leh        | Semmel        |
| Brandt   | Fox      | McClatchy  | Serafini      |
| Bunt     | Freind   | Manmiller  | Sirianni      |
| Burd     | Gallen   | Merry      | Smith, B.     |
| Burns    | Gannon   | Micozzie   | Smith, S. H.  |
| Bush     | Geist    | Moehlmann  | Snyder, D. W. |
| Carlson  | Gladeck  | Mowery     | Snyder, G.    |
| Cessar   | Godshall | Mrkonic    | Stairs        |
| Chadwick | Gruppo   | Nahill     | Taylor, E. Z. |
| Civera   | Hagarty  | Noye       | Taylor, J.    |
| Clymer   | Hasay    | O'Brien    | Vroon         |
| Cornell  | Hayes    | Perzel     | Wass          |

|            |         |          |               |
|------------|---------|----------|---------------|
| DeVerter   | Heckler | Phillips | Weston        |
| Davies     | Herman  | Piccola  | Wogan         |
| Dempsey    | Hershey | Pitts    | Wright, J. L. |
| Dietterick | Hess    | Raymond  |               |

NAYS—102

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Donatucci  | Levdansky  | Rieger        |
| Argall      | Duffy      | Linton     | Ritter        |
| Battisto    | Durham     | Livengood  | Roebuck       |
| Belardi     | Evans      | Lloyd      | Rudy          |
| Belfanti    | Fattah     | Lucyk      | Rybak         |
| Billow      | Fee        | McCall     | Saloom        |
| Blaum       | Freeman    | McHale     | Seventy       |
| Bortner     | Gamble     | Maine      | Showers       |
| Bowley      | George     | Manderino  | Staback       |
| Broujos     | Gruitza    | Markosek   | Steighner     |
| Caltagirone | Haluska    | Mayernik   | Stuban        |
| Cappabianca | Harper     | Melio      | Sweet         |
| Carn        | Hayden     | Michlovic  | Taylor, F.    |
| Cawley      | Howlett    | Morris     | Tigue         |
| Clark       | Hughes     | Murphy     | Trello        |
| Cohen       | Hutchinson | O'Donnell  | Van Horne     |
| Colafella   | Itkin      | Olasz      | Veon          |
| Cole        | Jarolin    | Oliver     | Wambach       |
| Corrigan    | Josephs    | Petrarca   | Wiggins       |
| Cowell      | Kasunic    | Petrone    | Wozniak       |
| Coy         | Kitchen    | Pievsky    | Wright, D. R. |
| DeLuca      | Kosinski   | Pistella   | Wright, R. C. |
| DeWeese     | Kukovich   | Pressmann  | Yandrisevits  |
| Daley       | LaGrotta   | Preston    |               |
| Dawida      | Lescovitz  | Punt       | Irvis,        |
| Dombrowski  | Letterman  | Richardson | Speaker       |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. REBER offered the following amendments No. A2798:

Amend Sec. 701, page 41, lines 7 through 9, by striking out all of lines 7 and 8, and "Federal or State permit," in line 9, and inserting

(a) General rule.—Except for Federally permitted releases as defined by section 101 of the Federal Superfund Act or any other release permitted by applicable State or Federal law and except as otherwise provided in this chapter,

Amend Sec. 701, page 41, line 14, by inserting after "site;"  
or

Amend Sec. 701, page 41, lines 15 through 17, by striking out all of lines 15 and 16 and "(iii)" in line 17, and inserting

(ii)

Amend Sec. 701, page 43, lines 1 through 3, by striking out "specialized knowledge or experience on the part of the owner,"

Amend Sec. 701, page 43, line 8, by striking out "appropriate" and inserting  
reasonable

Amend Sec. 701, page 43, line 24, by inserting after "harm"  
; and, despite such knowledge, acted negligently and with reckless disregard or indifference to the consequences of the action

Amend Sec. 701, page 43, lines 27 and 28, by striking out "regardless of the" in line 27, all of line 28, and inserting  
if the employee was acting within the scope of employment and is liable under paragraph (1).

On the question,

Will the House agree to the amendments?

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, this particular amendment addresses the general-rule language of "Responsible person" in chapter 7 of the act. It in essence takes the general rule regarding the definition as the exception is set forth therein and conforms it to Federal law.

Additionally, it specifically removes a section that I consider to be somewhat of an ambiguity, if you will, in the way the act is currently written. Currently, "responsible person" triggers "when a hazardous substance is placed or comes to be located in or on a site;...when a hazardous substance is located in or on the site, but before it is released; or...during the time of the release or threatened release." I think that middle section that I read, or subparagraph (ii) on line 15 of page 41, is in fact an ambiguity from the standpoint of what we are trying to do, because it theoretically could trigger a responsible party's liability when in fact the hazardous substance is otherwise reasonably located onsite and in fact has not been negligently or carelessly or otherwise dispersed into the environment or otherwise released, but yet the mere fact that the hazardous substance is located in or on the site in a contained fashion may in fact be a violation. I do not think there is any need for that. I think small (i) and small (iii) on line 13 and line 17 cover the concern that we have.

Finally, Mr. Speaker, the amendment addresses the employee-employer relationship and basically suggests that the employer is to be responsible only when the employee is acting within the scope of his employment or in fact where the employee himself is liable, where he is otherwise grossly or recklessly or willfully negligent in the operation of the scope of his employment.

I would urge adoption of the amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

Part of what Mr. Reber is trying to address in this amendment, I think, is addressed responsibly. However, I have two lingering concerns about what would happen if we enacted this particular amendment. One, we have specific reference in the statute already drafted for when an employee is subject to liability.

Let me raise the situation which exists now in a case which happened out of the city of Philadelphia. The city of Philadelphia was operating a landfill, which should give you some indication as to how old that particular case is. During the course of the operation of that landfill, they had employees of the city, of the Streets Department, who accepted bribes from commercial haulers to deposit illegally manifested hazardous wastes at that particular site. What the city of Philadelphia attempted to do was to say, we are not responsible under this program. In this particular case, it was Superfund, and it was a national priority list site - one of the more major sites in this

Commonwealth of Pennsylvania. The city of Philadelphia tried to say, make the same kind of argument that Mr. Reber has made, that those two particular employees who were acting outside of the scope of their employment, arguably with criminal conduct—and in fact, there were investigations and criminal prosecutions as a result of their conduct—that should absolve them of all liability under the statute.

The court in that particular situation said, that is not the direction that we thought that Congress wanted to head in the Federal program, and I would argue, it is not the direction that we want to head in our program, and the reasons are implicit in the notion of strict joint and several liability. Who is better able to be able to determine the proper handling and the proper management of their employees at a site that in and of itself deals with hazardous wastes? My argument is obviously the operator, who in this particular case is the employer.

What we begin to do here is we begin to open up the door to let owners and operators of sites try to use employee conduct and/or misconduct as a method to completely limit their liability. This is not an issue which would go to a trier of fact to be able to raise the discussion as to should we hold this person liable or not. This is a blanket defense, and once again, this is a departure from the Federal program and the State program.

Accordingly, I would ask you to vote "no" also on this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

#### YEAS—92

|            |          |           |               |
|------------|----------|-----------|---------------|
| Arty       | Dininni  | Hess      | Punt          |
| Barley     | Distler  | Jackson   | Reber         |
| Birmelin   | Dorr     | Jadlowiec | Reinard       |
| Black      | Duffy    | Johnson   | Robbins       |
| Book       | Fargo    | Kennedy   | Ryan          |
| Bowser     | Farmer   | Kenney    | Saurman       |
| Boyes      | Fischer  | Langtry   | Scheetz       |
| Brandt     | Flick    | Lashinger | Schuler       |
| Broujos    | Foster   | Leh       | Semmel        |
| Bunt       | Fox      | McClatchy | Serafini      |
| Burd       | Freind   | Manmiller | Sirianni      |
| Burns      | Gallen   | Merry     | Smith, B.     |
| Bush       | Gannon   | Micozzie  | Smith, S. H.  |
| Carlson    | Geist    | Moehmann  | Snyder, D. W. |
| Cessar     | Gladeck  | Mowery    | Snyder, G.    |
| Chadwick   | Godshall | Mrkonic   | Stairs        |
| Civera     | Gruppo   | Nahill    | Taylor, E. Z. |
| Clymer     | Hagarty  | Noye      | Taylor, J.    |
| Cornell    | Hasay    | O'Brien   | Yroon         |
| DeVerter   | Hayes    | Perzel    | Wass          |
| Davies     | Heckler  | Phillips  | Weston        |
| Dempsey    | Herman   | Piccola   | Wogan         |
| Dietterick | Hershey  | Pitts     | Wright, J. L. |

#### NAYS—100

|             |           |           |           |
|-------------|-----------|-----------|-----------|
| Acosta      | Donatucci | Linton    | Rieger    |
| Angstadt    | Durham    | Livengood | Ritter    |
| Argall      | Evans     | Lloyd     | Roebuck   |
| Battisto    | Fattah    | Lucyk     | Rudy      |
| Belardi     | Fee       | McCall    | Rybak     |
| Belfanti    | Freeman   | McHale    | Saloom    |
| Billow      | Gamble    | Maine     | Seventy   |
| Blaum       | George    | Manderino | Showers   |
| Bortner     | Gruitza   | Markosek  | Staback   |
| Bowley      | Haluska   | Mayernik  | Steighner |
| Caltagirone | Harper    | Melio     | Stuban    |

|             |            |            |               |
|-------------|------------|------------|---------------|
| Cappabianca | Hayden     | Michlovic  | Sweet         |
| Carn        | Howlett    | Morris     | Taylor, F.    |
| Cawley      | Hughes     | Murphy     | Tigue         |
| Clark       | Hutchinson | O'Donnell  | Trello        |
| Cohen       | Itkin      | Olasz      | Van Horne     |
| Colafella   | Jarolin    | Oliver     | Veon          |
| Cole        | Josephs    | Petrarca   | Wambach       |
| Corrigan    | Kasunic    | Petrone    | Wiggins       |
| Cowell      | Kitchen    | Pievsky    | Wozniak       |
| Coy         | Kosinski   | Pistella   | Wright, R. C. |
| DeLuca      | Kukovich   | Pressmann  | Yandrisevits  |
| DeWeese     | LaGrotta   | Preston    |               |
| Daley       | Lescovitz  | Raymond    | Irvis,        |
| Dawida      | Letterman  | Richardson | Speaker       |
| Dombrowski  | Levdansky  |            |               |

NOT VOTING—1

Wright, D. R.

EXCUSED—4

Honaman      McVerry      Maiale      Miller

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

On the question recurring,

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

Mr. YANDRISEVITS offered the following amendment No. A2881:

Amend Sec. 702, page 45, by inserting between lines 14 and 15 (e) Methane recovery.—

(1) In the case of a facility at which equipment for the recovery or processing (including recirculation of condensate) of methane has been installed, for purposes of this act:

(i) The owner or operator of such equipment shall not be considered an "owner or operator," as defined in sections 103 and 701(a)(1) with respect to such facility.

(ii) The owner or operator of such equipment shall not be considered to have arranged for disposal, treatment or transport of any hazardous substance at such facility pursuant to section 701(a)(2).

(iii) The owner or operator of such equipment shall not be subject to any action under sections 1101 through 1103 with respect to such facility.

(2) This subsection does not apply with respect to a release or threatened release of a hazardous substance from a facility described in paragraph (1) if either of the following circumstances exist:

(i) The release or threatened release was primarily caused by activities of the owner or operator of the equipment described above. In such case, the owner or operator of the equipment shall be liable only for costs or damages primarily caused by the activities of such owner or operator.

(ii) The owner or operator of such equipment would be covered by section 701 with respect to such release or threatened release if he were not the owner or operator of such equipment.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Northampton, Mr. Yandrisevits.

Mr. YANDRISEVITS. Thank you, Mr. Speaker.

Mr. Speaker, currently one of the problems associated with landfills is the uncontrolled production of methane gas. Cur-

rently an industry has arisen which recovers methane gas from the landfills, but in order to do this, the operator must install equipment on the landfill site. Under Federal law, such an operation is exempted from being considered as an owner/operator simply because of its presence on the site. This amendment would exempt the owner or operator of such equipment from being considered to be in control of a site which may be a Superfund site; however, it does not exempt from any liability if in fact that operator caused the release of the contaminant. Thank you, Mr. Speaker.

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

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, would the maker of the amendment just stand for a brief interrogation?

The SPEAKER. Mr. Yandrisevits indicates he will so stand. You may proceed.

Mr. REBER. Mr. Speaker, just so I am sure in my mind—And I have only had a brief moment to read your amendment, and I apologize for that, but because of the involvement in all the prior issues, I just have not had a chance to digest it. So possibly, certainly for myself and maybe for any other member that has not picked up on it, could you specifically explain who is being exempted, if you will, from any potential liability or from any potential involvement under the act as it is currently written if this amendment would go in?

Mr. YANDRISEVITS. The amendment exempts an operator of a facility which is installed at a landfill site solely for the purpose of recovering methane gas from the landfill. The operator normally installs a pipe system in the landfill which draws off the methane gas which is processed and sold. What the amendment does is to remove that operator from consideration as being an operator of the site solely by the presence of its equipment at the site. It does not exempt the operator from liability if an action of the operator is the cause of the release which creates the Superfund site.

Mr. REBER. In short, then I guess it would be simple to say that it only affects owners or operators of such equipment in the methane recovery process. Is that a fair statement?

Mr. YANDRISEVITS. That is correct, Mr. Speaker.

Mr. REBER. It does not absolve the owner of the facility from which the methane recovery is taking place. Is that correct?

Mr. YANDRISEVITS. That is correct, Mr. Speaker.

Mr. REBER. Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the majority leader.

Mr. MANDERINO. Will the gentleman yield to interrogation, the maker of the amendment?

The SPEAKER. Mr. Yandrisevits indicates he will stand for further interrogation. You may proceed.

Mr. MANDERINO. Would it not be possible for the owner of a landfill that has created or ends up with a methane gas problem at that landfill to absolve himself from responsibility simply by becoming the owner or operator of equipment to remove the methane gas? He becomes an owner or an opera-

tor himself; he does not have to get licensed; he simply sinks some equipment into the ground and absolves himself from the responsibility. Is that not possible?

Mr. YANDRISSEVITS. No, Mr. Speaker; under the amendment, it is not possible.

Mr. MANDERINO. Tell me why. I think the amendment is broadly drafted, so broadly drafted that it allows that situation to exist.

Mr. YANDRISSEVITS. Mr. Speaker, all that the amendment does is prohibit the operator of the equipment from being considered an owner or operator of a facility simply by its presence of the equipment on the site. Obviously, if the owner of the equipment also owned the landfill, that owner would be liable as an owner of the landfill.

Mr. MANDERINO. Mr. Speaker, I thank the gentleman for his answer.

I have gone through the amendment, and although I think the gentleman may be well intended, what he has done is really to provide for an excuse and absolving a release from anyone who owns and operates methane recovery equipment. If that owner and operator of methane recovery equipment happens to be the owner and operator of the landfill that has the problem, he has exempted them also in the language of this amendment, and I would certainly ask for a negative vote, Mr. Speaker.

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

Mr. REBER. Mr. Speaker, I would join in the analysis and the conclusion that the majority leader just came to, as well as the fact that I think if in fact we found it within our province to in essence defeat the earlier amendment on employee-employer relationship, that same justification should certainly follow even more specifically now on this. So I would urge a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Snyder, on the amendment.

Mr. D. W. SNYDER. Mr. Speaker, I am somewhat confused by the majority leader's concerns and also Representative Reber's, due to the fact that the language that is being proposed by Representative Yandrisevits is identical to the language that is already in the Federal Superfund legislation. I feel that the reports by the House committee on the Superfund legislation and the enforcement of the methane exemption in the Superfund legislation will be identical under this proposal, and I do not understand the concerns that were previously addressed, and I feel that we can support this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Yandrisevits, on his amendment.

Mr. YANDRISSEVITS. Thank you, Mr. Speaker.

I would just like to reiterate that this is language which is identical to language which is in the Federal Superfund legislation, and I think it clearly states that only the operator of the equipment is exempted, not really from liability but from being considered to be an owner of the site. Also, the operator of the equipment is not exempted from liability if anything

that that owner did is the cause of the pollution, which would obviously cover the situation where the operator of the methane recovery facility was the owner of the facility. All the amendment seeks to do is to prohibit someone who has no control over the facility from being held liable for circumstances which were beyond his control.

I would appreciate an affirmative vote on the amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Hasay.

Mr. HASAY. Thank you, Mr. Speaker.

I just join with the majority leader and also ask for a "no" vote on this amendment. Thank you.

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

The following roll call was recorded:

YEAS—24

|         |          |               |              |
|---------|----------|---------------|--------------|
| Blum    | Godshall | Pressmann     | Steighner    |
| Boyes   | Hershey  | Preston       | Sweet        |
| Cawley  | Langtry  | Ritter        | Veon         |
| Clark   | McCall   | Saurman       | Vroon        |
| Fargo   | Mrkonic  | Semmel        | Wozniak      |
| Gladeck | Olasz    | Snyder, D. W. | Yandrisevits |

NAYS—167

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Dietterick | Josephs    | Pistella      |
| Angstadt    | Dininni    | Kasunic    | Pitts         |
| Argall      | Distler    | Kenney     | Raymond       |
| Arty        | Dombrowski | Kitchen    | Reber         |
| Barley      | Donatucci  | Kosinski   | Reinard       |
| Battisto    | Dorr       | Kukovich   | Richardson    |
| Belardi     | Duffy      | LaGrotta   | Rieger        |
| Belfanti    | Durham     | Lashingier | Robbins       |
| Billow      | Evans      | Leh        | Roebuck       |
| Birmelin    | Farmer     | Lescovitz  | Rudy          |
| Black       | Fattah     | Letterman  | Ryan          |
| Book        | Fee        | Levdansky  | Rybak         |
| Bortner     | Fischer    | Linton     | Saloom        |
| Bowley      | Flick      | Livengood  | Scheetz       |
| Bowser      | Foster     | Lloyd      | Schuler       |
| Brandt      | Fox        | Lucyk      | Serafini      |
| Broujos     | Freeman    | McClatchy  | Seventy       |
| Bunt        | Freind     | McHale     | Showers       |
| Burd        | Gallen     | Maine      | Sirianni      |
| Burns       | Gamble     | Manderino  | Smith, B.     |
| Bush        | Gannon     | Manmiller  | Smith, S. H.  |
| Caltagirone | Geist      | Markosek   | Snyder, G.    |
| Cappabianca | George     | Mayernik   | Staback       |
| Carlson     | Gruitza    | Melio      | Stairs        |
| Cara        | Gruppo     | Merry      | Suban         |
| Cessar      | Hagarty    | Michlovic  | Taylor, E. Z. |
| Chadwick    | Haluska    | Micozzie   | Taylor, F.    |
| Civera      | Harper     | Moehlmann  | Taylor, J.    |
| Clymer      | Hasay      | Morris     | Tigue         |
| Cohen       | Hayden     | Mowery     | Trello        |
| Colafella   | Hayes      | Murphy     | Van Horne     |
| Cole        | Heckler    | Nahill     | Wambach       |
| Cornell     | Herman     | Noye       | Wass          |
| Corrigan    | Hess       | O'Brien    | Weston        |
| Cowell      | Howlett    | O'Donnell  | Wiggins       |
| Coy         | Hughes     | Oliver     | Wogan         |
| DeLuca      | Hutchinson | Perzel     | Wright, D. R. |
| DeVerter    | Itkin      | Petrarca   | Wright, J. L. |
| DeWeese     | Jackson    | Petrone    | Wright, R. C. |
| Daley       | Jadlowiec  | Phillips   |               |
| Davies      | Jarolin    | Piccola    | Irvis,        |
| Dawida      | Johnson    | Pievsky    | Speaker       |
| Dempsey     |            |            |               |

## NOT VOTING—2

Kennedy Punt

## EXCUSED—4

Honaman McVerry Maiale Miller

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

On the question recurring,

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

Mr. YANDRISEVITS offered the following amendments No. A2863:

Amend Table of Contents, page 2, lines 29 and 30, by striking out all of said lines and inserting

Section 904. Loan fund.

Amend Bill, page 64, lines 1 through 30; page 65, lines 1 through 20, by striking out all of said lines on said pages

Amend Sec. 906, page 65, line 21, by striking out "906" and inserting

904

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Northampton, Mr. Yandrisevits.

Mr. YANDRISEVITS. Thank you, Mr. Speaker.

Mr. Speaker, the Appropriations Committee added language to this bill which gave the Secretary of the Department of Environmental Resources the power to impose a generator tax after the current capital stock franchise tax expires in 1991. It is my belief, Mr. Speaker, that if we need to extend the tax in 1991, we have time to decide that without abrogating the authority of this body to the Secretary of the Department of Environmental Resources. So what my amendment does, which I should note is being sponsored by myself and Representative McVerry, is to remove sections 904 and 905 from the bill, which are the sections dealing with the imposition of the generator tax in 1991. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I rise in opposition to the amendment.

The question of whether or not fees, or Superfund moneys, are going to be needed after 1991 is easy to answer. We all know the answer to that. Superfund moneys are certainly going to be needed. There are more sites than we are going to be able to take care of, and the problem is going to continue to exist because we continue to generate hazardous and toxic materials within the Commonwealth.

The question really is, do we adopt a reasonable way to generate the funds through a fee system related to generators when the capital stock franchise surcharge expires in 1991, or do we place the burden on the Commonwealth taxpayers by placing the burden in the General Fund? That is the choice that you have with this amendment. Mr. Yandrisevits simply says, we are not going to raise fees from the generators; we are going to put the burden on the General Fund of this Commonwealth.

I certainly think that is the wrong way to go, Mr. Speaker, and I think that we ought to vote in the negative on this amendment.

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the Yandrisevits amendment.

It is altogether appropriate that if we are going to raise funds to clean up hazardous waste, those who helped create the problem, the hazardous waste generators, pay some measure into that fund. There is an added incentive, though, aside from making sure that the fund is solvent, making sure that we have the resources we need to clean up the hazardous waste sites that exist in Pennsylvania, and that is the fact that we provide an incentive to industry to cut back on unnecessary hazardous waste generated if there is a fee on the waste that is generated.

An EPA study that was done in January of last year showed that up to one-third of the hazardous waste that is created in this country is unnecessary; it does not have to be created. If there is a fee on the waste generated within this Commonwealth, we establish tremendous incentive to cut back on unnecessary waste and we also insure the solvency of the fund so that when our constituents come to us wanting to make sure that projects in our districts can be cleaned up, we have the revenue we need.

I urge the membership of this House to vote "no" on the Yandrisevits amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I would caution each and every member sitting on the floor of the House today to open their daily House calendar book, their looseleaf folder, and pull out, if they have not already done so, HB 1852. Then once you have done that monumental exercise, I would like you to turn to page 64, because it is on page 64 that this particular amendment begins to deal with. I think unless you have read everything that is contained in section 904 on page 64 and continuing on to page 65, you have absolutely no idea what the maker of the amendment is attempting to do, nor do you have any idea what the current state of the bill is doing. So for those of you who have not had the opportunity to look at it, just let me briefly summarize some of the concerns and problems that I see existing in section 904 as it is currently before us in the bill.

First of all, it is providing for some type of fee structure to be designated in the future by the Secretary of DER. That is all it says. The Secretary of DER is going to formulate a fee structure that will in some way, shape, or form produce total revenues equal to one-half of the amount collected during the 1990-91 fiscal year under—and for a lack of a shorter way of putting it—the capital stock franchise tax that we have been hearing about. Now, what we have there in fact is a situation where we have absolutely no idea what that fee structure is going to be, how it is going to impact, and for that matter, exactly who it is going to impact upon, and therefore, accord-



ingly, I think we have a very serious piece of legislation that is in need of remediation. That is one big, big concern as it presently exists in the bill before us.

Secondly, we have a potential scenario where this is relying, as the capital stock franchise tax relied upon, on impacting industries that are impacted by that or similar to industries that may be impacted by that. I would submit that it is probably the best actions of this legislature on the capital stock franchise tax to simply consider a continuation or leaving a going-out-of-existence on that particular aspect of the tax alone and then move to some other contingency or alternative source of funding. Sometime this afternoon you are going to get that alternative source of contingency funding in an amendment I wish to offer. As part of that amendment, it would in fact do what the maker of the amendment is doing.

I would submit that there is nothing inconsistent with what I am going to offer to you later in part with what this amendment does in total. Therefore, I would submit that we vote the amendment that is currently before us and then move forward with a contingency amendment that will be offered later to address similar concerns. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Butler, Mr. Steighner.

Mr. STEIGHNER. Thank you, Mr. Speaker.

Would the author of the amendment consent to a brief interrogation?

The SPEAKER. Mr. Yandrisevits indicates he will so stand. You are in order. You may proceed.

Mr. STEIGHNER. Thank you, Mr. Speaker.

Mr. Speaker, it is my impression that whether your amendment is accepted or not, the current funding mechanism for the program, the capital stock franchise tax, would still continue until at least 1991. Is that correct?

Mr. YANDRISEVITS. That is correct, Mr. Speaker.

Mr. STEIGHNER. That is all I have for inquiry, Mr. Speaker. I would like to make a brief statement on the amendment.

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

Mr. STEIGHNER. Mr. Speaker, I am puzzled as to what the rush is to accept the language that is currently in the bill. The funding mechanism for this does not run out until 1991. By accepting the gentleman's amendment, we, if nothing else, allow ourselves between now and 3 years to look at the various options we have in front of us - whether we want to continue the capital stock franchise tax, as was suggested earlier, or whether we want to look at entirely different funding mechanisms between now and then.

For that reason, Mr. Speaker, I would ask for the support of the gentleman's amendment.

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

The following roll call was recorded:

YEAS—135

|           |            |           |               |
|-----------|------------|-----------|---------------|
| Angstadt  | Dietterick | Kenney    | Robbins       |
| Arty      | Dininni    | LaGrotta  | Rudy          |
| Barley    | Distler    | Langtry   | Ryan          |
| Belardi   | Dombrowski | Lashinger | Saurman       |
| Belfanti  | Dorr       | Leh       | Scheetz       |
| Billow    | Duffy      | Lescovitz | Schuler       |
| Birmelin  | Durham     | Livengood | Semmel        |
| Black     | Fargo      | McCall    | Serafini      |
| Book      | Farmer     | McClatchy | Showers       |
| Bortner   | Fischer    | Manmiller | Sirianni      |
| Bowley    | Flick      | Markosek  | Smith, B.     |
| Bowser    | Foster     | Mayernik  | Smith, S. H.  |
| Boyes     | Fox        | Merry     | Snyder, D. W. |
| Brandt    | Freind     | Micozzie  | Snyder, G.    |
| Broujos   | Gallen     | Moehlmann | Staback       |
| Bunt      | Gannon     | Mowery    | Stairs        |
| Burd      | Geist      | Mrkonic   | Steighner     |
| Burns     | Gladeck    | Nahill    | Stuban        |
| Bush      | Godshall   | Noye      | Sweet         |
| Carlson   | Gruppo     | O'Brien   | Taylor, E. Z. |
| Cawley    | Hagarty    | Olasz     | Taylor, F.    |
| Cessar    | Haluska    | Perzel    | Taylor, J.    |
| Chadwick  | Hasay      | Petrarca  | Van Horne     |
| Civera    | Hayes      | Phillips  | Veon          |
| Clark     | Heckler    | Piccola   | Vroon         |
| Clymer    | Herman     | Pistella  | Wambach       |
| Colafella | Hershey    | Pitts     | Wass          |
| Cornell   | Hess       | Pressmann | Weston        |
| Cowell    | Hutchinson | Preston   | Wogan         |
| Coy       | Jackson    | Punt      | Wozniak       |
| DeLuca    | Jadlowiec  | Raymond   | Wright, J. L. |
| DeVerter  | Johnson    | Reber     | Wright, R. C. |
| Davies    | Kasunic    | Reinard   | Yandrisevits  |
| Dempsey   | Kennedy    | Ritter    |               |

NAYS—58

|             |          |           |               |
|-------------|----------|-----------|---------------|
| Acosta      | Fattah   | Kukovich  | Petrone       |
| Argall      | Fee      | Letterman | Pievsky       |
| Battisto    | Freeman  | Levdansky | Richardson    |
| Blaum       | Gamble   | Linton    | Rieger        |
| Caltagirone | George   | Lloyd     | Roebuck       |
| Cappabianca | Gruitza  | Lucyk     | Rybak         |
| Carn        | Harper   | McHale    | Saloom        |
| Cohen       | Hayden   | Maine     | Seventy       |
| Cole        | Howlett  | Manderino | Tigue         |
| Corrigan    | Hughes   | Melio     | Trello        |
| DeWeese     | Itkin    | Michlovic | Wiggins       |
| Daley       | Jarolin  | Morris    | Wright, D. R. |
| Dawida      | Josephs  | Murphy    |               |
| Donatucci   | Kitchen  | O'Donnell | Irvis,        |
| Evans       | Kosinski | Oliver    | Speaker       |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. YANDRISEVITS offered the following amendments No. A2621:

Amend Sec. 103, page 7, lines 28 through 30; page 8, lines 1 and 2, by striking out all of said lines on said pages and inserting "Contaminant." An element, substance, compound or mixture which is defined as a pollutant or contaminant under the Federal Superfund Act.

Amend Sec. 103, page 9, lines 3 through 6, by striking out all of said lines and inserting

(1) Any substance, element, compound or material which is:

Amend Sec. 103, page 9, line 10, by inserting after "designated"

or defined

Amend Sec. 103, page 9, lines 15 through 20, by striking out all of said lines

Amend Sec. 103, page 9, by inserting after line 30

"Hazardous waste facility." A facility which provides for the treatment or disposal of hazardous waste.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Northampton, Mr. Yandrisevits.

Mr. YANDRISEVITS. Thank you, Mr. Speaker.

Mr. Speaker, this amendment deals with some of the definition sections. First, it makes the definition of "contaminant" and the definition of "hazardous substance" conform with existing law, both Federal and State, and narrows the definition from the broad definition that is currently in the bill. It also provides a definition for "hazardous waste facility," since the bill refers to "hazardous waste facility" throughout but does not provide a definition for the term "hazardous waste facility."

I would appreciate an affirmative vote on the amendment. Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

I have some reservations about the impact of this particular amendment. When the Federal Superfund Act was reauthorized in October of 1986, a number of the congressional folks involved in that case said that we should give individual States the opportunity to enact, in a sense, their own standards and to be able to make individual judgments for their own citizens with respect to which particular elements would be defined as "contaminants." Keep in mind, the definition of "contaminant" in and of itself does not trigger any obligations under this statute.

We addressed the definition of "contaminant" to be consistent with existing State law, which is where I think we want to be here - to have existing State law govern the definition of "contaminant" rather than to limit it to the Federal application. That issue was addressed in the Appropriations Committee, which addressed some of the other concerns about it was too open ended, what is a contaminant. We also further defined what hazardous waste was and what a release was. Therefore, I do not think there is any particular need to instill this into our particular effort here, and I would ask for a "no" vote on this amendment.

The SPEAKER. The Chair recognizes the gentleman from Somerset, Mr. Lloyd, on the amendment.

Mr. LLOYD. Thank you, Mr. Speaker.

I would like to interrogate the sponsor of the amendment.

The SPEAKER. Mr. Yandrisevits will stand for interrogation. You may proceed.

Mr. LLOYD. Mr. Speaker, earlier this afternoon the House adopted an amendment, which I offered, to make some exemptions from the definition of "contaminant" for the purposes of coal and coal wastes and natural gas. Under the Federal definition— If we adopt your amendment, we are obviously striking out the lines of the bill that I amended and therefore taking out that portion of my amendment. Under the Federal definition, would waste from coal mines and natural gas be considered a contaminant or not?

Mr. YANDRISEVITS. Mr. Speaker, it was my understanding that your amendment was offered in order to conform the bill to the Federal standards.

Mr. LLOYD. So in other words, it is your understanding that under the Federal law, the amendment which I offered is already the Federal law?

Mr. YANDRISEVITS. Yes, Mr. Speaker.

Mr. LLOYD. I am unclear from listening to you and listening to Mr. Hayden. I mean, he says we should be against you because you want to exempt all kinds of things that should be up to State law, and you are saying we should be with you because we ought to follow the Federal law. I would like an explanation of what is a contaminant under the State definition in this bill that is not a contaminant under the Federal law.

Mr. YANDRISEVITS. Mr. Speaker, under this bill, "contaminant" is referred to very broadly as any "...element, substance, compound or mixture, including disease-causing agents, which, after release into the environment, may cause either of the following,..." and then it refers to malfunctions in organisms - any organisms, human or other - or damage to natural resources. Under that definition, just about anything could be considered to be a contaminant. What my amendment does is to limit "contaminant" to those elements or substances which are specifically defined in the Federal Superfund Act.

Mr. LLOYD. Well, I guess my problem is, I do not know what is specifically defined in the Federal Superfund Act. What I am trying to find out is, what is it that would be covered under this definition which is not under the Federal Superfund? Maybe the simpler way to put it would be, what is covered under the Federal Superfund that you would exclude with your amendment?

Mr. YANDRISEVITS. My amendment would not exclude things that are covered under the Federal Superfund Act. It would—

Mr. LLOYD. Okay. I misspoke myself. My point is this: You are saying that this is a broad definition that would cover almost anything and we should go with the Federal definition, but I do not know what the Federal definition is, and you have not told me yet what it is. I am trying to understand. I honestly do not know whether I should vote with you or against you, and what I need, Mr. Speaker, is some explanation of what consequences this language in HB 1852, if we do not adopt your amendment, is going to trigger - certain conse-

quences that under the Federal law would not be triggered. Maybe you can do that by way of giving me five or six examples. That would be fine.

Mr. YANDRISSEVITS. The point, Mr. Speaker, I think is not what is specifically listed under the Federal Superfund Act as a contaminant. I do not have the answer to that question. I think what the point is is that at least with a specific listing, we know what is a contaminant and what is not a contaminant so that we can target the limited State resources that we have towards cleaning up things that have been determined to be contaminants and not to be chasing after basically any substance in the environment that may in one particular area or another by one particular person or another be considered to be causing a harm.

Mr. LLOYD. Mr. Speaker, on the amendment?

The SPEAKER. The gentleman has the floor and may speak on the amendment.

Mr. LLOYD. Mr. Speaker, subject to some later clarification, it seems to me we just simply do not know enough about what is in the Federal law and we do not really know what the consequences are of changing from the definition in HB 1852 to the definition in the Federal law. Yes, you can say that everybody knows what the Federal law is, but I do not know what it is, and I have not heard any explanation on the floor, and it seems to me that what we ought to do is to stick with the language that we have. If at some point later on in the negotiations as this bill moves its way through the legislative process there is a need for more exemptions or a need for more clarification, that is the time to do it, not with an amendment on the floor of the House which we really do not understand.

I would ask for a "no" vote.

The SPEAKER. On the amendment, the Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I likewise ask for a negative vote on the amendment.

The Federal definition of "contaminant" really amounts to, as I understand it—it has been explained to me—the contaminant is disease causing, and what Mr. Yandrisevits is saying is, that is what he wants to be covered - disease causing. We have added to that not only disease causing but elements that might not necessarily cause disease but might cause mutations, might cause blindness, which is not a disease, or might poison people through chemical action, which is not a disease. We are listing a number of things, which, if you look on page 8 of the bill, we are saying, in humans or their offspring, if it causes death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, or physical deformities. Certain chemicals can severely burn people if it is in the water table, in the water in natural streams.

Mr. Speaker, I would urge a negative vote, because a negative vote limits "contaminant" to mean only disease causing, not injury causing or mutation causing; not even death causing, unless it is from disease. I ask for a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber, on the amendment.

Mr. REBER. Thank you, Mr. Speaker.

For the sake of brevity, I would urge the members on my side of the aisle to vote in the negative. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—6

|        |         |         |              |
|--------|---------|---------|--------------|
| Cole   | Kennedy | Wozniak | Yandrisevits |
| Dawida | Sweet   |         |              |

NAYS—187

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Dombrowski | Kosinski   | Raymond       |
| Angstadt    | Donatucci  | Kukovich   | Reber         |
| Argall      | Dorr       | LaGrotta   | Reinard       |
| Arty        | Duffy      | Langtry    | Richardson    |
| Barley      | Durham     | Lashingier | Rieger        |
| Battisto    | Evans      | Leh        | Ritter        |
| Belardi     | Fargo      | Lescovitz  | Robbins       |
| Belfanti    | Farmer     | Letterman  | Roebuck       |
| Billow      | Fattah     | Levdansky  | Rudy          |
| Birmelin    | Fee        | Linton     | Ryan          |
| Black       | Fischer    | Livengood  | Rybak         |
| Blaum       | Flick      | Lloyd      | Saloom        |
| Book        | Foster     | Lucyk      | Saurman       |
| Bortner     | Fox        | McCall     | Scheetz       |
| Bowley      | Freeman    | McClatchy  | Schuler       |
| Bowser      | Freind     | McHale     | Semmel        |
| Boyes       | Gallen     | Maine      | Serafini      |
| Brandt      | Gamble     | Manderimo  | Seventy       |
| Broujos     | Gannon     | Manmiller  | Showers       |
| Bunt        | Geist      | Markosek   | Sirianni      |
| Burd        | George     | Mayermik   | Smith, B.     |
| Burns       | Gladeck    | Melio      | Smith, S. H.  |
| Bush        | Godshall   | Merry      | Snyder, D. W. |
| Caltagirone | Gruitza    | Michlovic  | Snyder, G.    |
| Cappabianca | Gruppo     | Micozzie   | Staback       |
| Carlson     | Hagarty    | Moehlmann  | Stairs        |
| Carn        | Haluska    | Morris     | Steighner     |
| Cawley      | Harper     | Mowery     | Stuban        |
| Cessar      | Hasay      | Mrkonic    | Taylor, E. Z. |
| Chadwick    | Hayden     | Murphy     | Taylor, F.    |
| Civera      | Hayes      | Nahill     | Taylor, J.    |
| Clark       | Heckler    | Noye       | Tigue         |
| Clymer      | Herman     | O'Brien    | Trello        |
| Cohen       | Hershey    | O'Donnell  | Van Horne     |
| Colafella   | Hess       | Olasz      | Veon          |
| Cornell     | Howlett    | Oliver     | Vroon         |
| Corrigan    | Hughes     | Perzel     | Wambach       |
| Cowell      | Hutchinson | Petrarca   | Wass          |
| Coy         | Itkin      | Petrone    | Weston        |
| DeLuca      | Jackson    | Phillips   | Wiggins       |
| DeVerter    | Jadlowiec  | Piccola    | Wogan         |
| DeWeese     | Jarolin    | Pievsky    | Wright, D. R. |
| Daley       | Johnson    | Pistella   | Wright, J. L. |
| Davies      | Josephs    | Pitts      | Wright, R. C. |
| Dempsey     | Kasunic    | Pressmann  |               |
| Dietterick  | Kenney     | Preston    | Irvis,        |
| Dininni     | Kitchen    | Punt       | Speaker       |
| Distler     |            |            |               |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. GRUITZA offered the following amendments No. A2977:

Amend Sec. 701, page 41, line 28, by striking out all of said line and inserting

(b) Exceptions.—

(1) An owner of real property is not responsible

Amend Sec. 701, page 42, line 2, by striking out “(1)” and inserting

(i)

Amend Sec. 701, page 42, line 5, by striking out “(2)” and inserting

(ii)

Amend Sec. 701, page 42, line 9, by striking out “(3)” and inserting

(iii)

Amend Sec. 701, page 42, line 12, by striking out “(4)” and inserting

(iv)

Amend Sec. 701, page 42, line 17, by striking out “(5)” and inserting

(v)

Amend Sec. 701, page 42, line 21, by striking out “(6)” and inserting

(vi)

Amend Sec. 701, page 42, line 22, by striking out “(i)” and inserting

(A)

Amend Sec. 701, page 43, line 9, by striking out “(ii)” and inserting

(B)

Amend Sec. 701, page 43, line 13, by striking out “(iii)” and inserting

(C)

Amend Sec. 701, page 43, line 15, by striking out “(7)” and inserting

(vii)

Amend Sec. 701, page 43, by inserting between lines 16 and 17

(2) This subsection shall not apply to an owner of real property if that real property is primarily used or is under construction as single or multi-family housing, and that owner was not responsible for placing the hazardous substance on the property.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Gruitza.

Mr. GRUITZA. Thank you, Mr. Speaker.

The second amendment, the other amendment, is being withdrawn. It was basically the same amendment as this, but we have added some corrective language to this amendment.

What this amendment does is it exempts from the liability section private residences who find in excavating for their home or in making an improvement to the home, digging for a pool or whatever, that there may be some hazardous materials buried there. It exempts them from liability under it. However, they would not be exempt if it is found that they were the ones responsible for placing the hazardous substance on the property.

I would appreciate an affirmative vote for the amendment.

The SPEAKER. The Chair recognizes the majority whip on the amendment.

Mr. O'DONNELL. I would like to interrogate the sponsor, Mr. Speaker.

The SPEAKER. Mr. Gruitza indicates he will stand for interrogation. You may proceed, Mr. O'Donnell.

Mr. O'DONNELL. Mr. Speaker, frankly, I was looking at the previous amendment, which has now been withdrawn, and I am trying to understand the relationship between these two.

In section 701 there is established a general rule for liability, and in subsection (b) there is an exception to that general rule. Now, it appears that what you have done here is create another exception altogether. The exception that is currently in the bill outlines a set of standards, five or six in number, and you are saying, even if you do not meet any of those standards, you can still get an exception to the general rule if you are an owner of real property primarily used or under construction for housing and, further, that the owner is not the party responsible for placing hazardous substance on the property. Is that correct?

Mr. GRUITZA. That is correct.

Mr. O'DONNELL. Mr. Speaker, the standards that were set out in subsection (b) in order to qualify for the exception—Well, let me ask it to you in this way: There is a requirement that the property owner acquire the property after the disposal took place. That is in the bill now. That would no longer apply in the case of residential housing. So in other words, under your amendment, as I understand it—and I am really asking if this is correct—as I read your amendment, somebody could buy a piece of property and then the waste be disposed of on the property, as long as he was not the guy doing it, and then he could subsequently, let us say, plow it over and use it for housing and be exempted from the general rule. Am I reading that correctly?

Mr. GRUITZA. Well, the way I would read it is—And the reason we changed the language from the original amendment was to not exempt the individual if he was responsible for placing it there. Now, if he knowingly authorized some third party to come in and use his land as a toxic dump and had full knowledge that it was there and then planned on building some homes on it, I think that he would not fall in under this exemption because he was responsible for allowing that to occur. Now, if some third party in the middle of the night sneaks onto his property and buries something and it is unbeknownst to him that this has occurred and then a year or two or whatever later he is ready to build his home and finds this substance, under this section he would be exempted from liability. We are trying to exempt the innocent homeowner/homebuilder who is in the process of excavating for a home or an apartment and discovers that there has been some toxic materials there, and we do not want him to be brought in.

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

Mr. Speaker?

The SPEAKER. The gentleman has the floor and may speak on the amendment.

Mr. O'DONNELL. Mr. Speaker, it is with some reluctance that I would urge the House to vote against this amendment. The intent of this amendment, as the author indicates, is to protect the innocent homeowner. The difficulty here is that we must establish sufficient standards for innocence and to make sure that that innocence is real. The standards that are currently in the bill are fairly workable standards.

In the first version of the gentleman's amendment, it was blanket. The second version, which is what you have before you today, takes a step toward further restriction on who this homeowner is as a way of assuring his innocence. The difficulty that we have here is that the standards that have been carefully worked out in this bill have been ignored when we get to the homeowner or when we get to the real estate developer, and that is not a good idea, because these standards have been worked out for the purpose of establishing the innocence of this homeowner or this developer.

My feeling is that the intent is good, but I think that the amendment will not work. I suspect that the gentleman's direction in gradually modifying the amendment is the correct one, because there are innocent homeowners and land developers who probably are worthy of protection, but I think the amendment would have to be drafted with some of the standards that are already in the bill in mind. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Hasay, on the amendment.

Mr. HASAY. Thank you, Mr. Speaker.

Mr. Speaker, this is a good amendment, a sensible amendment. It protects the home purchaser and the homeowner.

The minority asks for a favorable vote and urges a favorable vote on this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Gruitza, on the amendment.

Mr. GRUITZA. Mr. Speaker, just as a final response, I think that if there is a way that the amendment could be better drafted, I think that the House ought to indicate its intent at this point because I think we are looking at a bill that is going to end up ultimately in a conference committee, and we should show the conference committee that we want to protect the individual homeowner and the innocent purchaser of residential property. We should vote for it, and if there is some way we can improve it pursuant to Mr. O'Donnell's intentions and feelings, then we should do that.

I would only add finally that under the way the bill is written right now, the innocent homeowner, if we do not put this amendment in, is going to bear the cost, the legal expenses, and all the burden of proving his innocence, and he may never get that home built or anything else because of what gets involved with DER in that situation. So I think we ought to vote for it, and if we can improve it, I am open for that suggestion and would go along with that. We tried to put in language to protect only the innocent parties here and I think that we went a long way in doing that, but if we can improve it, the conference committee could probably do that.

I would ask for an affirmative vote. Thank you.

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

Mr. OLASZ. Mr. Speaker, in response to our previous speaker's remarks, I had always assumed that in our society you were presumed innocent until proven guilty.

For that reason, I would ask for an affirmative vote for Mr. Gruitza's amendment. Think about it.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

#### YEAS—172

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Davies     | Johnson    | Reinard       |
| Angstadt    | Dawida     | Kasunic    | Rieger        |
| Argall      | Dempsey    | Kennedy    | Ritter        |
| Arty        | Dietterick | Kenney     | Robbins       |
| Barley      | Dininni    | Kitchen    | Roebuck       |
| Battisto    | Distler    | Kosinski   | Rudy          |
| Belardi     | Dombrowski | Kukovich   | Ryan          |
| Belfanti    | Donatucci  | LaGrotta   | Saloom        |
| Billow      | Dorr       | Langtry    | Saurman       |
| Birmelin    | Duffy      | Lashingier | Scheetz       |
| Black       | Durham     | Leh        | Schuler       |
| Blaum       | Evans      | Lescovitz  | Semmel        |
| Book        | Fargo      | Letterman  | Serafini      |
| Bortner     | Farmer     | Livengood  | Seventy       |
| Bowley      | Fee        | Lucyk      | Showers       |
| Bowser      | Fischer    | McCall     | Sirianni      |
| Boyes       | Flick      | McClatchy  | Smith, B.     |
| Brandt      | Foster     | Manmiller  | Smith, S. H.  |
| Broujos     | Fox        | Markosek   | Snyder, D. W. |
| Bunt        | Freind     | Mayernik   | Snyder, G.    |
| Burd        | Gallen     | Merry      | Staback       |
| Burns       | Gamble     | Micozzie   | Stairs        |
| Bush        | Gannon     | Moehlmann  | Steighner     |
| Caltagirone | Geist      | Morris     | Suban         |
| Cappabianca | George     | Mowery     | Sweet         |
| Carlson     | Gladeck    | Mrkonic    | Taylor, E. Z. |
| Cawley      | Godshall   | Nahill     | Taylor, F.    |
| Cessar      | Gruitza    | Noye       | Taylor, J.    |
| Chadwick    | Gruppo     | O'Brien    | Tigue         |
| Civera      | Hagarty    | Olasz      | Trello        |
| Clark       | Haluska    | Oliver     | Van Horne     |
| Clymer      | Hasay      | Perzel     | Veon          |
| Cohen       | Hayes      | Petrarca   | Vroon         |
| Colafella   | Heckler    | Petrone    | Wambach       |
| Cole        | Herman     | Phillips   | Wass          |
| Cornell     | Hershey    | Piccola    | Weston        |
| Corrigan    | Hess       | Pistella   | Wiggins       |
| Cowell      | Howlett    | Pitts      | Wogan         |
| Coy         | Hutchinson | Pressmann  | Wozniak       |
| DeLuca      | Itkin      | Preston    | Wright, D. R. |
| DeVerter    | Jackson    | Punt       | Wright, J. L. |
| DeWeese     | Jadlowiec  | Raymond    | Wright, R. C. |
| Daley       | Jarolin    | Reber      | Yandrisevits  |

#### NAYS—20

|         |           |           |            |
|---------|-----------|-----------|------------|
| Carn    | Levdansky | Melio     | Richardson |
| Freeman | Linton    | Michlovic | Rybak      |
| Harper  | Lloyd     | Murphy    |            |
| Hayden  | McHale    | O'Donnell | Irvis,     |
| Hughes  | Maine     | Pievsky   | Speaker    |
| Josephs | Manderino |           |            |

#### NOT VOTING—1

Fattah

EXCUSED—4

Honaman      McVerry      Maiale      Miller

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

On the question recurring,

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

Mr. BROUJOS offered the following amendments No. A2988:

Amend Sec. 501, page 19, by inserting between lines 29 and 30 (e) Notice of investigations.—The department, upon undertaking any investigation, interim response, or remedial response under this section, shall give prompt written notice thereof to the owner and operator of the site and to the first mortgagee holding a mortgage on the premises on which the site is located.

Amend Sec. 501, page 19, line 30, by striking out "(E)" and inserting

(f)

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Cumberland, Mr. Broujos.

Mr. BROUJOS. Mr. Speaker, this amendment provides that notice is necessary to be sent to a mortgagee in the event that there is a release under this section. Now, the advantage of that is that it puts some relief on the superlien problem, and that is this: If a mortgagee, the bank, and the mortgagor, borrower, agree in a mortgage agreement that there may be for some reason the right to foreclose in the event of any problem that arises after investigation on pollution or contamination, then the bank is given notice in advance. That bank then can monitor the situation and relieve or minimize its damages in the event of any subsequent attempt to charge the mortgagee bank with the losses that have occurred.

Now, the advantage to this is that it relies on the private sector to enter into an agreement between a bank and a property owner with respect to any right to foreclose in the event of a violation of a law. That is in a lot of agreements now. This merely gives the bank notice of the fact that there is a release and response problem and permits them to exercise any private rights they have under their private agreement. This is simply a notice requirement of the fact that the investigation is ongoing and helps the banks to take that action in advance.

I would ask that there be an affirmative vote for this amendment.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Hayden, on the amendment.

Mr. HAYDEN. Thank you, Mr. Speaker.

Mr. Speaker, would the maker of the amendment stand for a very brief interrogation?

Mr. BROUJOS. Yes.

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

Mr. HAYDEN. Thank you, Mr. Speaker.

Mr. Speaker, I only have one concern about this amendment. I would hope that it would not be your intent to establish responsibility on the part of the department to undertake its own investigation as to who the mortgage holders are or who the mortgagee is. I would suspect that what you are trying to do here is, once you notify the operator of the facility that you are undergoing an investigation, that you then ask the operator of the facility if there are any secured interests involved there, that the operator gives that information to the department and then the department goes ahead and sends its notice to that individual party. Is that what you are attempting to do here?

Mr. BROUJOS. Mr. Speaker, we have a problem here that we have addressed and gone round and round on on the question of the lien priorities. We know that there are a lot of conflicting interests, and we know it is not easy to resolve. As we know, Mr. Speaker, there are a lot of problems here and you are going to have to go to a little bit of trouble, and if somebody has to in fact go to the location, the county location of the siting, get the first mortgagee only, then let them do it.

This is a solution or a partial solution to your problem. It is not all mortgagees.

Mr. HAYDEN. Mr. Speaker, may I speak on the amendment?

The SPEAKER. The gentleman has the floor. He may proceed.

Mr. HAYDEN. Mr. Speaker, I understand what the gentleman, Mr. Broujos, is attempting to do. I think it is consistent with trying to address identification of individual parties here who may have an interest in the party.

I would urge the members to support the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—193

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Distler    | Kosinski   | Reinard       |
| Angstadt    | Dombrowski | Kukovich   | Richardson    |
| Argall      | Donatucci  | LaGrotta   | Rieger        |
| Arty        | Dorr       | Langtry    | Ritter        |
| Barley      | Duffy      | Lashingier | Robbins       |
| Battisto    | Durham     | Leh        | Roebuck       |
| Belardi     | Evans      | Lescovitz  | Rudy          |
| Belfanti    | Fargo      | Letterman  | Ryan          |
| Billow      | Farmer     | Levdansky  | Rybak         |
| Birmelin    | Fattah     | Linton     | Saloom        |
| Black       | Fee        | Livengood  | Saurman       |
| Blaum       | Fischer    | Lloyd      | Scheetz       |
| Book        | Flick      | Lucyk      | Schuler       |
| Bortner     | Foster     | McCall     | Semmel        |
| Bowley      | Fox        | McClatchy  | Serafini      |
| Bowser      | Freeman    | McHale     | Seventy       |
| Boyes       | Freind     | Maine      | Showers       |
| Brandt      | Gallen     | Manderino  | Sirianni      |
| Broujos     | Gamble     | Manmiller  | Smith, B.     |
| Bunt        | Gannon     | Markosek   | Smith, S. H.  |
| Burd        | Geist      | Mayermik   | Snyder, D. W. |
| Burns       | George     | Melio      | Snyder, G.    |
| Bush        | Gladeck    | Merry      | Staback       |
| Caltagirone | Godshall   | Michlovic  | Stairs        |
| Cappabianca | Gruitza    | Micozzie   | Steighner     |
| Carlson     | Gruppo     | Moehlmann  | Stuban        |
| Carr        | Hagarty    | Morris     | Sweet         |
| Cawley      | Haluska    | Mowery     | Taylor, E. Z. |

|            |            |           |               |
|------------|------------|-----------|---------------|
| Cessar     | Harper     | Mrkonic   | Taylor, F.    |
| Chadwick   | Hasay      | Murphy    | Taylor, J.    |
| Civera     | Hayden     | Nahill    | Tigue         |
| Clark      | Hayes      | Noye      | Trello        |
| Clymer     | Heckler    | O'Brien   | Van Horne     |
| Cohen      | Herman     | O'Donnell | Veon          |
| Colafella  | Hershey    | Olasz     | Vroon         |
| Cole       | Hess       | Oliver    | Wambach       |
| Cornell    | Howlett    | Perzel    | Wass          |
| Corrigan   | Hughes     | Petrarca  | Weston        |
| Cowell     | Hutchinson | Petrone   | Wiggins       |
| Coy        | Itkin      | Phillips  | Wogan         |
| DeLuca     | Jackson    | Piccola   | Wozniak       |
| DeVerter   | Jadlowiec  | Pievsky   | Wright, D. R. |
| DeWeese    | Jarolin    | Pistella  | Wright, J. L. |
| Daley      | Johnson    | Pitts     | Wright, R. C. |
| Davies     | Josephs    | Pressmann | Yandrisevits  |
| Dawida     | Kasunic    | Preston   |               |
| Dempsey    | Kennedy    | Punt      | Irvis,        |
| Dietterick | Kenney     | Raymond   | Speaker       |
| Dininni    | Kitchen    | Reber     |               |

NAYS—0

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. VAN HORNE offered the following amendments No. A2864:

Amend Table of Contents, page 2, lines 27 and 28, by striking out "transportation and management fees" and inserting disposal

Amend Sec. 901, page 56, lines 18 and 19, by striking out "TRANSPORTATION AND MANAGEMENT" and inserting disposal

Amend Sec. 903, page 60, line 16, by striking out "TRANSPORTATION AND MANAGEMENT" and inserting disposal

Amend Sec. 903, page 60, lines 17 through 30; pages 61 through 63, lines 1 through 30, by striking out all of said lines on said pages and inserting

The operator of a commercial hazardous waste management facility shall be assessed a fee for hazardous waste disposed of at such facility in the amount of \$8.50 per ton.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Van Horne.

Mr. VAN HORNE. Thank you, Mr. Speaker.

The amendment before you wants to change section 903 of the legislation and replace the management-fee section with a disposal-only tax of \$8.50 a ton, which will still generate the revenue estimated of about \$5.6 million.

I would ask your support of the amendment.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, will the gentleman, Mr. Van Horne, consent to interrogation?

The SPEAKER. Mr. Van Horne indicates he will so stand. You may proceed, Mr. Manderino.

Mr. MANDERINO. Mr. Speaker, the fees that you are removing from the bill, the transportation and management fee, raise about \$5 million. What is your \$8.50-per-ton fee going to raise?

Mr. VAN HORNE. Based on estimates, we have estimated about \$5.6 million.

Mr. MANDERINO. Who estimated that, Mr. Speaker?

Mr. VAN HORNE. Looking here at the receipts, we used the Hazardous Waste Siting Task Force report, and I used an average. They talked about at that time estimates between 642,000 and 675,000 metric tons. So I kind of averaged that out in the middle to about 660,000 metric tons disposed.

Mr. MANDERINO. Is that before recycling or after recycling?

Mr. VAN HORNE. It is probably before recycling.

Mr. MANDERINO. I thought it might be.

I have no other questions.

Mr. Speaker, there is a fee that is being collected - it is on the transportation and management - that does raise \$5 million. It was placed there after an agreement with the business community on the manner in which they would prefer to be taxed a tipping fee in the bill that raised money for the Superfund.

I think to begin to tamper with the mechanism that has been agreed upon and seems to be a consensus before it even is in place and is operational is not a good practice. The money that will be generated by that tipping fee of \$5 million is something that will be raised by the transportation and management entities. The business community knows that. In fact, those words were put in there with their consensus, and I would ask that we leave them as they are and not make the change that does not reflect any prior agreement and that does not necessarily give us figures from the Appropriations Committee of the House.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Mr. Speaker, very briefly, I would simply submit, first of all, that I concur in the remarks of the majority leader. I would like to amplify those in a different direction, and very soon today hopefully we can touch on this in more detail and see what would be the devastating impact that this particular concept might vest upon the establishment and the siting of a commercial hazardous waste facility in Pennsylvania.

I do not think there is any doubt that one of the biggest problems—and in many instances for a lot of people on this issue, the biggest problem—is establishing a hazardous waste facility site here in the Commonwealth of Pennsylvania. At this point I think it would be very, very poor policy for us to arbitrarily pick out of the air an \$8.50 amount as well as assess it on something that virtually does not exist, is having trouble in existing, and we are having a difficult time in allowing this particular type of facility to even come on line. Let us not provide another possible impediment for the siting of such facilities in the future in Pennsylvania.

I would urge defeat of the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—26

|           |         |          |           |
|-----------|---------|----------|-----------|
| Birmelin  | Coy     | Langtry  | Petrone   |
| Book      | Dawida  | Markosek | Preston   |
| Boyes     | Duffy   | Mayernik | Steighner |
| Broujos   | Fargo   | Mrkonic  | Trello    |
| Burd      | Farmer  | Olasz    | Van Horne |
| Clark     | Fischer | Petrarca | Wozniak   |
| Colafella | Gladeck |          |           |

NAYS—167

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Dorr       | Kukovich   | Rieger        |
| Angstadt    | Durham     | LaGrotta   | Ritter        |
| Argall      | Evans      | Lashingier | Robbins       |
| Arty        | Fattah     | Leh        | Roebuck       |
| Barley      | Fee        | Lescovitz  | Rudy          |
| Battisto    | Flick      | Letterman  | Ryan          |
| Belardi     | Foster     | Levdansky  | Rybak         |
| Belfanti    | Fox        | Linton     | Saloom        |
| Billow      | Freeman    | Livengood  | Saurman       |
| Black       | Freind     | Lloyd      | Scheetz       |
| Blaum       | Gallen     | Lucyk      | Schuler       |
| Bortner     | Gamble     | McCall     | Semmel        |
| Bowley      | Gannon     | McClatchy  | Serafini      |
| Bowser      | Geist      | McHale     | Seventy       |
| Brandt      | George     | Maine      | Showers       |
| Bunt        | Godshall   | Manderino  | Sirianni      |
| Burns       | Gruitza    | Manmiller  | Smith, B.     |
| Bush        | Gruppo     | Melio      | Smith, S. H.  |
| Caltagirone | Hagarty    | Merry      | Snyder, D. W. |
| Cappabianca | Haluska    | Michlovic  | Snyder, G.    |
| Carlson     | Harper     | Micozzie   | Staback       |
| Carn        | Hasay      | Moehlmann  | Stairs        |
| Cawley      | Hayden     | Morris     | Stuban        |
| Cessar      | Hayes      | Mowery     | Sweet         |
| Chadwick    | Heckler    | Murphy     | Taylor, E. Z. |
| Civera      | Herman     | Nahill     | Taylor, F.    |
| Clymer      | Hershey    | Noye       | Taylor, J.    |
| Cohen       | Hess       | O'Brien    | Tigue         |
| Cole        | Howlett    | O'Donnell  | Veon          |
| Cornell     | Hughes     | Oliver     | Vroon         |
| Corrigan    | Hutchinson | Perzel     | Wambach       |
| Cowell      | Itkin      | Phillips   | Wass          |
| DeLuca      | Jackson    | Piccola    | Weston        |
| DeVerter    | Jadlowiec  | Pievsky    | Wiggins       |
| DeWeese     | Jarolin    | Pistella   | Wogan         |
| Daley       | Johnson    | Pitts      | Wright, D. R. |
| Davies      | Josephs    | Pressmann  | Wright, J. L. |
| Dempsey     | Kasunic    | Punt       | Wright, R. C. |
| Dietterick  | Kennedy    | Raymond    | Yandrisevits  |
| Dininni     | Kenney     | Reber      |               |
| Distler     | Kitchen    | Reinard    |               |
| Dombrowski  | Kosinski   | Richardson | Irvis,        |
| Donatucci   |            |            | Speaker       |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. MANDERINO offered the following amendments No. A2995:

Amend Title, page 1, line 6, by striking out "and" where it appears the third time

Amend Title, page 1, line 7, by inserting after "appropriation"

; and repealing certain provisions relating to the rate of the capital stock franchise tax

Amend Bill, page 79, by inserting between lines 2 and 3 Section 1301. Repeals.

As much of subsection (a) as reads:

"...through calendar year 1991 and fiscal years beginning in 1991, and at the rate of nine mills upon each dollar of the capital stock value as defined in section 601(a) for the calendar year 1992 and fiscal years beginning in 1992...." (2 occasions)

and as much of subsections (b)(1) and (e) as reads:

"...through calendar year 1991 and fiscal years beginning in 1991, and at the rate of nine mills for calendar year 1992 and fiscal years beginning in 1992...."

of section 602 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are repealed.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, a few minutes ago, in the wisdom of this House, it was decided on the Yandrisevits amendment that we did not want DER to make the fees that would feed the Superfund. Presently the Superfund is fed, except for Federal sources, from three funding streams. One is the management and transportation tipping fee that we just decided we would leave in and not substitute a different fee, and that raises \$5 million for the Superfund in Pennsylvania every year, or will raise \$5 million. The second funding stream is a surcharge on the capital stock franchise tax of I think it is a percent and a quarter which runs until 1991, half a mill. The third funding stream is the General Fund, and we put in from \$20 million to \$30 million by the budget process into the Superfund.

Last year we put in, in 6 months of collections from the capital stock franchise tax, we put in about \$12 1/2 million. There will be \$25 million most likely in the next fiscal year, because when we enacted last year's budget, there appeared to be a method in which we would fund the Superfund for a period up to and including 1991, and thereafter we would decide what different mechanism if the capital stock franchise tax would not feed it from the business community. We will still have to put in General Fund moneys. This is the general scheme. The business community, whether it be generators or the business community in general, will put in about what the State taxpayers will put in the fund, and then we will have the transportation and managers fee that will raise an additional \$5 million. That has been the funding scheme since last year when we first decided we would have to enact such a program.

Mr. Speaker, right now we have taken out after 1991 some \$25 million by saying that DER cannot set any fees; this General Assembly will do it. I am asking that we not leave a hole. I am simply saying the sunset of 1991 on the half-a-mill



surcharge on the capital stock franchise tax will continue, there will not be a sunset, the fund will continue to receive the same moneys it received last year and it will receive this year by the surcharge on the capital stock franchise. To do otherwise, to do otherwise would be not getting from the commercial community that generates the hazardous and toxic waste, would be getting nothing because we already took out the mechanism that DER would set the fees after 1991.

I am saying, let us plug that hole up; let us plug it up with the same mechanism that exists today. Many of the members have indicated that they are receiving no complaints on the mechanism that exists today. Now, if we do get complaints between now and 1991, then we can change the mechanism, but let us not leave a bill without a mechanism after 1991 to feed from the business community the Superfund.

Mr. Speaker, I ask for an affirmative vote on this amendment.

The SPEAKER. The Chair recognizes the minority leader on the amendment.

Mr. RYAN. Mr. Speaker, would the gentleman, Mr. Manderino, consent to be interrogated?

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

Mr. RYAN. Will the gentleman advise the House, if his amendment is adopted, when will, if at all or if ever, this tax end?

Mr. MANDERINO. It will end when, in the wisdom of the General Assembly, we substitute for it another tax to feed the Superfund or when, in the wisdom of the General Assembly, we would repeal such tax because we have taken care of all of the problems of the environment in Pennsylvania.

Mr. RYAN. Thank you, Mr. Speaker.

Mr. Speaker, I think what the gentleman is putting before us right now is a tax increase. The tax that is presently in the law will sunset in 1991. By operation of law, it ceases. By operation of this amendment, you are increasing taxes from 1991 on. Now, it seems to me that the wisdom of the General Assembly can just as easily be exercised by our passing additional taxes, if they are needed, in 1991. Why are we here today in June of 1988 passing a tax that is effective in 1991? I do not think it makes good legislative sense.

Now, additionally, the gentleman, Mr. Manderino, mentioned that we have not been receiving many complaints about this particular tax. Well, that is right; we have not been receiving many complaints, because last year when we were putting together this package, the business community through their representative organizations agreed that they would raise no objections to a 3-year tax to be used for this purpose, and I have not had a chance to talk to Mr. Manderino about that because that was just called to my attention and I was reminded of that agreement.

Now, I think that no harm will be done to the bill, no harm will be done to the whole program or the process by the defeat of this amendment. We have until 1991 to substitute funds if it becomes necessary; we have to 1991 to determine if there is a better way of funding. But I think today to pass a tax

increase—and that is exactly what this is—to pass a tax increase— In 1991, now; it makes it a little easier to do because it is out in the future there a little bit; people are not going to be screaming as loudly today, but you are passing a tax increase on the business community if you vote for this amendment today. The law is, the existing tax would stop in 1991. Your continuation of it is the same as a tax increase.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, to take and play games with the lives and the health of children of this Commonwealth, of citizens of this Commonwealth, to play games with children yet unborn that will be affected by hazardous, toxic, chemical wastes in this Commonwealth, the Love Canals that exist in Pennsylvania, I think is not worthy of my adversary on the other side of the aisle.

What we are talking about is a Superfund that attacks these problems that the people of Pennsylvania want us to attack. The bill was drafted with the mechanism to continue the Superfund. There is no one in that business community who agreed to the original surcharge who expects there will not be a Superfund after 1991, and nobody in this General Assembly expects that there is not going to be a necessity for a Superfund after 1991. We will just begin to scratch the surface of problems by that time. Everybody agrees to that, so why do we leave a hole in the mechanism for funding that Superfund to the tune of \$30 million from the business community? We are not leaving a hole from the General Fund. The taxpayers of this Commonwealth whom you bleed for are going to have to pay for it in the end, because we are not going to get it from the business community if this amendment does not pass.

I ask for an affirmative vote, Mr. Speaker.

The SPEAKER. Does the gentleman, Mr. Reber, wish to be recognized?

The Chair recognizes the gentleman from York, Mr. Dorr.

Mr. DORR. Mr. Speaker, the particular tax involved here is one of the most onerous taxes to the growing small businesses of Pennsylvania, and I think it is wrong for us to prospectively 3 years in the future decide today that this is what is going to be the most proper method of financing the Superfund for that reason. We are going to have to rely on those small businesses that are growing for the employment increases that we are going to need to keep our people working in Pennsylvania, and I am quite sure that the small business community does not want us today extending this tax beyond the present expiration date that we have in the law currently.

I urge a negative vote.

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

Mr. MICHLOVIC. Thank you, Mr. Speaker.

Mr. Speaker, by adopting the Yandrisevits amendment earlier by a vote of nearly 2 to 1, we have taken the responsibility for the problem off of the backs of the generators and placed it on the backs of the populace at large.

I have heard a lot of lobbyists talking about hazardous and toxic waste being a societal problem. We all use those prod-

ucts that are made from our manufacturing responsibilities. We all enjoy the latest standard of living, and we all should pay for it, and we have just done that. We have taken it off of those generators who make profits off of that process and we have placed it on the backs of the people out there, and if we do not pass the Manderino amendment, we are going to force an even more onerous tax, and that is on the people in the General Fund budget of the Commonwealth of Pennsylvania. You will get a chance every year to vote for that.

We have a \$2- to a \$4-billion problem. We had better understand that we have to finance to resolve that problem.

Now, you do not like the idea of the Secretary of the Department of Environmental Resources negotiating with the business community and the transporters and the generators and the recyclers. You do not like that idea for generating this money. You do not like the idea of the current system being extended. I suggest to you that you are not going to like the idea of voting for taxes in the future in the General Fund budget for this process, and in that, I think you are really killing the bill altogether. You are really killing the efforts of the effectiveness of this legislation that we have worked so long and hard for.

Unless we pass the Manderino amendment, we are not going to have any group coming to us and saying, we have got to figure out a better way to finance this problem. So we are just going to let it go and it will fall again back on the people.

I urge the support of the Manderino amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George, on the amendment.

Mr. GEORGE. Mr. Speaker, what we have seen in the last couple of hours is the compromise and the ability to compromise, and the people whom we represent fully understand that it can be accomplished by those of us on both sides of the aisle.

But there is not anyone within earshot who would be willing to argue that what we do today is a giant step in a proper direction, not attributed mainly to Democrats or Republicans but that will be attributed to the members of the General Assembly on this day in this year of helping to take that first step, that step that we should have taken a good many years ago. Yet in that step we all recognize that someone is going to have to pay the bill. Well, those people whom we represent, those who are not in the business community - that average housewife, that average family, that workingman, that workingwoman within our constituency - they are not the ones who are prancing up and down in the lobby out there; they are the ones who are at their homes and will read the newspapers in the morning and will read whether or not we have accepted an obligation that has been put before us, and they will understand whether or not we pursued this obligation just for a matter of a couple of years or whether we had serious intent to go forward and to continue to go forward by funding properly a piece of legislation that, in my opinion, will be the hallmark of what we have done today.

I do not care how many bills our Governor or this General Assembly will put out this year or next year or whatever. I am standing here before you to tell you, this will be the most important measure we will work with this year in our effort to eliminate the environmental degradation that has been placed before us that has not been placed before us by the individual housewife or the individual working men and women. It has been placed before us by an industry that has been haphazard, and we are asking that industry to work with us and to understand that this is their obligation, too.

I ask you to support this amendment.

The SPEAKER. On the amendment, the Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, in some respects I agree with the gentleman, Mr. Dorr, that if I were picking the mechanism and if I had the luxury of picking the mechanism of how we keep the Superfund going, the capital stock franchise tax would not be first on the list. But let me say to you, if you want the problem solved before 1991, if you want the conference committee to solve the problem, they will solve it, I am sure, if we leave the mechanism as it is now, with the capital stock franchise tax; we will find the right substitute. If you leave it without anything, you will get this bill back from conference without anything in it and with a big hole which threatens the lives and safety and health of children in this generation and the next generation, et cetera.

Mr. Speaker, I ask for an affirmative vote on the amendment.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Mr. Speaker, would the gentleman, Mr. Manderino, consent to interrogation?

The SPEAKER. Mr. Manderino indicates he will stand for interrogation. You may proceed, Mr. Cowell.

Mr. COWELL. Mr. Speaker, it is generally understood by anybody who is responsible in this chamber that we have a commitment to pay these bills. You just spoke about the flexibility that might remain if we approve this amendment - flexibility for the conference committee to choose some other more appropriate measure to generate the dollars after 1991.

We already have rejected one of the alternative measures when we approved the amendment which changed the language currently in the bill. If the conference committee would not come up with an alternative but instead the conference committee would ultimately bring back to the chamber language that would include your proposed amendment, which would continue the capital stock franchise tax post-1991, is it my understanding that we would still retain the option sometime between now and 1991 or even after 1991 of identifying and agreeing to a more appropriate or more acceptable way of generating that money that we have an obligation to come up with?

Mr. MANDERINO. Absolutely. You can always change what the General Assembly has done. If we can come up with a better mechanism, we certainly will. The pressure will not be on us to come up with a better mechanism, in my opinion—

okay?—unless we keep funding in place. Then I think those people who think like Mr. Dorr thinks, that there ought to be a better way, will be asking us to find the better way even if it affects their interests and they are the ones who are going to have to pay it. But if in fact they are not going to have to pay because there is nothing there, we are not going to have their help in finding a better solution.

Mr. COWELL. Mr. Speaker, if I may be recognized for a brief statement?

The SPEAKER. The gentleman has the floor and may proceed.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I would urge that we adopt this amendment as well. Those who advocate the defeat of the Manderino amendment who might have also advocated the adoption of the Yandrisevits amendment really are in favor of walking away from the problem and abdicating their responsibility to address this issue, including the fiscal implications. The Manderino amendment, if it is adopted and included in this legislation when we finally pass it, will be one way for us to address the issue. It will not necessarily be the final word, as was suggested. It leaves open the option for a conference committee to come up with a better way or for this total Assembly sometime between now and 1991 to come up with a better way of generating the money. But at least the adoption of the Manderino amendment at this point acknowledges that we have got a responsibility and this is our best effort at this time, although we do not foreclose other options for the future. Thank you, Mr. Speaker.

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

Mr. REBER. Thank you, Mr. Speaker.

The SPEAKER. Just a moment, Mr. Reber.

Mr. Ryan, do you wish to be recognized?

Mr. RYAN. Yes. Thank you, Mr. Speaker.

Mr. Speaker, the principal advocates of the amendment seem to be saying, this is a lousy tax; let us pass it. I fail to understand the logic behind that. Let us get rid of this tax. We know our responsibilities. Why should we pass a new tax now that takes effect in 1991? We always wait, every year we wait, until we need money. If we know we need the money, we pass the tax. I do not think this is an irresponsible General Assembly, and I do not think that we should be told, let us pass this terrible tax so that conferees of a conference committee that may not exist or ever exist will address the issue.

I think it is irresponsible to make a statement like that. I think it is a crazy method of legislating, and we should just vote this amendment down, and when the time comes, be it conference committee or be it 1991, address the issue responsibly.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, a terrible tax, an awful tax - they are your words, Mr. Ryan. They are not my words and they are not the words of those of us who support this amendment. They are the words of the business community who in the first instance said, yes, we will pay this tax; put it in

until 1991; let us get it started; we know we have an obligation. So it is not a terrible tax. It is not so bad that we should not even consider it, Mr. Speaker. It is not irresponsible. What is irresponsible is to know that a problem exists that has to be solved and enact a piece of legislation that leaves a big hole and a big gap. Now that is terrible and that is irresponsible, and those are my words.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I declined the opportunity to speak earlier when recognized, but there has been just too much rhetoric to allow me to sit any longer without making at least one reference.

I think, frankly, if there is any irresponsibility on the issue and there was a genuine concern, then I would simply say, why did not the conferees of SB 443 put this in ad infinitum as a continuing assessment program when we did the capital stock franchise tax? Why did they only do it for 4 years? You knew it then, I knew it then; you know it now, I know it now - 4 years was not enough if in fact you are going to use that as the funding mechanism.

Now, setting that aside—and I think that is fact—setting that aside, let us now look to 1988 and assume that today, 1988, was a few days before the termination of the existing 4-year capital stock franchise tax, which still has some 2 1/2-odd years to run or 2 years. If we were in the exact same scenario as we are today with the concerns we are expressing today, with nothing else to do, I would be the first one to join with the majority leader for that extension at that time.

Now, putting that aside, I never was totally enthralled with where the small business impact came, as Representative Dorr talked about, when we voted on SB 443 a year ago. I did not really like that, but I did like the wrong that it was attempting to get us to take a look at that I have been advocating for us to take a look at since 1984.

I guess the bottom line of what I am saying is, let us not worry about extending something if between now and 2 years down the road we can come up with—and for that matter, maybe yet today—if we can come up with better ways to more equitably apportion the assessment for this type of program, that we can see how the program is operating, that we can see what the commitments are going to be from the administration for the remaining 2 years, and then if we are in the same situation, I again renew the fact that if we have no other alternative, I will be the first one to meet with the majority leader and ask us to do in 1991 what he is now, as I say, prematurely asking us to do today.

I would ask for a very respectful “no” on the majority leader’s amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Tigue, for the first time on the amendment.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, a couple of things. One is, as a prior speaker said, it is irresponsible to pass this bill and go home and claim that we are for protecting the environment with no funding mechanism. It is irresponsible. It is also hypocritical.

Secondly, the minority leader was talking about adding a new tax, yet when we talked about extending the 18-percent interest rate, we were not extending the interest rate; we were leaving it as it is. All we are asking is, let us do the same thing with the tax. Let us leave it like it is. Let us not change it.

The third argument has been, if we do not adopt this, we still have 3 years in which to negotiate and come up with a better funding mechanism. Let us reverse that a little bit. Let us take some responsibility and say, let us adopt this funding mechanism as the only funding mechanism in the bill, because if we do not agree on anything, when 1991 arrives we will have no funding in which to do these jobs of the Superfund. So let us put a funding mechanism in and put the burden on whoever they may be in the future to negotiate a better funding mechanism.

So I ask for your support of the amendment. Thank you, Mr. Speaker.

The SPEAKER. For the second time on the amendment, the Chair recognizes the gentleman from York, Mr. Dorr.

Mr. DORR. Mr. Speaker, I think when the majority leader raised the issue about the business community having agreed to this tax structure, I think we should remember that that was done in the context of a bill in which there were major decreases in this tax on an overall basis, and the agreement was for a temporary add-on which would terminate at the end of 1991. Now the majority leader wants to go back on that and impose it ad infinitum.

In addition to that, I think there is a basic fairness involved here. This tax, you must remember, has major exemptions in it for the manufacturing community. This tax in major ways is not imposed on the very people who generated the problem to begin with. Is it fair then to use it - this tax - as the perpetual funding mechanism for solving the problem? Is that fair? I do not think so.

Mr. Speaker, we are talking about where should the pressure come from. Mr. Manderino suggests that it is a bad tax but we should have the pressure of those upon whom the tax is imposed in order to get us to change it later. I suggest to you that there is a lot more pressure going to come from the communities in Pennsylvania which have this problem if we do not have a funding mechanism at all than there will be from the small business community later on when it comes time to try to find a different funding mechanism. We better have some real pressure if we want to continue this on a fair basis in the future.

I do not think this is a fair thing to do at the last minute, to change this funding mechanism in this manner, and I ask for a negative vote.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I hope briefly.

If we are going to spout history, let us spout all the history.

The capital stock franchise tax was reduced a whole mill - 1 mill. The half a mill that did not come back to the Superfund is still off, and it will be off forever until this General Assembly acts. So they are in that community receiving something in the reduction that will continue on and on. And certainly the

business community expected that their ability to fund the Superfund would continue on and on and on, and they hoped that the General Assembly would enact something different than the half-a-mill capital stock franchise tax.

There was an attempt in this bill to do something different. This General Assembly decided they did not want to do it that way. I did not see any amendments from the side of the aisle that ordinarily represents the business community saying, hey, we would like to do it this way, not the capital stock franchise tax.

What you are saying is just like the business community is saying, in my belief: hey, we do not want to do it at all; let the taxpayers do it. Well, I am saying the taxpayers will do it. You will force them to do it. You will be the one that is causing the expenditure of tax moneys if you do not adopt this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—97

|             |            |            |               |
|-------------|------------|------------|---------------|
| Acosta      | Duffy      | Linton     | Ritter        |
| Battisto    | Evans      | Livengood  | Roebuck       |
| Belardi     | Fattah     | Lloyd      | Rudy          |
| Belfanti    | Fee        | Lucyk      | Rybak         |
| Billow      | Freeman    | McCall     | Saloom        |
| Blaum       | Gamble     | McHale     | Seventy       |
| Bortner     | George     | Maine      | Showers       |
| Bowley      | Gruitza    | Manderino  | Staback       |
| Caltagirone | Haluska    | Markosek   | Steighner     |
| Cappabianca | Harper     | Mayermik   | Struban       |
| Carn        | Hayden     | Melio      | Sweet         |
| Cawley      | Howlett    | Michlovic  | Taylor, F.    |
| Clark       | Hughes     | Morris     | Tigue         |
| Cohen       | Hutchinson | Murphy     | Trello        |
| Colafella   | Itkin      | O'Donnell  | Van Horne     |
| Cole        | Jarolin    | Olasz      | Veon          |
| Corrigan    | Josephs    | Oliver     | Wambach       |
| Cowell      | Kasunic    | Petrarca   | Wiggins       |
| Coy         | Kitchen    | Petrone    | Wozniak       |
| DeLuca      | Kosinski   | Pievsy     | Wright, D. R. |
| DeWeese     | Kukovich   | Pistella   | Yandrisevits  |
| Daley       | LaGrotta   | Pressmann  |               |
| Dawida      | Lescovitz  | Preston    | Irvis,        |
| Dombrowski  | Letterman  | Richardson | Speaker       |
| Donatucci   | Levdansky  | Rieger     |               |

NAYS—96

|          |            |           |               |
|----------|------------|-----------|---------------|
| Angstadt | Dietterick | Hess      | Raymond       |
| Argall   | Dininni    | Jackson   | Reber         |
| Arty     | Distler    | Jadlowiec | Reinard       |
| Barley   | Dorr       | Johnson   | Robbins       |
| Birmelin | Durham     | Kennedy   | Ryan          |
| Black    | Fargo      | Kennedy   | Saurman       |
| Book     | Farmer     | Langtry   | Scheetz       |
| Bowser   | Fischer    | Lashinger | Schuler       |
| Boyes    | Flick      | Leh       | Semmel        |
| Brandt   | Foster     | McClatchy | Serafini      |
| Broujos  | Fox        | Manmiller | Sirianni      |
| Bunt     | Freind     | Merry     | Smith, B.     |
| Burd     | Gallen     | Micozzie  | Smith, S. H.  |
| Burns    | Gannon     | Moehlmann | Snyder, D. W. |
| Bush     | Geist      | Mowery    | Snyder, G.    |
| Carlson  | Gladeck    | Mrkonic   | Stairs        |
| Cessar   | Godshall   | Nahill    | Taylor, E. Z. |
| Chadwick | Gruppo     | Noye      | Taylor, J.    |
| Civera   | Hagarty    | O'Brien   | Vroon         |
| Clymer   | Hasay      | Perzel    | Wass          |
| Cornell  | Hayes      | Phillips  | Weston        |

|          |         |         |               |
|----------|---------|---------|---------------|
| DeVerter | Heckler | Piccola | Wogan         |
| Davies   | Herman  | Pitts   | Wright, J. L. |
| Dempsey  | Hershey | Punt    | Wright, R. C. |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. REBER offered the following amendments No. A2966:

Amend Table of Contents, page 2, line 29, by striking out "CONTINUING CLEANUP COSTS" and inserting

Contingency surcharge

Amend Sec. 904, page 64, lines 1 through 30; page 65, lines 1 through 9, by striking out all of said lines on said pages and inserting

Section 904. Contingency surcharge.

In the event the total amount appropriated from the General Fund for the hazardous waste control program and Federal Superfund projects is less than \$25,000,000, one of the surcharges established in paragraphs (1) and (2), in addition to other fees contained in this section, shall be levied.

(1) On all hazardous waste generated in this Commonwealth, except hazardous waste covered by paragraph (2), a surcharge fee in the amount of \$7.50 per ton shall be paid to the fund. In the event that any hazardous waste is measured by other than tonnage, the surcharge shall be levied on the equivalent thereof as shall be determined by the department. Each generator of hazardous waste shall, on or before the 20th day of the month following the close of each tax period, render an accounting and record of the total waste generated and stored or disposed of in that period on such forms as the department may require and make full payment of the surcharge in a manner to be prescribed by the department.

(2) On all hazardous waste generated and treated, reused or recycled in this Commonwealth, a surcharge fee in the amount of \$2.50 per ton of waste generated and treated, reused or recycled, shall be paid to the fund. In the event that any hazardous waste is measured by other than tonnage, the surcharge shall be levied on the equivalent thereof as shall be determined by the department. Each generator of hazardous waste shall, on or before the 20th day of the month following the close of each tax period, render an accounting and record of the total waste generated and treated, reused or recycled in that period on such forms as the department may require and make full payment of the surcharge in a manner to be prescribed by the department.

(3) To carry out the purposes of this act and in order to carry out the National and State policies to minimize land disposal of hazardous waste by encouraging properly conducted recycling and reuse, the surcharge fee levied under paragraph (2) shall be levied on hazardous waste which is recyclable material under 40 CFR § 261.6 and successor Federal and State regulations and which is sent by the generator to a verified recycling facility for recycling or reuse; and the surcharge levied under paragraph (2) shall not apply to waste generated in the process of recycling recyclable materials listed in 40 CFR § 261.6(a)(2) and (3) and its successor Federal and State regulations, and so verified by the department: Provided, That any hazardous waste generated in the recycling process is disposed of at a permitted disposal facility. All verifications referred to in this paragraph shall be in writing and approved by the department.

(4) The surcharge fee levied under paragraphs (1) and (2) shall not apply to waste specifically excluded as a hazardous waste under 25 Pa. Code § 75.261(c) of the department's regulations and to waste for which disposal is carried on as a point source discharge pursuant to and in compliance with a valid permit issued under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880).

(5) The surcharge fees levied under paragraphs (1) and (2) shall not apply to hazardous waste retrieved or created and which must be disposed of due to the remediation of an abandoned hazardous waste site.

(6) Following each quarterly reporting date, the secretary shall certify the amount deposited in the fund during the quarter and the cumulative amount collected since the start of the current calendar year. If the secretary certifies that the total annual amount collected as of the end of any quarter equals or exceeds \$25,000,000, no surcharge shall be collected for the remainder of the year.

On the question,

Will the House agree to the amendments?

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

Mr. REBER. Thank you, Mr. Speaker.

This particular amendment I guess we could dub "son of Manderino" in some respects. This particular amendment I think complements to some extent the concerns that were attempting to be addressed by the previous maker of the last amendment. This particular amendment provides for in essence the after-the-fourth-year scenario that we were talking about in the prior debate on the prior amendment.

This contingency surcharge, as is defined in the amendment, will in essence provide for a supplementation to that 4-year commitment that I think we all understand has been made to provide up to approximately \$25 million per year from the General Fund for this particular program.

This amendment caps at \$25 million, so if in fact the contingency vests— Mr. Speaker, could I please have some order?

The SPEAKER. Quiet down.

Proceed, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

This particular contingency only plugs in, only will be impacting, if in fact the current program as it has been represented as it relates to General Fund moneys begins to dwindle, dry up, or otherwise is not there. So it is a contingency at the outset to that extent.

Additionally, it places the per-tonnage charge on generators on a step basis. In essence, if an individual generates, entreats, reuses, or otherwise recycles onsite, in essence attempts to take care of the problem within the confines of the generating facility, plant, property, or otherwise, there is a step-down fee charged to the tune of \$2.50 per ton. If in fact there is a need for the hazardous waste substance to be traveled offsite, the charge is \$7.50 per ton.

I think another very important, and in my mind a very, very important segment of this whole debate and whole issue is, should the General Fund moneys in essence be used in toto or in significant part—

The SPEAKER. Just a moment.

You may now proceed, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

One of the main concerns that I have and I have heard from a number of members today is, should General Fund moneys be used at all or be used in significant part to in fact fund this remedial cleanup? I feel to a great extent we ought to rely upon spreading the dissatisfaction as evenly as possible on the assessed parties to in essence come about with at least a reasonable, pragmatic consensus as to how we are going to long-term fund this particular cleanup program. I would submit to you that this is probably one of the most practical and pragmatic and fair ways to go about in part handling the funding issue.

Mr. Speaker, I would urge adoption of this contingency surcharge plan to the Superfund. Thank you.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, will the gentleman consent to interrogation?

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

Mr. MANDERINO. Mr. Speaker, I have read through the Reber amendment now before us, and I am unable to determine who a generator might be. Can you, for the purposes of legislative intent, indicate those kinds of entities that might be a generator and subject to the levies that are in this particular amendment?

Mr. REBER. Mr. Speaker, I think what we are talking about is hazardous waste. I think we look to the Act 97 definitions as they relate to hazardous waste. We look to the hazardous waste regulations of the Department of Environmental Resources. We look to the various definitions of those particular areas as the department in fact has determined it to be hazardous waste so generated or to be so handled. So in essence, any item that is generated within that definition obviously will be a type of generated waste that would be impacted by this amendment.

Mr. MANDERINO. So that I am clear on it, your indication of a generator would be those that are covered by Act 97 as generators of hazardous waste.

Mr. REBER. That is correct, Mr. Speaker.

Mr. MANDERINO. Or anyone that the department has determined are generators under Act 97.

Mr. REBER. Generators of hazardous waste—

Mr. MANDERINO. Of hazardous waste.

Mr. REBER. —and substances, obviously, that are defined as such, as hazardous waste, yes.

Mr. MANDERINO. Yes. Thank you, Mr. Speaker.

The other part of the amendment that I am looking for clarification on, it indicates that one of two types of fees would be levied, but I am not sure who makes the determination on which is levied or how it is levied.

Mr. REBER. Okay, Mr. Speaker. I think the best way to define that is, obviously the department in the overall remainder of the program, we look at the existing maintenance and transportation assessments that are in there; the department is

making that determination to that definition. Additionally, we look to what is the traditional permits that are issued for whether there is a facility onsite to treat, which will in fact then define "onsite treatment" that would then thereby trigger the reduced amount, and then anything else that is shipped and appropriately manifested offsite would then thereby generate the higher figure or trigger the assessment of the higher figure.

I am also advised, as I look at this as I am trying to respond, that also there are methods that would be prescribed by the department in subparagraph (1) of the amendment and in (2) relative to the collection and/or assessment of these particular fees to appropriately and finitely define them accordingly.

Mr. MANDERINO. All right. I will simply state then that it is your belief that the amendment and department regulations do take care of a method and methodology for levying the fees and deciding which fee is levied.

Mr. REBER. I would submit that that is correct, and more importantly, if there would be some nonexistent aspect that had to be clarified, we are hereby enacting to give them the authority to appropriately clarify that for purposes of the assessment scheme set forth herein.

Mr. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, as I understand the amendment proposed, it does not take away any of the funds that are raised by the capital stock franchise surcharge, by the transportation and management tipping fee, but in addition says that if General Fund moneys do not match \$25 million, there will be a levy.

It is my further understanding, Mr. Speaker, and so everyone understands, that the Department of Environmental Resources has estimated that this kind of an amendment will not raise anywhere near \$25 million, that it will be a small assist to funding of the Superfund, if their figures are correct. They have informed me that they do not think that this would raise any more than between \$2 and \$5 million, and, Mr. Speaker, I just want to put that on the record, because I do not want members of the General Assembly to think that we would be able to relieve ourselves of General Fund obligation to the Superfund and that this will kick in and do everything that \$25 million does. It will not come near that figure.

Mr. Speaker, I would ask that members vote their conscience on this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—181

|          |            |            |            |
|----------|------------|------------|------------|
| Acosta   | Dietterick | Kukovich   | Richardson |
| Angstadt | Dininni    | LaGrotta   | Rieger     |
| Argall   | Distler    | Lashingner | Ritter     |
| Arty     | Dombrowski | Leh        | Robbins    |
| Barley   | Donatucci  | Lescovitz  | Roebuck    |
| Battisto | Dorr       | Letterman  | Rudy       |
| Belardi  | Duffy      | Levdansky  | Rybak      |
| Belfanti | Evans      | Linton     | Saloom     |
| Billow   | Farmer     | Livengood  | Saurman    |
| Birmelin | Fattah     | Lloyd      | Scheetz    |
| Black    | Fee        | Lucyk      | Schuler    |
| Blaum    | Fischer    | McCall     | Semmel     |

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Bortner     | Foster     | McClatchy | Serafini      |
| Bowley      | Fox        | McHale    | Seventy       |
| Bowser      | Freeman    | Maine     | Showers       |
| Boyes       | Freind     | Manderino | Sirianni      |
| Brandt      | Gallen     | Manmiller | Smith, B.     |
| Broujos     | Gamble     | Markosek  | Smith, S. H.  |
| Bunt        | Geist      | Mayernik  | Snyder, D. W. |
| Burd        | George     | Melio     | Snyder, G.    |
| Burns       | Godshall   | Merry     | Staback       |
| Bush        | Gruitza    | Michlovic | Stairs        |
| Caltagirone | Gruppo     | Micozzie  | Steighner     |
| Cappabianca | Hagarty    | Moehlmann | Stuban        |
| Carlson     | Haluska    | Morris    | Sweet         |
| Carn        | Harper     | Mowery    | Taylor, E. Z. |
| Cawley      | Hayden     | Murphy    | Taylor, F.    |
| Cessar      | Hayes      | Nahill    | Taylor, J.    |
| Chadwick    | Heckler    | Noye      | Tigue         |
| Civera      | Herman     | O'Brien   | Trello        |
| Clark       | Hershey    | Olasz     | Van Horne     |
| Clymer      | Hess       | Oliver    | Veon          |
| Cohen       | Howlett    | Perzel    | Vroon         |
| Colafella   | Hughes     | Petrarca  | Wambach       |
| Cole        | Hutchinson | Petrone   | Wass          |
| Cornell     | Itkin      | Phillips  | Weston        |
| Corrigan    | Jackson    | Piccola   | Wiggins       |
| Cowell      | Jadlowiec  | Pievsky   | Wogan         |
| Coy         | Jarolin    | Pistella  | Wozniak       |
| DeLuca      | Johnson    | Pitts     | Wright, D. R. |
| DeVerter    | Josephs    | Pressmann | Wright, J. L. |
| DeWeese     | Kasunic    | Preston   | Wright, R. C. |
| Daley       | Kennedy    | Punt      |               |
| Davies      | Kenney     | Raymond   | Irvis,        |
| Dawida      | Kitchen    | Reber     | Speaker       |
| Dempsey     | Kosinski   | Reinard   |               |

NAYS—11

|        |         |         |              |
|--------|---------|---------|--------------|
| Book   | Flick   | Hasay   | Ryan         |
| Durham | Gannon  | Langtry | Yandrisevits |
| Fargo  | Gladeck | Mrkonic |              |

NOT VOTING—1

O'Donnell

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. REBER offered the following amendments No. A2853:

Amend Title, page 1, line 6, by inserting after "penalties;" establishing a Pennsylvania Hazardous Waste Authority and providing for its powers and duties;

Amend Table of Contents, page 3, by inserting between lines 17 and 18

- Section 1301. Findings and declaration of policy.
- Section 1302. Definitions.
- Section 1303. Establishment of authority.
- Section 1304. Purposes and powers.
- Section 1305. Limitation on borrowing.
- Section 1306. Operation and termination of authority.
- Section 1307. Applicability of existing environmental statutes and regulations.
- Section 1308. Freedom from personal liability.
- Section 1309. Site selection.
- Section 1310. Operator selection and oversight.
- Section 1311. Construction.
- Section 1312. Fees.

- Section 1313. Hazardous Waste Disposal Fund.
- Section 1314. Compensation to State and local governments.
- Section 1315. Property taxes.
- Section 1316. Negotiation and arbitration.
- Section 1317. Bonds.
- Section 1318. Interests of public officers and public employers and party officers.

Amend Table of Contents, page 3, line 18, by striking out "13" and inserting 15

Amend Table of Contents, page 3, line 19, by striking out "1301" and inserting 1501

Amend Bill, page 79, lines 1 through 4, by striking out all of said lines and inserting

CHAPTER 13

HAZARDOUS WASTE AUTHORITY

Section 1301. Findings and declaration of policy.

(a) Findings.—It is hereby determined and declared as a matter of legislative finding:

(1) That the health, safety and the general welfare of the people of this Commonwealth are directly dependent upon the proper disposal of hazardous wastes generated by industries located in the Commonwealth.

(2) That it is essential for the Commonwealth to provide for a process by which one or more hazardous waste disposal facilities are sited, located, built and operated so as to assure that proper disposal of such wastes are made.

(3) That heretofore, the efforts of private industry to develop hazardous waste sites has been an unattainable goal due to current statutes, regulations of the departments and general inactivity by State government.

(4) That liability for the establishment and maintenance, as well as operation of these hazardous waste sites is beyond that liability which can be reasonably taken care of by the private sector. Therefore, it is hereby declared to be the policy of this Commonwealth to promote the health, safety, employment, business opportunities and general welfare of the people thereby by providing further creation of the hazardous waste development authority which shall exist and operate as a public instrumentality of this Commonwealth for the public purpose of siting, constructing and operating one or more hazardous waste disposal facilities in this Commonwealth.

(b) Policy.—Such purposes hereby declared to be a public purpose supporting the enactment of all provisions of this chapter and for which public money may be spent, taxes may be imposed and private property may be acquired by the exercise of the power of eminent domain.

Section 1302. Definitions.

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

"Authority" or "Pennsylvania Hazardous Waste Authority." An agency in public instrumentality of this Commonwealth and a body politic incorporate created pursuant to this chapter.

"Board." The governing body of the Authority.

"Bonds." Notes, bonds, refunding notes and bonds, interim certificates, debentures and other evidence of indebtedness or obligations which the authority is authorized to issue pursuant to this chapter.

"Construct." To construct or construction. The acquisition, design, erection, extension, renovation, rehabilitation, conversion, furnishing, fixturing, equipping of a hazardous waste disposal facility or part thereof, an activity substantially related to such acquisition, design, erection, extension, renovation, rehabilitation enlargement, or part thereof.

“Cost of a project.” All or any part of the cost of construction, acquisition, alteration, enlargement, furnishing, fixturing and equipping of a hazardous waste disposal project including, without limitation, a cost of all land, structures, real or personal property, rights, rights-of-way, roads, franchises, easements, interests acquired or used for or in connection of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or located; the cost of all utility lines, structures or equipment; the interest charges prior to, during and for a period of six months after completion of such construction and acquisition; provisions for reserves for principal and interest, and for extensions, enlargements, additions and improvements; the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, expenses necessary and incident to determining the feasibility or practicability of constructing the project; such other capital costs or expenses may be necessary or incident to the construction development and acquisition of the project; and the financing of such construction development and acquisition and the placing of the project in operation including, without limitation, a proper allowance for continuance in the provisions of reasonable initial working capital for operating the project.

“Obligee of the authority” or “obligee.” Any bondholder trustee or trustees for any bondholders when a party to any contract with the authority

Section 1303. Establishment of authority.

A body, corporate and politic, named the Pennsylvania Hazardous Waste Disposal Authority is hereby established as a public authority and government instrumentality to have continuing succession until its existence shall be terminated by law. The exercise by the authority of the powers conferred by this chapter is hereby declared to be and shall for all purposes be deemed and held to be the performance of an essential function.

Section 1304. Purposes and powers.

(a) General purpose and powers.—The authority established by this chapter shall be a public body corporate and politic, exercising public powers of the Commonwealth as an agency or instrumentality thereof and shall be for the purpose without limitation by itself or by agreement in cooperation with others of acquiring, holding, developing, designing, constructing, improving, maintaining, managing, operating, financing, repairing, leasing or subleasing and owning one or more hazardous waste disposal facilities.

(b) Specific powers.—The authority is granted all powers necessary or convenient for the carrying out of the aforesaid purposes including, without limiting, the generality of the foregoing, the following rights and powers:

- (1) To have continuing succession.
- (2) To sue and be sued, implead and be impleaded, complain and defend in all courts.
- (3) To adopt, use and alter at will a corporate seal.
- (4) To make bylaws for the management and regulation of its affairs and issue rules, regulations and policies in connection with the performance of its duties and functions.
- (5) To borrow money for the purpose of paying the costs of a project and to evidence the same; make and issue negotiable bonds of the authority; secure the payment of such bonds, or any part thereof by pledge or deed of trust of all or any of its revenues, rentals, receipts and contract rights; make such agreements with the purchasers or holders of such bonds or with other obligees of the authority in connection with any bonds whether issued or to be issued as the authority shall deem advisable which agreements shall constitute contracts with such holders or purchasers; obtain such credit enhancement or liquidity facilities in connection with any bonds as the authority shall determine to be advantageous; and in general,

provide for the security for said bonds and the rights of the holders thereof.

(6) To accept grants and to enter into contracts, leases, subleases, licenses or other transactions with any Federal agency, State public body, political subdivision, person, association, partnership or corporation.

(7) To have the power of eminent domain. Any condemnation by the authority shall be in the manner provided by the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code.

(8) To pledge, hypothecate or otherwise encumber any of its property, real, personal or mixed, tangible or intangible and its revenues or receipts including, but not limited to, any interest the authority may have in any lease or sublease.

(9) To invest its money.

(10) To invest any funds held in reserve or sinking funds or any funds not required for immediate disbursements as authorized by sections of this chapter.

(11) To appoint all officers, agents and employees required for the performance of its duties and fix and determine the qualifications, duties and compensation and retain or employ other agents or consultants.

(12) Site, design, construct and operate one or more hazardous waste disposal facilities exclusively for waste generated within the Commonwealth of Pennsylvania.

(13) Establish consistent with the rules of the authority the criteria and procedures for characterizing and evaluating alternative locations for hazardous waste disposal facilities.

(14) Acquire by deed, purchase, lease, contract, gift, devise, condemnation or otherwise any real or personal property, structures, rights-of-way, easements, franchises and other interests in land which is necessary and convenient for the construction or operation of hazardous waste disposal facilities upon such terms and conditions as it deems advisable and to lease, sell or dispose of the same in such matter as may be necessary or proper to carry out the objective of this chapter.

(15) Adopt schedules of fees and other charges including users charges, penalties and surcharges applicable to the use and operation of the hazardous waste facilities under its control, develop and use procedures for determining the design, technology, operational features and postclosure requirements of the hazardous waste development facility.

(16) Apply for, accept and expend loans and grants of money from any Federal or State agency or political subdivision thereof to give evidences of indebtedness as may be required.

(17) Pledge revenues from hazardous waste facilities to the benefit of the bondholders or for other purposes necessary to secure financing.

(18) Make plans, surveys, studies and investigations as may be necessary or desirable in respect to any acquisition, development or use of real property and the design, construction, operation, closure and long-term care of a hazardous waste facility.

(19) Receive all field data, charts, maps, tracings, laboratory test data, soil and rock samples and such other records as the authority deems appropriate, collected or produced by its employees, contractors or consultants pursuant to siting, operating or closing of hazardous waste disposal facility.

(20) Procure and keep in force adequate insurance or otherwise provide for adequate protection to indemnify and save harmless it and its officers, agents and employees, adjoining property owners or the general public against loss or liability.

(21) Periodically review the current and projected availability and adequacy of facilities for the management of hazardous waste.



(22) Determine whether any facilities for the management of such wastes are required in addition to the disposal facility currently operated and make appropriate recommendations to the General Assembly.

**Section 1305. Limitation on borrowing.**

The authority shall have no power to pledge the credit or taxing powers of any state, public body, any political subdivision nor shall any of its obligations be deemed obligations of any state public body, any political subdivisions nor shall any state public body or any political subdivision be liable for the payment or principal or interest on such obligations.

**Section 1306. Operation and termination of authority.**

(a) General provisions.—Upon termination of the existence of the authority all of its rights and property shall pass to and be vested in the Commonwealth of Pennsylvania. All agencies of State government shall provide technical and clerical services and personnel that the authority may require in the performance of its functions. The authority shall reimburse the agencies for such services from its revenues deposited in the Hazardous Waste Disposal Fund.

(b) Membership.—The authority shall be governed by a board composed of 12 members, consisting of the Secretary of Environmental Resources, the Secretary of Health and the Secretary of General Services, or their designees, and nine other persons appointed as follows:

(1) The Governor shall appoint three members at large who shall represent members of the general public and shall not be government employees or generators of hazardous waste.

(2) The governor shall appoint two members who shall represent local government. Such members shall serve until replaced by representatives of host communities as provided for in subsection (d).

(3) The President pro tempore and Minority Leader of the Senate as well as the Speaker of the House and Minority Leader of the House of Representatives shall each appoint one member of the authority.

(4) When a site is chosen for a hazardous waste facility each county shall appoint to the board an official of the county.

(c) Terms of members.—The initial appointments by the Governor shall be made within 60 days of the effective date of this act (in this case terms shall be staggered based on four-year terms). The Governor shall designate the order in which the initial local government members are replaced by host county representatives chosen pursuant to subsection (b)(4).

(d) Officers.—The members of the authority shall choose a chairman and vice chairman of the authority. The executive director of the authority shall serve as secretary of the authority.

(e) Meetings.—The authority shall meet at least quarterly or more frequently at such meeting time as the authority by rule may provide and at any place within the State as the authority may provide. The authority shall meet upon the call of its chairman or the majority of its members. A majority of members duly appointed and confirmed shall constitute a quorum for the transaction of business. The members shall not receive a salary but shall be paid for the necessary expenses that they incur in the performance of their duties.

(f) Executive director and staff.—The authority shall appoint an executive director who shall report to the authority and serve at its pleasure. The executive director shall be the chief executive officer of the authority. The executive director shall devote his full time during business hours to the duties of his office and who shall receive compensation as the board shall determine. The executive director shall be assisted by such professional and clerical staff members as may be necessary to carry out the provisions of this chapter. The authority shall set the compensation of the staff members it appoints.

**Section 1307. Applicability of existing environmental statutes and regulations.**

(a) State laws.—This chapter shall not be construed as amending, repealing or in any way or manner abridging or interfering with any acts or parts of acts of this Commonwealth relating to hazardous waste protection or protection of the environment.

(b) Federal laws.—The authority, its members, officers, employees, agents, contractors and operators shall comply with all current and future Federal and State laws including statutes, regulations and rules applicable to hazardous waste and protection of the environment.

**Section 1308. Freedom from personal liability.**

Members, officers, employees and contractors of the authority, while acting within the scope of their official authority, shall not be subject to any personal liability or accountability by reason of any act or omission in connection with the exercise of any power performance of any duty whether expressed or implied pursuant to this chapter.

**Section 1309. Site selection.**

(a) Development of procedures, time.—The authority shall actively seek communities interested in hosting hazardous waste facilities. No later than one year from the effective date of this chapter, the authority shall develop procedures and criteria for selecting a site for a hazardous waste disposal facility.

(b) Method of development by procedures.—These procedures shall be developed with and provide for public participation; shall be developed with the assistance of the board; shall include a written justification for each criteria; shall be consistent with all applicable Federal and State law; shall be developed and revised and with the best available scientific data and shall be based on consideration of geologic and hydrologic factors, environmental and public health factors; the presence of natural and cultural resources including wet lands, game lands; local land uses; transportation factors including proximity to waste generators; aesthetic factors including visibility, and noise level of the facility.

(c) Identification of areas.—The authority shall identify areas that may be suitable for the location of a hazardous waste disposal facility no later than 18 months from the effective date of this chapter. The authority shall conduct public information meetings in the areas identified pursuant to this section

(d) Site selection, time.—No later than two years from the effective date of this chapter, the authority shall select a site for a hazardous waste disposal facility and begin proceedings to purchase and condemn property for such sites under the State's power of eminent domain.

**Section 1310. Operator selection and oversight.**

(a) Selection of operator by authority.—The authority shall actively seek private operators for hazardous waste disposal facilities. Operators shall meet all of the licensing requirements of Federal and State law relating to the proper disposal of hazardous waste.

(b) Time of selection.—The authority shall select and employ an operator for a hazardous waste disposal facility no later than 12 months from the effective date of this chapter.

(c) Design proposals.—No later than one year after its selection as an operator, the operator shall submit to the authority conceptual design proposals for a hazardous waste disposal facility to be located on sites to be identified by the authority at a later date.

(d) Contents of proposals.—Proposals shall include general descriptions of the designs, technologies, staffing and other consideration which the designated operator proposes for a hazardous waste disposal facility. Proposals shall be made available to the site designation review committee for their review.

(e) Application.—The operator shall prepare and submit all applications for licenses and permits required for a hazardous waste disposal facility to the appropriate regulatory agencies.

(f) Environmental impact study.—The operator shall also prepare an environmental impact which shall become the basis for an environmental impact statement required by Federal and State law.

Section 1311. Construction.

The authority shall actively seek private contractors to construct the hazardous waste disposal facilities not later than 30 days after the approval of designs for the facility. The operator of a facility may be selected as the contractor.

Section 1312. Fees.

(a) Costs of facility and authority activities.—It is the intent of the General Assembly that the cost of all activities of the authority and the cost of all activities of the operation of the hazardous waste disposal facility shall be borne by the waste generator served by the facilities established under this act. An initial surcharge shall be imposed by the authority adequate to return to the General Fund over the initial five-year period of operation, any appropriations expended from the General Fund from the date of the enactment of this chapter to the date a hazardous waste disposal facility begins operation, with interest at the rate, the State would have earned, had it invested such funds. The surcharge may be terminated when the General Fund is fully reimbursed. The authority may, however, continue to impose surcharges for the purposes authorized in this chapter.

(b) Levying and collection.—The authority shall at all times levy and collect sufficient fees and other charges to ensure adequate income for retirement of indebtedness, current operation and maintenance expenses, return on investment, operators compensation to host communities, and facility and site closure and stabilization.

(c) Schedules of fees.—The authority shall establish and revise, as necessary, schedules of fees and other charges including user charges, penalties and surcharges to meet the needs of the authority.

(d) Financial statement.—The authority shall prepare on a quarterly basis a detailed financial statement showing its current fund schedules, income from all sources, indebtedness and expenses for the quarter and fiscal year to date. The report and any other information regarding the operation of the authority shall be submitted to the chairman of the Senate and the House Committees on Appropriations.

Section 1313. Hazardous Waste Disposal Fund.

(a) Establishment of fund.—There is hereby established under the control and direction of the authority a nonreverting long-term care fund to be administered by the State Treasurer. The long-term care fund may be used for administration of the fund, environmental monitoring and maintenance, compensation as provided in this chapter to municipalities, care and custody of the disposal facility including necessary remedial actions.

(b) Status of fund.—The Hazardous Waste Disposal Fund shall be treated as a special fund and shall be credited with interest by the State Treasurer pursuant to current State law.

(c) Moneys in fund.—In addition to any money that shall be appropriated or otherwise made available to it, the fund shall be maintained by fees, user charges, penalties, surcharges or other money paid to or recovered by or on behalf of the authority under the provisions of this chapter.

Section 1314. Compensation to State and local governments.

(a) Separate fund.—Of the moneys deposited by the authority with the State Treasurer, the authority shall have transferred to a separate fund 2 1/2% of the annual gross receipts of the hazardous waste disposal facility to be held and disbursed as set forth in this section. The transfer shall be made within 30 days following the last day of each calendar quarter. The funds thus transferred will be administered by the State Treasurer on behalf of the authority. For the purposes of this section, the term "annual gross receipt" shall not include moneys designated for the establishment and administration of a long-term care fund.

(b) Disbursement.—Funds transferred pursuant to this section including any interest earned shall be disbursed by the State Treasurer on a quarterly basis to the general funds of the county or counties in which hazardous waste disposal facilities are sited. Such disbursement shall be in proportion to the acreage of the property within the local tax unit owned on January 1 by the State for use by the authority on which the hazardous waste disposal facility is sited bears to the acreage of all the property owned on January 1 of that year by the State for use by the authority on which the hazardous waste disposal facility is sited.

Section 1315. Property taxes.

(a) Exemption.—Any hazardous waste disposal facility developed by the authority shall be exempt from property taxes: Provided, however, That the authority shall, in lieu of property taxes and in addition to any payments made pursuant to this chapter, relating to payments to municipalities, pay to any governmental body authorized to levy property taxes, the amount which would be assessed as taxes on real and personal property of a facility if such a facility were otherwise subject to evaluation and assessment by a local taxing unit.

(b) Reimbursement.—The authority shall reimburse the city or county for the loss of ad valorem property tax revenues from property that is immediately adjacent to the property upon which the facility is located and which is shown to have diminished in value directly as a result of the siting and operation of the facility. Such payments, in lieu of taxes shall be due and shall bear interest if unpaid, as in the case of taxes on other property.

(c) Payments.—Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantial provisions of law.

(d) Other exemptions.—Administrative buildings, associated land and other real and personal property owned by the authority and not located at a disposal facility shall be exempt from all property taxes.

(e) Local applicant fee.—An applicant for a license to operate a hazardous waste disposal facility shall pay a one time local application fee to the county or counties where the site of the proposed facility is located in an amount as determined by the county or counties and approved by the authority.

(f) Amount and use of local fee.—The local application fee shall be not less than \$200,000 if the site of the proposed facility is located entirely within one county and not less than \$100,000 per county if the site is located in more than one county. The county may use these funds for purposes designated in this chapter and for any other purpose authorized by law.

Section 1316. Negotiation and arbitration.

(a) Issues for negotiations.—Any local government in the county or counties where a hazardous waste disposal facility is proposed to be located pursuant to this chapter may negotiate with the authority with respect to any issue relating to the facility except:

- (1) the need for the facility;
- (2) any proposal to reduce the duties of the authority under this chapter or under any license issued for the facility;
- (3) any proposal to reduce the duties of the Commission or to make less stringent any rule of the Commission; or
- (4) any decision of the authority regarding site selection, operator selection or technology pursuant to this chapter.

(b) Good faith requirement.—The authority shall negotiate in good faith with any local government in the county or counties where a hazardous waste disposal facility is proposed to be located. Negotiations may be conducted with the assistance of a mediator if mediation is requested by both the authority and a local government.

(c) Issues of arbitration.—If the authority and a local government have not reached agreement on all issues by negotiation within six months after selection of the site, the following issues may be submitted to arbitration pursuant to existing law:

(1) Compensation to any local government for economic impacts which are a direct impact of the siting and operation of the hazardous waste disposal facility and for which adequate compensation is not already provided by this chapter.

(2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section.

(3) Screening, fencing and other matters related to the appearance of the facility.

(4) Operational concerns other than design capacity and regulatory issues.

(5) Traffic flows and patterns which result from the operation of the facility.

(6) Uses of the site where a facility is located after the facility is closed.

(7) The applicability or nonapplicability of any local ordinance.

(8) Emergency response capabilities including training and resources.

(9) Access to facility records and monitoring data.

(10) Ongoing health surveys of persons living in the area around the facility.

#### Section 1317. Bonds.

(a) Bond issues to be authorized.—

(1) The bonds of the authority authorized to be issued shall be authorized by resolution of the board thereof and shall be of such series; bear such date or dates; mature at such time or times not exceeding 40 years from their respective dates; bear interest at such rate or rates that such be determined by the board as necessary to issue and sell the authorized bonds; be in such denominations; be in such form, either coupon or fully registered without coupons; carry such registration, exchange ability and interchange ability privileges; be payable in such medium of payment and at such a place or places; be subject to such terms of redemption and be entitled to such priorities in the revenues or receipts of the authority as such resolution or resolutions may provide.

(2) The bond shall be signed by or shall bear the facsimile signatures of such officers as the authority shall determine and coupon shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority.

(3) All bonds shall be authenticated by an authenticating agent, fiscal agent or trustee all as may be prescribed in such resolution or resolutions.

(4) Any such bonds may be delivered notwithstanding that one or more of the officers signing such bonds or the treasurer who's facsimile signature shall be upon the coupon or any copy thereof shall have ceased to have such officer or officers at the time when such bonds shall actually be delivered.

(b) Sale of bonds.—

(1) Bonds may be sold at public sale for such price or prices and at such rate of interest as the authority shall determine.

(2) Pending the preparation of the definitive bonds interim receipts may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(3) Such bonds may be sold to private sale only if:

(i) the authority makes a written public explanation of the circumstances and justification for the private sales; and

(ii) the board approves a private sale by a vote of at least seven members.

(c) Bonds to be negotiable instruments.—Bonds shall have the qualities of negotiable instruments under 13 Pa.C.S. (relating to commercial code).

(d) Use of net proceeds.—The use of net proceeds of the issue of bonds or notes may be used to pay the costs of the projects or to reimburse any costs initially paid by any State public body, city, other public political subdivisions, agencies, organizations or persons.

(e) Refunding authorized.—

(1) Subject to the provisions of the outstanding bonds, notes or other obligations and subject to the provisions of this chapter, the authority shall have the right and power to refund any outstanding debt, in whole or in part, at any time and shall have the right and power to refund any outstanding funds with bonds or bonds with notes.

(2) The term "refund" in its variation shall mean the issuance and sale of obligations. The proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

(f) Provision of bonds, trusts and indentures of mortgages.—In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds and obligations, the authority, in addition to its other power shall:

(1) Have the power to pledge all or any part of its gross or net revenues to which its right then exists or may thereafter come into existence; mortgage all or any part of its real or personal property then owned or thereafter acquired.

(2) Covenant against pledging all or any part of its revenues or against mortgaging all or any part of its real or personal property to which its right or title exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any of its real property and to covenant as to what other or additional debts or obligations may be incurred by it.

(3) Covenant as to bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof to provide for the replacement of lost, destroyed or mutilated bonds to covenant against extending the time for the payment of the bonds or interest thereon and to redeem the bonds into covenant for their redemption and to provide the term and conditions thereof.

(4) Covenant as to the amount of revenues to be raised each year or other period of times by the authority as well as to the use and disposition to be made thereof and to create or to authorize the creation of special funds for debt purposes and to covenant as to the use and disposition of the money held in such funds.

(5) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abdicated the amount of bonds, the holders of which must consent thereto and the manner in which such consent may be given.

(6) Covenant as to the use of any or all real or personal property to warrant its title and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(7) Covenant as to rights, liabilities, powers and duties arising to the breach by it of any covenant, condition or obligation and to covenant and prescribe in the event of default as to terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and consequences may be waived.

(8) Vest in a trustee or the holders of bonds or any portion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds to vest in a trustee the right.

(9) In the event of a default by the authority, take possession and use, operate and manage any real property and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee to provide for the powers and duties of a trustee and to limit liabilities thereof and to provide the terms and conditions upon which the trustee or the holders of the bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(10) Obtain letters of credit and bond insurance.

(11) Exercise all or any part or combination of the powers herein granted to make covenants other than and in addition to the covenants to and expressly authorized to make such covenants and to do any and all such acts which may be necessary or convenient or desirable in order to secure its bonds or in the absolute discretion of the authority as will tend to accomplish the purposes of this chapter by making the bonds more marketable, notwithstanding that such covenants, acts or things may not be specifically enumerated herein.

(g) Remedies of an obligee of the authority.—An obligee of the authority shall have the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding at law or inequity to compel the authority and the members, officers, agents or employees thereof to perform each and every term provision and covenant contained in any bond or contract of the authority with or for the benefit of such obligee and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

(2) By proceeding in equity to obtain an injunction against any acts which may be unlawful or the violation of any of the rights of such obligee of the authority.

(h) Additional remedies confirmable by the authority.—The authority shall have the power by its resolution trust indenture mortgage to confer upon any obligees holding or representing a specified percentage of bonds, the right, in addition to all rights that may otherwise be conferred upon the happening of an event or default as to find in such resolution or instrument by suit, action or proceeding in any court of competent jurisdiction to:

(1) obtain the appointment of a receiver of any real property or leasehold interest of the authority and of the rents and profits therefrom (if such receiver be appointed) he may enter and take possession of such real property or any lease hold interest, operate the same and collect and receive all revenues or other income thereafter arising therefrom shall keep such moneys from a separate account and apply the same in accordance with the obligations of the authority as the court shall direct; or

(2) require the authority and the members thereof to account as if it and they were the trustees of an express trust.

(i) Authority of receiver.—

(1) Nothing in this chapter shall authorize any receiver appointed pursuant to this chapter for the purpose of operating and maintaining any facilities or the authority to sell, assign, mortgage or otherwise dispose of any of the assets of whatever kind or character belonging to the authority.

(2) It is the intention of this chapter to limit the powers of such receiver to the operation and maintenance of the facilities of the authority as the court shall direct and no holder or holders of bonds of the authority nor any trustee or any other obligee shall ever have the right in any suit, action or proceeding at law or in equity to compel a receiver nor shall any receiver ever be authorized or any court be empowered to direct the receiver to sell, assign mortgage or otherwise

dispose of any assets of whatever kind or character belonging to the authority.

Section 1318. Interests of public officers and public employers and party officers.

(a) Restrictions upon authority management level employees.—No party officer, public officer, public official, public employee or any member of the immediate family of a party officer or public official shall be employed as a management level authority employee. No person convicted of an infamous crime shall be employed as a management level employee by the authority.

(b) Restricted activity statements of financial interest/public meetings and records.—

(1) The provisions of the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest act, and the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law are hereby made specifically applicable to board members, officers and employees of the authority.

(2) For the purposes of application of such acts, employees of the authority shall be regarded as public employees of the Commonwealth and officers or board members of the authority shall be regarded as public officials of the Commonwealth, whether or not they receive compensation.

(3) The authority shall also be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, relating to the inspection and copying of public records and the act of July 3, 1986 (P.L.388, No.84), relating to open meetings.

(c) Conflicts of interest.—Notwithstanding the provisions of subsection (b), the following prohibitions shall apply to the authority created by this chapter:

(1) No management level employee or other employees of the authority shall use his position with the authority or any confidential information received through his position with the authority to obtain financial gain other than compensation provided by law for himself, a member of his immediate family or a business with which he is associated.

(2) No person shall offer or give to the management level employee or other employees of the board or a member of his immediate family or a business with which he is associated and no management level employee or other employee of the board shall solicit or accept anything of value, including a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the management level employee or other employee of the board would be influenced thereby.

(3) No management level employee or other employee of the board or member of his immediate family or any business in which a person or a member of the person's immediate family is a director, officer, owner or holder of stock exceeding over 5% of the equity at fair market value of the business shall enter into any contract valued at \$500 or more to provide goods or services to the authority unless a contract has been awarded to the lowest responsible bidder to an open and public process including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.

(4) No former management level employee or other employee of the board shall represent a person with or without compensation on any matter before the authority with which he has been associated for one year after he leaves the authority.

(5) Any individual who is a State, city or county public official or public officer or any party officer or member of the immediate family of any such individuals or businesses with which such individuals or members of their immediate fami-

lies are associated shall not have any financial interest in any contract valued at \$500, or more, to provide goods or services to the authority either during the time such person holds such office or for two years after such person terminates such office unless such contract is executed pursuant to the provisions of paragraph (3). For purpose of this paragraph, the term "financial interest" shall not include employment by association with or ownership of a business association unless the public officer, party officer, public official or member of the immediate family of each individual owns shares of stock in any such corporation in an amount in excess of 5% of the total issue for the stock of any said corporation or has an ownership interest in any noncorporate business association in an amount in excess of 5% of the total ownership of such a noncorporate business association.

(6) No management level employee or other employee of the board or an advisor or a consultant to the city, a county, or the State, having recommended to the authority which he serves, either the making of a contract relating to the authority, or a course of action of which the making of such a contract is an express or implied part shall at any time thereafter have an adverse interest in such contract.

(7) No management level employee or other employee of the authority, the city, a county or the State shall influence or attempt to influence the making of or supervise or in any manner deal with any contract with the authority in which he has an adverse interest.

(8) No management level employee or other employee shall have an adverse interest in any contract with the authority.

(9) No person having an adverse interest in a contract with an authority shall become a management level employee of the authority until such adverse interest shall have been wholly divested.

(10) No management level employee or any other employee of the authority, the city, a county or the state, except in the performance of his duties as such employee shall for remuneration, directly or indirectly, represent any other person upon any matter pending before the authority.

(d) Enforcement and penalties.—

(1) A person who violates the provisions of this section shall have his employment by the authority immediately terminated by the appropriated person having the power to terminate and shall be liable to the authority to reimburse the authority for all compensation received by him from the authority while employed while in violation of subsection (a).

(2) A person who violates the provision of subsection (c)(1) or (2) is guilty of a felony and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both.

(3) Any person who violates the provisions of subsection (c)(3) through (10) is guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment of not more than one year, or both.

(4) Any person who obtains financial gain from violating any provision of subsection (c) in addition to any other penalty provided by law shall pay into the accounts of the authority a sum of money equal to three times the financial gain resulting from such violation.

(5) Any person who violates the provisions of subsection (c) shall be barred for a period of five years from engaging in any business or contract with the authority, the State, the city or any political subdivision.

(6) Any employee of the State, city or any political subdivision or any public officer or public official who violates any of the provisions of subsection (c) shall automatically forfeit any such office or employment he may then hold.

(7) The penalties and sanctions provided by the sections shall supersede any similar penalties and sanctions provided by the Public Official and Employee Ethics Law and State Adverse Interest act.

#### CHAPTER 15 MISCELLANEOUS

Section 1501. Effective date.

This act shall take effect as follows:

(1) Chapter 13 shall take effect in one year.

(2) The remainder of this act shall take effect in 60 days.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I think today we have traveled down a long road, a long road that started in 1984 when this General Assembly first considered a prioritization of Superfund sites, of the concept of remediating the Superfund issue, and we have had a number of various proposals that have been floating around over the years to handle the problem.

The one particular final issue that still sits out there now lingering in my mind facing the Commonwealth of Pennsylvania is the particular place where we will put both generated waste in the future from our existing industries, businesses, and manufacturers, and more importantly and most topical to the debate we are having today on the issue we are deliberating on today, and that is, what do we do with the remediated waste from the Superfund sites that this program will go to clean up and remediate?

Mr. Speaker, the amendment in front of you is entitled the "Pennsylvania Hazardous Waste Authority Act." For the information of the members, in every public hearing that was held recently by the House Conservation Committee, virtually all witnesses that testified in some way, shape, or form touched upon the concern that we have not had a hazardous waste site in the Commonwealth available to take generated hazardous waste, and more importantly, remediated Superfund waste, for approximately 2 years. There is a necessity at exorbitant cost to ship out of State to a certified hazardous waste authority site.

Additionally, we are under the mandate under the Federal SARA (Superfund Amendments and Reauthorization Act) statute to come into compliance with certain aspects of Federal law; to, by October of 1989, be in a position to certify some form of siting for our hazardous waste remediation as well as a hazardous waste site for ongoing business.

Mr. Speaker, the Department of Environmental Resources Secretary and the Department of Commerce Secretary testified before the House Conservation Committee about the attempts, and I think they have been legitimate bona fide attempts. We have also heard about attempts by the private sector in attempting to privately site and be permitted for such a facility. All of those good intentions, all of those noble efforts, all of those costly efforts to date have not borne fruition.

I would submit that the only avenue that has not been followed has been the authority concept - the concept set forth in this legislation. This particular concept in no way, shape, or form causes any problems, in my mind, to anyone. If anything, it provides a necessary, last-alternative vehicle to do what, here to date, has not been able to be done by, in my mind, virtually every kind of way of coming up with a private site.

In short, Mr. Speaker, I think if you look at the language of the amendment in front of you, you will see that this is a traditional authority-type siting bill. It provides the authority with the right to go out for bonds. It provides the authority with the right of eminent domain. It further provides the authority with the opportunity to recapture from the fees generated for a site they would ultimately within 2 years establish. It allows them to site, to operate, to construct, if they desire, and to contract with a private operator for the particular site that the authority would develop or otherwise would operate in conjunction with a private developer in developing.

I think it provides all the possible tools that DER and the administration, through the Department of Commerce, as well as our private sector, need to collateralize what has already been done on this issue. I do not think there should be any objection. I would certainly hope there would be enthusiasm behind this to try and move forward within a 2-year period to finalize this issue.

I would urge an affirmative vote.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, the Reber proposal before us in amendment A2853 is the same proposal that Mr. Reber introduced as a freestanding act just yesterday, and he invited members of the Assembly in the House to cosponsor the same with him. It has not been handled by any committee. The Conservation Committee has not looked at it, has not worked on it.

Mr. Reber's enthusiasm for a siting mechanism is understandable. I share your enthusiasm, and I will tell you that. I also share with you, Mr. Reber, the thought that Pennsylvania, as a generator in its industry and commerce of hazardous waste, must find sites to dispose of those wastes, and that is on our agenda to do. There is no question about it. I think the almost unanimous adoption of an amendment earlier today expressing the intent of this General Assembly to begin work on that problem of siting very quickly is a demonstration of our enthusiasm that that must be attacked.

Now, the substance of the amendment: The amendment and the setup through the amendment does some far-reaching things. It places the State of Pennsylvania in the position of putting in the field an authority, an authority whose responsibility and whose power and ability will be to go out and locate a site for the disposal of hazardous waste. It also gives them the power of eminent domain to come in to your area or my area to condemn such a site to be used for a hazardous waste disposal area.

Mr. Speaker, in addition, it sets up the board. It sets up a whole set of criteria. We are going to have to do something

along these lines, but I do not think we are ready to do that today. I do not think we are ready to put Pennsylvania in the business of a hazardous waste site, because not only does this allow the authority to find the site and condemn the site, it puts Pennsylvania in the business of operating the site, and that is a major decision. Do we as a State go into the business of providing the place for industry and commerce to dispose of their hazardous waste, or do we do it in a different way where we have an operator in the private sector doing such? These are major decisions that should be made, will be made, and I have the same enthusiasm that Mr. Reber has that we must make these decisions and we must begin that task quickly, and I am willing to work toward that end.

But, Mr. Speaker, I must ask that we allow the Conservation Committee to work on the Reber bill that was introduced and that we ask the Conservation Committee to review the administration bill which will be with us shortly and any other ideas of siting that should come about and do it quickly. I must ask, Mr. Speaker, that we not take this particular action, which makes those decisions now without thought. It puts us in the business as a State of hazardous waste disposal. We are in charge of the entire operation; we are charged with the responsibility and the liability for such; we give the authority eminent domain powers to come into our districts and condemn such a site and to select such a site statewide.

Mr. Speaker, I really do not think we are ready. I really think this is premature, and for those reasons I ask for a negative vote.

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

The following roll call was recorded:

YEAS—92

|          |            |           |               |
|----------|------------|-----------|---------------|
| Angstadt | Dietterick | Hess      | Raymond       |
| Argall   | Dininni    | Jackson   | Reber         |
| Arty     | Distler    | Jadlowiec | Reinard       |
| Barley   | Dorr       | Johnson   | Robbins       |
| Birmelin | Durham     | Kennedy   | Ryan          |
| Black    | Fargo      | Kenney    | Saurman       |
| Book     | Farmer     | Langtry   | Scheetz       |
| Bowser   | Fischer    | Lashinger | Schuler       |
| Boyes    | Flick      | Leh       | Semmel        |
| Brandt   | Foster     | McClatchy | Seraffini     |
| Bunt     | Fox        | Manmiller | Sirianni      |
| Burd     | Freind     | Merry     | Smith, B.     |
| Burns    | Gallen     | Micozzie  | Smith, S. H.  |
| Bush     | Gannon     | Moehlmann | Snyder, D. W. |
| Carlson  | Geist      | Mowery    | Stairs        |
| Cessar   | Gladeck    | Nahill    | Taylor, E. Z. |
| Chadwick | Godshall   | Noye      | Taylor, J.    |
| Civera   | Gruppo     | O'Brien   | Vroon         |
| Clymer   | Hagarty    | Perzel    | Wass          |
| Cornell  | Hayes      | Phillips  | Weston        |
| DeVerter | Heckler    | Piccola   | Wogan         |
| Davies   | Herman     | Pitts     | Wright, J. L. |
| Dempsey  | Hershey    | Punt      | Wright, R. C. |

NAYS—101

|          |         |           |         |
|----------|---------|-----------|---------|
| Acosta   | Duffy   | Linton    | Ritter  |
| Battisto | Evans   | Livengood | Roebuck |
| Belardi  | Fattah  | Lloyd     | Rudy    |
| Belfanti | Fee     | Lucyk     | Rybak   |
| Billow   | Freeman | McCall    | Saloom  |
| Blaum    | Gamble  | McHale    | Seventy |
| Bortner  | George  | Maine     | Showers |

|             |            |            |               |
|-------------|------------|------------|---------------|
| Bowley      | Gruitza    | Manderino  | Snyder, G.    |
| Broujos     | Haluska    | Markosek   | Staback       |
| Callagirono | Harper     | Mayernik   | Steighner     |
| Cappabianca | Hasay      | Melio      | Stuban        |
| Carn        | Hayden     | Michlovic  | Sweet         |
| Cawley      | Howlett    | Morris     | Taylor, F.    |
| Clark       | Hughes     | Mrkoncic   | Tigue         |
| Cohen       | Hutchinson | Murphy     | Trello        |
| Colafiglia  | Itkin      | O'Donnell  | Van Horne     |
| Cole        | Jarolin    | Olasz      | Veon          |
| Corrigan    | Josephs    | Oliver     | Wambach       |
| Cowell      | Kasunic    | Petrarca   | Wiggins       |
| Coy         | Kitchen    | Petrone    | Wozniak       |
| DeLuca      | Kosinski   | Pievsky    | Wright, D. R. |
| DeWeese     | Kukovich   | Pistella   | Yandrisevits  |
| Daley       | LaGrotta   | Pressmann  |               |
| Dawida      | Lescovitz  | Preston    | Iris,         |
| Dombrowski  | Letterman  | Richardson | Speaker       |
| Donatucci   | Levdansky  | Rieger     |               |

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. ARGALL offered the following amendments No. A2897:

Amend Sec. 102, page 5, by inserting between lines 26 and 27

(11) The concepts of waste reduction and recycling must be strongly supported by the Commonwealth in order to provide a more environmentally sound policy of hazardous waste management in the future.

Amend Sec. 102, page 5, line 27, by striking out "(11)" and inserting

(12)

Amend Sec. 102, page 7, by inserting between lines 10 and 11

(x) Further encourage increased recycling and the concept of waste reduction in order to decrease the amounts of hazardous wastes which must be stored, treated and disposed.

Amend Sec. 301, page 16, by inserting between lines 18 and 19

(17) Issue a report by January 1, 1990, regarding its recommendations concerning the need for the increased use of hazardous waste reduction and recycling in Pennsylvania. The study shall review the need and possible costs and benefits of a coordinated State program of low interest loans, matching funds, grants and tax credits designed to further promote hazardous waste reduction and recycling in this Commonwealth.

(18) Create an advisory board to the department on hazardous waste reduction and recycling. The board shall consist of nine members who shall be appointed by the secretary and who shall represent the interests of business and industry, local and State government, environmental protection groups and the academic community. The board will advise the department on issues regarding hazardous waste reduction and recycling and make recommendations concerning department actions and priorities.

Amend Sec. 301, page 16, line 19, by striking out "(17)" and inserting

(19)

Amend Sec. 902, page 58, line 12, by striking out "Grants" and inserting

At least 2% of the funds received by the fund shall be used for grants

On the question,

Will the House agree to the amendments?

### PARLIAMENTARY INQUIRY

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Schuylkill, Mr. Argall.

Mr. ARGALL. Mr. Speaker, may I begin with an inquiry to the Speaker. Would it be possible for me to withdraw a section of the amendment because of a conflicting amendment passed earlier by the House?

The SPEAKER. Not in the way you are suggesting, Mr. Argall, because that would be a division. It may be possible to divide the amendment and then withdraw that part which you do not wish to have offered. If you will advise the Chair, where would you like to draw the line?

Mr. ARGALL. Okay. The section halfway through the amendment, beginning with "(17)," that paragraph I would like to remove.

The SPEAKER. Sorry; you may not do that. The reason is, in a division, each part must be able to stand on its own. If we were to permit you to do that, the paragraph beginning "(17)" could not relate to anything, could not stand on its own; therefore, it cannot be done that way.

### AMENDMENTS WITHDRAWN

Mr. ARGALL. Okay. In that case, I will withdraw the entire amendment, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. PITTS offered the following amendments No. A2996:

Amend Title, page 1, line 5, by inserting after "Fund;" providing a tax credit;

Amend Table of Contents, page 2, by inserting after line 30 Section 906. Loan fund.

Section 907. Recycling equipment tax credit.

Amend Sec. 102, page 7, by inserting between lines 10 and 11

(x) It is in the public interest to eliminate hazardous waste by encouraging and providing incentives to taxpayers to reduce the volume of hazardous waste materials produced, transported and disposed of in this Commonwealth by providing tax credits to taxpayers who purchase or lease and install recycling equipment which is used exclusively for the elimination of such materials by reclaiming them on site and converting them into non-hazardous reusable, raw material products.

Amend Sec. 103, page 11, by inserting between lines 9 and 10 "Recycling equipment." Machinery or apparatus used exclusively to process hazardous waste material and manufacturing machinery used exclusively to reclaim such materials into nonhazardous, reusable, raw-material products.

Amend Bill, page 66, by inserting between lines 27 and 28 Section 907. Recycling equipment tax credit.

(a) Amount.—A taxpayer who purchases or leases recycling equipment to be used exclusively within this Commonwealth shall be entitled to a credit against the taxes imposed under Articles IV

and VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in an amount equal to 50% of the installed cost of the recycling equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased or leased shall not exceed 20% of the amount of the total credit allowable and shall not exceed 50% of the total of the tax liability which would be otherwise due.

(b) Application procedure.—Application for a tax credit must be made to the Department of Revenue by April 15 of the year following the calendar year in which the recycling equipment is purchased or leased. The application must include a description of each item of recycling equipment purchased or leased, the date of purchase or lease, the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used and other information as the department may require. The Secretary of Revenue shall review all applications received to determine whether expenditures for which credits are requested meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

(c) Expiration.—This section shall expire December 31, 1993.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Chester, Mr. Pitts.

Mr. PITTS. Thank you, Mr. Speaker.

Like we did in the recycling bill, I am offering an amendment to provide a tax credit to those companies which install equipment which will recycle and reclaim hazardous material into nonhazardous, reusable material. I am told by, for instance, the steel industry that a type of furnace is being developed, a closed-in system, which process out of the furnace will come only nonhazardous, reusable raw materials, not even anything into the air. I think we need to encourage companies, with an incentive to build and purchase these kinds of systems, to stop generating this hazardous material and putting it into the ground but rather to recycle and reclaim this raw material into material that can be reused.

I urge adoption of the amendment.

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George, on the amendment.

Mr. GEORGE. Mr. Speaker, I think the amendment is intended well, but unfortunately, I think it allows for just anyone who might feel that they would want to go into the business of handling this material to buy it and get a tax rebate or a refund and then be out of business in a couple of years, and the State is out all that money. Now, we are not insisting that those that the gentleman has intended to pursue this matter for would do that, but this amendment is all-inclusive. It would allow anyone to simply, because of the wording of the amendment, go into business, so to speak, and I do not think that the gentleman would want it that way. Until that is clarified, I think we ought to defeat this amendment.

The SPEAKER. The Chair recognizes the gentleman from Somerset, Mr. Lloyd, on the amendment.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I oppose this amendment.

What we have seen here today is that we started with a bill in which the people who generate and handle hazardous waste were going to have to pay for that in some rational relationship to the problem they cause. This Assembly decided it did not want to do it that way. We had lots of help from those folks who were crawling over the lobby like alligators trying to make sure that the business community did not pay its fair share, and we ended up with a tax system that a lot of people do not particularly like, because we have to have something. Now not only are the people who ought to be bearing the most of the burden, the people who are generating the most of the waste—not the small businessman that Mr. Dorr is worried about—now not only are they not going to bear their fair share of the cost but we are going to give them a tax break for doing what the law or what this bill says they should be doing anyway, which is trying to recycle hazardous waste.

It seems to me if what we are trying to do is to rip off the taxpayers of this State and make the taxpayers pay for what is legitimately a cost of doing business and making certain products, then we ought to vote with Mr. Pitts. If you think the people who create the problem ought to pay for it and reflect the cost of that problem in the price of the product that they are making, then you vote “no” on the amendment and make the people who are creating the problem, who created a problem in this bill with their lobbying efforts, come back to the bargaining table, but to give them a tax break is a double dip, and we ought to be against that.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Hayden, on the amendment.

Mr. HAYDEN. Mr. Speaker, there is another issue which I think has been missed so far in the debate, and that is that we just considered economic incentives for recycling and onsite treatment and minimization, and that was in the context of Representative Reber’s amendment, which we voted for. Part and parcel of the concept of that contingency plan was to encourage by different cost assessments on disposal offsite versus onsite, to encourage by economic incentives, virtually the same thing which is ostensibly the purpose of this particular amendment. What this would simply do would be to further cloud the economics of the funding of this program and perhaps undermine some of the other funding mechanisms which you have already placed in the bill.

Since this has already been covered, I think, adequately through Representative Reber’s amendment, which we supported, I would ask for a “no” vote on this amendment.

The SPEAKER. The Chair recognizes the lady from Chester, Mrs. Taylor.

Mrs. TAYLOR. Mr. Speaker, I think that this amendment gives the members of the Assembly an opportunity to make a statement for the future. I think this amendment may just be reinforcing what we did in the Reber amendment, but what it is saying is that these industries that have created the problem are indeed wanting to be a part of cleaning up the environment. This is a clear, concise statement for the public and would be in the best interest of the public, and I urge an affirmative vote.



The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Pitts, for the second time.

Mr. PITTS. Mr. Speaker, in response: As Mr. George said, this does not open it up just to any taxpayer. We referenced the Tax Reform Code of 1971. It applies only to the corporate net income and the capital stock franchise tax.

As far as paying the fair share - Mr. Lloyd's argument - these people are paying their fair share. They are going to continue to, but this would provide some incentive for the additional expense of new equipment; and if they go to that expense and invest and build that new equipment, then they should get some kind of credit, because they are not then going to be generating hazardous material and depositing hazardous material into the Superfund sites, which are extremely costly. I do not think Mr. Lloyd would be yelling about tax incentives if we were talking about acid rain produced by coal, which he is always worried about.

I urge adoption of the amendment.

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

The following roll call was recorded:

YEAS—95

|            |          |           |               |
|------------|----------|-----------|---------------|
| Angstadt   | Dininni  | Jackson   | Reber         |
| Argall     | Distler  | Jadlowiec | Reinard       |
| Arty       | Dorr     | Johnson   | Robbins       |
| Barley     | Durham   | Kennedy   | Ryan          |
| Birmelin   | Fargo    | Kenney    | Saurman       |
| Black      | Farmer   | Langtry   | Scheetz       |
| Book       | Fischer  | Lashinger | Schuler       |
| Bowser     | Flick    | Leh       | Semmel        |
| Boyes      | Foster   | McClatchy | Serafini      |
| Brandt     | Fox      | Manmiller | Sirianni      |
| Bunt       | Freind   | Merry     | Smith, B.     |
| Burd       | Gallen   | Micozzie  | Smith, S. H.  |
| Burns      | Gannon   | Moehlmann | Snyder, D. W. |
| Bush       | Geist    | Morris    | Snyder, G.    |
| Carlson    | Gladeck  | Mowery    | Stairs        |
| Cessar     | Godshall | Nahill    | Taylor, E. Z. |
| Chadwick   | Gruppo   | Noye      | Taylor, J.    |
| Civera     | Hagarty  | O'Brien   | Vroon         |
| Clymer     | Hasay    | Perzel    | Wass          |
| Cornell    | Hayes    | Phillips  | Weston        |
| DeVerter   | Heckler  | Piccola   | Wogan         |
| Davies     | Herman   | Pitts     | Wright, J. L. |
| Dempsey    | Hershey  | Punt      | Wright, R. C. |
| Dietterick | Hess     | Raymond   |               |

NAYS—96

|             |            |           |            |
|-------------|------------|-----------|------------|
| Acosta      | Donatucci  | Levdansky | Ritter     |
| Battisto    | Duffy      | Linton    | Roebuck    |
| Belardi     | Evans      | Livengood | Rudy       |
| Belfanti    | Fattah     | Lloyd     | Rybak      |
| Billow      | Fee        | McCall    | Saloom     |
| Blaum       | Freeman    | McHale    | Seventy    |
| Bortner     | Gamble     | Maine     | Showers    |
| Bowley      | George     | Manderino | Staback    |
| Broujos     | Gruitza    | Markosek  | Steighner  |
| Caltagirone | Haluska    | Mayernik  | Stuban     |
| Cappabianca | Harper     | Melio     | Sweet      |
| Carn        | Hayden     | Michlovic | Taylor, F. |
| Cawley      | Howlett    | Mrkonic   | Tigue      |
| Clark       | Hughes     | Murphy    | Trello     |
| Cohen       | Hutchinson | Olasz     | Van Horne  |
| Colafella   | Itkin      | Oliver    | Veon       |
| Cole        | Jarolin    | Petrarca  | Wambach    |
| Corrigan    | Josephs    | Petrone   | Wiggins    |
| Cowell      | Kasunic    | Pievsky   | Wozniak    |

|            |           |            |               |
|------------|-----------|------------|---------------|
| Coy        | Kitchen   | Pistella   | Wright, D. R. |
| DeLuca     | Kosinski  | Pressmann  | Yandrisevits  |
| DeWeese    | Kukovich  | Preston    |               |
| Daley      | LaGrotta  | Richardson | Irvis,        |
| Dawida     | Lescovitz | Rieger     | Speaker       |
| Dombrowski | Letterman |            |               |

NOT VOTING—2

Lucyk O'Donnell

EXCUSED—4

Honaman McVerry Maiale Miller

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

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

Mr. WOZNIAK offered the following amendments No. A3013:

Amend Sec. 510, page 37, by inserting between lines 27 and 28  
(a) Limit of lien.—The lien shall be limited to the amount of the judgment for costs and penalties as provided in subsection (b); and shall not apply to property used as residential property as provided in subsection (d).

Amend Sec. 510, page 37, line 28, by striking out "(a)" and inserting

(b)

Amend Sec. 510, page 38, line 14, by striking out "(b)" and inserting

(c)

Amend Sec. 510, page 38, lines 19 through 27, by striking out all of said lines and inserting

(d) Priority.—The notice of lien filed under this section shall create a lien with priority over all other claims or liens filed. When the property is used for residential purposes, this notice of lien shall not affect a valid lien, right or interest in the property filed in accordance with established procedures prior to the filing of this notice of lien. For purposes of this section, residential purposes include all mortgages eligible for purchase by a corporate instrumentality of the United States Government.

(e) Certain interests not affected.—The notice of lien shall not affect a lien, mortgage or security interest in the property which secures a loan or extension of credit if the loan or extension of credit, or the commitment to make the loan or extension of credit, was made in good faith and without knowledge that there were hazardous substances on the property and if prior to the time the loan or commitment was made the lender received a written report of an actual inspection of the property, within a reasonable time immediately prior to the date of the loan or commitment, which did not reveal any indication of the presence of hazardous substances.

Amend Sec. 510, page 38, line 28, by striking out "(d) PRIORITY FOR OTHER PROPERTY" and inserting

(f) Time

Amend Sec. 510, page 39, by inserting between lines 5 and 6

(g) Notice.—Notice shall be mailed to all known holders of liens of record filed against parties subject to this section.

Amend Sec. 701, page 43, by inserting between lines 14 and 15

(iv) The owner is a financial institution, an affiliate of a financial institution or a parent owner of a financial institution, which acquired the site, by foreclosure or by deed in lieu of foreclosure before the site was included on a Federal or State Superfund ranking list and did not manage or control activities or conditions at the site which contributed to the release or threatened release of a hazardous substance. For the purposes of this subsec-

tion, management shall not include operations by virtue of supervision of the finances or fiscal operations of a responsible person in connection with a loan or fiscal obligation to that responsible person.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the Wozniak amendment, the Chair recognizes the gentleman from Cambria, Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

I guess we are winding down here, and this is just about the finale.

This amendment deals with the superliens and some concerns that the banking industry has. Well, I did not mean that in a detrimental way. The first part of the amendment, section (a), deals with the cost of the lien, and it will only deal with the actual cleanup and the cost and the penalties that will be provided for in subsection (b).

Section (d) deals with the priority. This removes the superlien from residential properties, and also, when we move down to section (e), it removes the superlien from commercial properties if they do certain things that are necessary. One is that they have to have a physical inspection of the property and have a written document saying that it has been physically looked at and signed and documented.

Section (g) is a notice. If an operator or the owner of a hazardous waste site or a site that turns out to be a toxic site gets into trouble with the law, all entities that have liens against them, such as a mortgage, those people have to be notified so that they are aware that there is a situation.

The final section is exempting a bank from being an operator or owner or any other way involved if they come on board to a financially unstable business to attempt to help them out with their financial situation and get involved in their everyday financial situations, to let them run the necessary business context but to make sure that they will be able to stay in business and does keep their mortgage payments up and other responsibilities to help keep them from going out of business.

A couple of provisions that it does not include that are a major concern is that there is a gray area in dealing with the definition of "owner or operator" and the lack of definitions of "responsible persons." There is also a missing piece that will have to be taken a look at at a later date that deals with what happens to present liens now. There is no provision in this amendment or in the bill dealing with any provisions that a bank, through no fault of their own, or other lending institution made loans in good faith presently and now find themselves in a situation where that company that they loaned money to went belly-up and they find themselves in a superlien condition. That will have to be addressed at another time.

I would appreciate an affirmative vote on this amendment.

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

Mr. GODSHALL. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment.

The SPEAKER. Mr. Wozniak indicates he will stand for interrogation. You may proceed, sir.

Mr. GODSHALL. Thank you, Mr. Speaker.

Mr. Speaker, I have a problem, a specific problem, and I would like to go over that, which I believe this touches on. We are proposing to build a trash-to-steam plant in my own township. The cost of that is going to be someplace around \$50 million to \$60 million. As I understood the superlien concept in the bill, what could happen is that the bankers or whoever, the people who are putting the money into the project, their mortgage position could be superseded or prejudiced by the superlien concept. What does this amendment do to relieve that situation?

Mr. WOZNIAK. All right. What will happen under this amendment is that that corporation or whoever that entity is who wanted to borrow \$60 million, before they go and get that money from the bank, the banking institution and the interested parties would have to make a physical inspection of the land that they are interested in developing. If they see that the land is clear and that there are no obvious signs of any hazardous site or it is a potential problem, a written dissertation signed off by the interested parties would be signed. That would alleviate the superlien situation on the banking institution that makes that loan, because they are now making it in good faith that when they lent the money, there was nothing wrong with the site at the time.

Mr. GODSHALL. Okay. That answers my one question. Another question I have: Say there is an existing facility; say there is an existing landfill or an existing trash-to-steam plant in operation today. As I understood the superlien concept in the original bill, what that would do is say that, again, a first mortgage could be prejudiced by the superlien. Does this do anything to existing facilities, or is this only for new facilities?

Mr. WOZNIAK. This is only for new facilities. When we wrote this up, we missed that particular point, and it will have to be addressed. We do not know what will happen in a situation where a bank or other institution at this moment in time, through no fault of their own, without knowledge, made a good-faith loan and find themselves in that particular situation. Under the present conditions, if this bill passes and becomes law, that superlien will take precedence over their lien. That will be something that will have to be addressed, but it is not addressed in this particular amendment.

Mr. GODSHALL. Well, you say it has to be addressed later. When?

Mr. WOZNIAK. Well, I am hoping that possibly if this bill comes back to this House, we will be amiable to work those situations out, and hopefully, when it goes to Senate committee, they might be able to work on those particular issues that I brought up earlier that are lacking in this amendment.

Mr. GODSHALL. Thank you. That is all I have on interrogation. May I speak on the amendment?

The SPEAKER. The gentleman has the floor. He may proceed.

Mr. GODSHALL. Thank you, Mr. Speaker.

Although far from perfect, because it only really addresses part of the problem, as I see the superlien, I would urge a "yes" vote on this amendment, and I would hope that some-

thing comes along to correct the second situation, which is existing sites, as I brought up earlier. I urge a "yes" vote on the amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Lashinger, on this amendment.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, would the gentleman, Mr. Wozniak, stand for a brief interrogation?

The SPEAKER. Mr. Wozniak indicates that he will stand for further interrogation. You may proceed.

Mr. LASHINGER. Thank you.

Mr. Speaker, I am concerned about a section that talks about the need for a written report of an inspection of the property. In your opinion, would that report require groundwater studies, engineering studies? What type of technical report would be required, in your opinion?

Mr. WOZNIAK. The report will not necessarily have to be technical. Obviously, one of the concerns is that this could be a very expensive proposition in checking groundwater, soil samples, et cetera. It was our feeling in writing it up that a simple inspection and the past history of the knowledge of the prior owners would be sufficient in giving a condition that would eliminate the superlien clause onto the lending institution. We purposely did not put it in a very strict sense, because we do not want to get into a situation where it could be an abusive expense on the seller or the buyer or the lender, and left it in that phraseology to make it acceptable.

Mr. LASHINGER. Mr. Speaker, my understanding of what you just said is that if the previous owner indicated in an affidavit that, to the best of their knowledge, there was no hazardous substance on the property, that would satisfy, in your opinion, the requirement to void a superlien situation.

Mr. WOZNIAK. Yes.

Mr. LASHINGER. The timeframe on that, Mr. Speaker, it says at the time of the loan or the commitment. Those are two different time periods, in my opinion. A commitment could occur 6 months prior to the time that the actual loan is made, which maybe in legislative debate here today we can resolve that issue as to when that notice must be given. Your language says at the time of the loan or commitment. Which is it?

Mr. WOZNIAK. All right. Well, dealing with commitments, there are many times when a situation is not necessarily a mortgage loan and it is written up as a commitment, but I, quite frankly, in reading it over, would more prefer the wordage of "mortgage" versus "commitment." Our concern was that we do it in a reasonable time, not 2 years earlier, not 3 years earlier, but more of a situation where the two entities are getting close to making a decision or a commitment before finalizing a loan. I think the word that we are interested in is "reasonable time," and although it does have no timeframe, I think there is some precedent out there where reasonable time is somewhere in a negotiating period of less than a year.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, permission to make a few brief comments.

The SPEAKER. The gentleman has the floor.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, only because of my uncertainty over Mr. Wozniak's responses am I going to ask for opposition to the amendment. The superlien issue, for those people who supported it, was a critical and integral part of the legislation. I was not one of those people that supported the concept.

Now to say that the lien can be waived or the opportunity to file that priority lien, or file the lien and have it take a priority status, is now dismissed by virtue of a seller stating that, to the best of his knowledge, no hazardous substances exist on the property seems pretty simplistic to me in the approach of this problem. I am wary of what we are doing, Mr. Speaker. It is not that I totally disagree. It seems like an acceptable compromise. It seems like the problem for such a critical issue is going away too easily, if that makes any sense to the sponsor of the amendment.

The other problem that I have with the amendment is as to when this actually occurs. Is it at the time of the commitment, or is it at the time of the actual loan? We have a provision now in the Solid Waste Management Act that requires, as soon as there is knowledge of the existence of a hazardous substance on a property, that that be inserted upon transfer of the property in the deed, and it travels then for time immemorial with the deed to that property. That language might satisfy me more, that we merely reference the Solid Waste Management Act and say where it is referenced in the deed and the loan commitment is made, that the ability to have the superlien take a priority position is gone or dismissed; that might satisfy me more.

I am concerned with the way this is drafted. I understand and I agree with the gentleman that there is a need for a compromise. I would prefer that the issue just go away. I am not sure that we fully understand the issue. It is a complex issue. I share Mr. Godshall's comments that this will make it very difficult for those people on the commercial side to go out and to get financing where there is any notion that hazardous substances exist. I congratulate the gentleman on an effort to formulate a compromise, but at this point I would be happier—The next amendment to follow, it is my understanding, is Representative Reber's amendment, which guts the superlien provision completely. Because of questions that continue to surround the superlien concept, I would prefer that we take the safer approach, and that is that this bill is going to conference, so we take the concept out and we allow for the issue to be worked out in conference committee or in that other chamber, but better yet, we take it out and work from ground zero and we not run the risk of including in a proposal today a concept that clearly a lot of us do not understand, and even more clearly we do not understand the compromise that you are attempting to fashion today.

I would ask for opposition to the Wozniak amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I rise in support of the Wozniak amendment. The superlien concept is a concept that attempts, that attempts to save the Superfund and the wasting

of the Superfund or at least the expenditure of the Superfund in situations where that expenditure is doing nothing except enhancing the security of a lending institution. That is what the superlien was intended to prevent.

Now, let me give you an example: If a lender in good faith today lends money on a piece of property that is infested with termites or rodents to the extent that it becomes invaluable, that it is not able to bring anything on the market, and a lender in good faith lent money on that particular establishment or that particular piece of property, he loses his security because the property lost its value. Now, let us put that in the Superfund context and cleaning up hazardous wastes.

If the lending institution lends money in good faith and it lends money on property that has been for years impregnated with hazardous wastes so that that property is now not only not valuable at all but it is going to cost somebody many thousands and maybe millions of dollars to clean up the health hazard, without a superlien concept of some kind, what you are saying is, taxpayer, take your Superfund moneys, go in there and clean that property up so that the bank that lent its money can have security guaranteed again, so that it can get its money back. That is what the superlien is all about.

All we are doing here is not destroying the superlien that Mr. Reber would do, as Mr. Lashinger rightfully said. He said the Reber amendment simply disposes of the superlien; it guts the concept of superlien, and he, from his perspective, said that is better than what we do here. Well, what do we do here?

We have leaned over very far to the lender. We have said in this amendment that the lender in residential property does not have to worry about the diminution of the security of his lien. We have exempted that. We have done it not only in residential property, we have gone to the commercial property and said that if the lender in good faith lends for value, if he actually puts money out without any knowledge that that property is subject to a cleanup or has hazardous or toxic wastes there—he has no knowledge of that—and if he has had, as it is defined in there, a report made immediately prior to any commitment for lending that brings back to the banker, the lender, the report that there is no hazardous problem there, no toxic problem there, then he is free; he does not have to worry about the security of his lien, but he has to make that reasonable inquiry, and we are not talking about spending a lot of money for that.

Banks have looked at this; lending institutions have looked at this amendment; substantial portions of the lending institutions of this Commonwealth are willing to live with this amendment. Maybe they all are. I do not know. I do not think they all are. But those who are not willing to live with this amendment want the taxpayers to guarantee their security where they lent money on a project or in an area that was infested with toxic waste or chemical waste that they could have found out about, that they did not have to lend their money, but they did not even ask for a report, or they did not even ask for an affidavit from the borrower or from the seller.

What we are doing here is putting a very minimal requirement to protect this fund against the situation where we must clean up a site because it is hazardous to the public; we must clean it up; we must use taxpayers' and Superfund dollars to clean up that site. We ought not to be cleaning it up so that some lender can have his security interest made whole, that he can get all his money back if he did not do the very few minimum things that we asked him to do, and if he was in fact not without the knowledge that it was a bad site to be lending on. This is minimum.

If you do not buy this amendment, then what you are really saying is, to heck with the taxpayer, to heck with the Superfund, let them dissipate it, let us use that Superfund to protect people who lend money without being concerned at all of whether or not the site they are lending money on not is infested with rodents or termite-ridden and not even concerned whether there are health hazards and toxic and hazardous wastes present there, have no concern for it whatsoever, can know it is there, can know it is there and still have their lien and money protected when they lend it. That is the wrong way to go.

These are minimum protections to the fund that exist in this amendment, and I ask for an affirmative vote.

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

Mr. REBER. Thank you, Mr. Speaker.

Would Representative Wozniak please stand for interrogation?

The SPEAKER. Mr. Wozniak indicates he will stand for interrogation. You are in order, and you may proceed, sir.

Mr. REBER. Mr. Speaker, myself, and I am sure each and every member of the House over the past number of weeks, was inundated with various pieces of correspondence from various lending institutions and other institutions that were concerned about the superlien concept, and in the course of the writings of all those letters, ultimately we would hear, please support the Wozniak amendment. Now, it is my understanding that the Wozniak amendment that they were referring to in those letters that we were getting over the past number of weeks, as I understood your initial remarks, is not exactly the real Wozniak amendment that is up on the board right now. Is that a fair characterization?

Mr. WOZNIAK. Yes. That is a similar amendment, but this is not the original Wozniak amendment.

Mr. REBER. Right. Okay.

With that in mind, Mr. Speaker, I would simply say that I would be very, very guarded, based upon that response as well as one of the statements of the majority leader where he said he is not even sure that all the financial institutions have in fact signed off on this.

For the benefit of the members, the superlien issue is for some people a very, very concerning issue. State superliens for hazardous waste cleanup have been enacted in only six States. However, several States are not enforcing those liens, and the issue has been reconsidered in other States that had heretofore adopted the same. The legislatures in two States, as a matter

of fact, are considering doing away totally with that, and additionally, some States that recently enacted Superfund legislation similar to what we are talking about did not, may I say again, did not include provisions for the superlien concept or for that matter any hybrid thereof.

Now, Mr. Speaker, I think something else that you ought to be very, very leery about. Apparently there is some mystical written report that is going to reveal indications or a lack of indications of hazardous substances. Now, I would submit to the members that I am familiar with one particular instance where there was a request, certainly not for this mandate, but a request for such an investigation to be made. Now, let me tell you, those investigations are not \$35 appraisals. We are talking \$10,000 tickets on up. We are not talking about just anybody who walks on the property and is going to give the kind of certification that Mellon Bank is going to want, that some of the heavy hitters in Philadelphia are going to want. They are going to want an A-1 environmental engineering firm providing that so they make sure that they have the catchall escape—all so they in fact are not subject to some form of superlien that is still out there with this particular amendment.

Now, I would submit to the members that if in fact there is some way that the lending institutions are able to make sure that commercial money for lending on facilities that might be impacted by this legislation does not dry up, we should go with the real Wozniak amendment; we should go with the real amendment to do away with superlien, and then—and then—those particular drafters in the financial institution can take something else that may solve the same problem to the Senate when they expeditiously—as I have been told by the Governor—are going to consider this bill, can include it and send it back to us, and they can all send us, again, letters so we know when it is time for the real Wozniak to stand up. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, for the benefit of those members who care about these things, the amendment that Mr. Wozniak offers at this time is an amendment approved by, worked on, and assisted in drafting and supported at this time by the Pennsylvania Bankers Association and the Pennsylvania savings institutions. I asked representatives of those groups to meet with me at noon today because removing the superlien completely I thought was unfair to the Superfund contributors. It was unfair to them because they had to come in, clean up the site, and make a banker's lien more viable, and I did not think that was right unless the banker at least took minimum steps in protecting his interest before the lending was made, and we made the requirements such that I think that the banks and the savings institutions can live with them and they have indicated so much.

Would they rather have nothing to live by? Certainly they would rather have nothing to live by, but I am not so sure that that statement is even correct, because I know that many of them, most of them, are very good citizens of this Commonwealth and are as concerned with hazardous waste cleanup,

although they are not necessarily involved with generating the same, they are concerned with the environment, that Pennsylvania is a good place to live, that Pennsylvania is a good place to work, that Pennsylvania is a good place for people to earn money so they can put it in those institutions.

I think the responsible members and their representatives of those groups have said to us, as long as you do not burden us with something that we cannot do and as long as you do not cost us an awful lot of money, we are willing to take the minimum steps, and that is all this amendment is doing. I think for anyone to indicate that there are going to be thousands and thousands of dollars involved, I think, is erroneous. I do not think anyone expects that. I do not view this amendment as requiring that.

Mr. Speaker, again I ask for an affirmative vote on the amendment.

The SPEAKER. For the second time on the amendment, the Chair recognizes the gentleman from Montgomery, Mr. Lashinger.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, Mr. Manderino made me think of an example in his first comment where he said that we would be abandoning the taxpayers of the Commonwealth by not offering them the opportunity to guarantee the commitment that they were making under the Superfund program. I disagree with the gentleman, and I can think of an example where we are doing just the opposite.

A lot of our steel plants, a lot of our old textile mills that are abandoned today and we are attempting to rehabilitate are in situations—I can think specifically of one in Phoenixville, the Phoenix Steel plant; I can think of the Paoli freight yard where the PCB (polychlorinated biphenyl) problem existed; I can think of the Rohm And Haas facility where there is hazardous waste that existed on that site from past practices, where those facilities— And the steel plant is probably the best example, the abandoned steel mill that is attempting to get financing for a new startup - maybe it is for plate, maybe it is for some specialty steel, maybe it is for a whole new process, maybe it is for the creation of a shopping mall in that old steel plant - but where the superlien concept is imposed, where a facility in that situation is attempting to get financing to do this new thing to create jobs, to enhance the tax base, it will be very difficult if not impossible with this concept, even the compromise concept in place, for those facilities that we are attempting to revive—and a lot of those facilities are in Democratic districts—for those facilities to rise again because of the inability to gain financing for those types of projects.

The best example is the Phoenix Steel plant that they are attempting to revive for specialty steel purposes in Phoenixville where financing became the number-one problem for reviving that facility. I cannot imagine any conventional lender coming in with this concept on board and offering financing where they know essentially the pollution exists and they are tossing their dollars to the wind. It is a senseless commitment on the part of any lender where they know that their commitment is going to go out the window; it

is not secured. It is virtually unsecured because of the magnitude of the problem, the cost of the problem in hazardous waste cleanup. So in terms of economic development, that is another way of looking at this problem.

With this concept we will impede economic development in districts where, because of past practices at various mills and plants, hazardous substances exist on the site, and in most cases, because of the reckless nature we employed back then, that problem exists. I cannot imagine lenders getting involved in situations like that. We will have been responsible. That is why I made the comment that we should adopt the Reber amendment subsequent to voting down the Wozniak amendment.

I would once again for those reasons, for the economic development reasons, ask for opposition of the Wozniak amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, it is interesting how all the members of the Assembly who had heard from bankers and lending institutions have now shifted their emphasis, since we have satisfied that problem, to jobs and how we are going to stifle jobs in Pennsylvania. Nobody is more interested in economic development than the majority leader and members of his caucus and many other members in here. We are interested in economic development; we are not interested in stifling it. We are concerned that without some mechanism we will drain the fund and dissipate the Superfund in cases where we should not. We are not.

In fact, the problem that we solved really is the problem of the steel plant sites in western Pennsylvania and the heavy industrial sites in other areas of the Commonwealth that certainly we are all looking for future development of, and we do not want to stifle any lending that can occur on those sites and with those sites. But by the same token, we have achieved, I think, a compromise that protects the ability for lenders to engage in developing those sites along with developers without dissipating the fund, at least to the extent that we make minimal inquiry, and we do not put our head in the sand, that we do not just close our eyes and say we know that that is a bad site and it is going to have to be cleared up but let us lend them \$6 million anyway because we are protected; if it has to be cleaned up, we will not have to clean it up; we will not even have our lien affected; the Superfund will clean it up, those taxpayers will.

I ask you, please, vote for the Wozniak amendment and reject the concept of removing the superlien in its entirety. The Wozniak amendment is reasonable; it is a compromise; it is supported by those who are in the business. I think those who are in the business of lending in development situations can best determine whether or not we are hampering them with this amendment, and they do not believe they are being hurt in lending situations. It is something that is reasonable.

I ask for an affirmative vote.

The SPEAKER. The Chair recognizes the gentleman from Franklin, Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

I rise to support the Wozniak amendment. The last words spoken by the majority leader I think make the most sense, and that is that what we have achieved is a reasonable compromise on this issue. It is also good to hear the majority leader speaking in such high terms about the financial institutions in Pennsylvania. I hope that I can count on that sort of support in that regard in the future.

But besides that, I think that where we were on this issue earlier in terms of the superlien, where the first amendment would have taken us and then back where Representative Reber wants to take us after this, are the far ends of the spectrum. I think what Representative Wozniak has achieved through working in this day—and let me say that I have been involved in some of the discussions, too—the majority leader is right. This does not please every segment of the business community, this does not please every segment of the environmental community either, but it is a reasonable compromise; it is a place from which we can work.

The bill obviously has to go to the Senate and it will obviously end up in a conference committee, but rather than taking one far end of the spectrum on this issue, let us achieve this compromise, let us give the financial institutions a working center from which they can work, and let us also give the taxpayers of the Commonwealth a break in terms of the Superfund which this amendment also provides for.

Reasonable compromise is what we seek to achieve in this body when dealing with amendments of this nature. I think that after today's efforts in dealing with the various groups that are interested in this legislation, we have achieved that compromise.

I urge your support then for this, the best Wozniak amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Cambria, Mr. Wozniak, for the second time.

Mr. WOZNIAK. Very quickly.

I would appreciate an affirmative vote on this amendment. What we have done is we have worked on this amendment. For those financial institutions and those entities that are interested in borrowing money from those financial institutions, we have given an opportunity that those people who act in good faith, with conscientious, legal, and proper business sense, will have no problem dealing with this hazardous waste package, will have no problem with the superlien because it will not affect them. We have also protected the integrity of residential properties and those mortgages so that when we move up to the secondary mortgage market, the integrity of those mortgages is protected so that that market is still available. We have allowed the banks to be able to involve themselves; if a company has financial troubles, to give them advice and to help work them through their problems so that they can stand solidly on their feet so they do not go bankrupt.

This is a good compromise amendment. It is the new improved and palatable Wozniak amendment, and I would appreciate an affirmative vote. Thank you very much.

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

The following roll call was recorded:

YEAS—171

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Dininni    | Kosinski  | Punt          |
| Angstadt    | Distler    | Kukovich  | Raymond       |
| Argall      | Dombrowski | LaGrotta  | Reinard       |
| Arty        | Donatucci  | Langtry   | Rieger        |
| Barley      | Dorr       | Leh       | Ritter        |
| Battisto    | Duffy      | Lescovitz | Robbins       |
| Belardi     | Durham     | Letterman | Roebuck       |
| Belfanti    | Evans      | Levdansky | Rudy          |
| Billow      | Fargo      | Linton    | Rybak         |
| Birmelin    | Farmer     | Livengood | Saloom        |
| Black       | Fattah     | Lloyd     | Scheetz       |
| Blaum       | Fee        | Lucyk     | Schuler       |
| Bortner     | Flick      | McCall    | Semmel        |
| Bowley      | Freeman    | McClatchy | Seventy       |
| Brandt      | Freind     | McHale    | Showers       |
| Broujos     | Gallen     | Maine     | Smith, B.     |
| Burd        | Gamble     | Manderino | Smith, S. H.  |
| Burns       | Gannon     | Manmiller | Snyder, G.    |
| Bush        | Geist      | Markosek  | Staback       |
| Caltagirone | Gladeck    | Mayernik  | Steighner     |
| Cappabianca | Godshall   | Melio     | Stuban        |
| Carlson     | Gruitza    | Merry     | Sweet         |
| Carn        | Gruppo     | Michlovic | Taylor, E. Z. |
| Cawley      | Haluska    | Micozzie  | Taylor, F.    |
| Cessar      | Harper     | Moehlmann | Taylor, J.    |
| Chadwick    | Hasay      | Morris    | Tigue         |
| Civera      | Hayden     | Mowery    | Trello        |
| Clark       | Hayes      | Mrkoncic  | Van Horne     |
| Clymer      | Herman     | Murphy    | Veon          |
| Cohen       | Hess       | Nahill    | Vroon         |
| Colafella   | Howlett    | O'Brien   | Wambach       |
| Cole        | Hughes     | Olasz     | Wass          |
| Cornell     | Hutchinson | Oliver    | Weston        |
| Corrigan    | Itkin      | Perzel    | Wiggins       |
| Cowell      | Jackson    | Petrarca  | Wogan         |
| Coy         | Jadlowiec  | Petrone   | Wozniak       |
| DeLuca      | Jarolin    | Phillips  | Wright, D. R. |
| DeVerter    | Johnson    | Piccola   | Wright, J. L. |
| DeWeese     | Josephs    | Pievsky   | Wright, R. C. |
| Daley       | Kasunic    | Pistella  | Yandrisevits  |
| Davies      | Kennedy    | Pitts     |               |
| Dawida      | Kenny      | Pressmann | Irvis,        |
| Dempsey     | Kitchen    | Preston   | Speaker       |
| Dietterick  |            |           |               |

NAYS—19

|         |         |           |               |
|---------|---------|-----------|---------------|
| Book    | Fox     | Lashinger | Saurman       |
| Bowser  | George  | Noye      | Serafini      |
| Boyes   | Hagarty | O'Donnell | Snyder, D. W. |
| Bunt    | Heckler | Reber     | Stairs        |
| Fischer | Hershey | Ryan      |               |

NOT VOTING—3

|        |            |          |
|--------|------------|----------|
| Foster | Richardson | Sirianni |
|--------|------------|----------|

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS—193

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Distler    | Kosinski  | Reinard       |
| Angstadt    | Dombrowski | Kukovich  | Richardson    |
| Argall      | Donatucci  | LaGrotta  | Rieger        |
| Arty        | Dorr       | Langtry   | Ritter        |
| Barley      | Duffy      | Lashinger | Robbins       |
| Battisto    | Durham     | Leh       | Roebuck       |
| Belardi     | Evans      | Lescovitz | Rudy          |
| Belfanti    | Fargo      | Letterman | Ryan          |
| Billow      | Farmer     | Levdansky | Rybak         |
| Birmelin    | Fattah     | Linton    | Saloom        |
| Black       | Fee        | Livengood | Saurman       |
| Blaum       | Fischer    | Lloyd     | Scheetz       |
| Book        | Flick      | Lucyk     | Schuler       |
| Bortner     | Foster     | McCall    | Semmel        |
| Bowley      | Fox        | McClatchy | Serafini      |
| Bowser      | Freeman    | McHale    | Seventy       |
| Boyes       | Freind     | Maine     | Showers       |
| Brandt      | Gallen     | Manderino | Sirianni      |
| Broujos     | Gamble     | Manmiller | Smith, B.     |
| Burd        | Gannon     | Markosek  | Smith, S. H.  |
| Burns       | Geist      | Mayernik  | Snyder, D. W. |
| Bush        | George     | Melio     | Snyder, G.    |
| Caltagirone | Gladeck    | Merry     | Staback       |
| Cappabianca | Godshall   | Michlovic | Stairs        |
| Carlson     | Gruitza    | Micozzie  | Steighner     |
| Carn        | Gruppo     | Moehlmann | Stuban        |
| Cawley      | Hagarty    | Morris    | Sweet         |
| Cessar      | Haluska    | Mowery    | Taylor, E. Z. |
| Chadwick    | Harper     | Mrkoncic  | Taylor, F.    |
| Civera      | Hasay      | Murphy    | Taylor, J.    |
| Clymer      | Hayden     | Nahill    | Tigue         |
| Cohen       | Hayes      | Noye      | Trello        |
| Colafella   | Heckler    | O'Brien   | Van Horne     |
| Cole        | Herman     | O'Donnell | Veon          |
| Cornell     | Hershey    | Olasz     | Vroon         |
| Corrigan    | Hess       | Oliver    | Wambach       |
| Cowell      | Howlett    | Perzel    | Wass          |
| Coy         | Hughes     | Petrarca  | Weston        |
| DeLuca      | Hutchinson | Petrone   | Wiggins       |
| DeVerter    | Itkin      | Phillips  | Wogan         |
| DeWeese     | Jackson    | Piccola   | Wozniak       |
| Daley       | Jadlowiec  | Pievsky   | Wright, D. R. |
| Davies      | Johnson    | Pistella  | Wright, J. L. |
| Dawida      | Josephs    | Pitts     | Wright, R. C. |
| Dempsey     | Kasunic    | Pressmann | Yandrisevits  |
| Dietterick  | Kennedy    | Preston   |               |
| Dininni     | Kenny      | Punt      | Irvis,        |
|             | Kitchen    | Raymond   | Speaker       |
|             |            | Reber     |               |

NAYS—0

NOT VOTING—0

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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.

REMARKS ON VOTE

The SPEAKER. Why does the gentleman from Philadelphia, Mr. Richardson, rise?

Mr. RICHARDSON. Mr. Speaker, I would like to have a correction on the vote on amendment A3013 to HB 1852. I was not recorded, and I would like to be recorded in the affirmative.

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

We will take further corrections at a later time.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of HB 1394, PN 2709, entitled:

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," further providing for powers and duties of the department, the Environmental Quality Board and the Environmental Hearing Board, for the management of hazardous waste, for permits and licenses and for enforcement; establishing the Host Municipalities Fund and providing for its administration; and making an appropriation.

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

Mr. GEORGE offered the following amendments No. A2944:

Amend Sec. 13, page 52, line 25, by inserting after "605" , 606(f), 609, 617

Amend Sec. 13, page 54, by inserting between lines 18 and 19 Section 606. Criminal penalties.

\*\*\*

(f) Any person who stores, transports, treats, or disposes of hazardous waste within the Commonwealth in violation of section 401, section 610(l) through (6) or section 610(8) and (9), or in violation of any order of the department shall be guilty of a felony of the second degree and, upon conviction, shall be sentenced to pay a fine of not less than \$2,500 but not more than \$100,000 per day for each violation or to imprisonment for not less than two years but not more than ten years, or both.

\*\*\*

Section 609. Search warrants.

An agent or employee of the department may apply for a search warrant to any Commonwealth official authorized to issue a search warrant for the purposes of [inspecting or examining] searching any property, building, premise[,] or place, of seizing any book, record or other physical evidence, of conducting tests, or of taking samples of any solid waste. Such warrant shall be issued upon probable cause. It shall be sufficient probable cause to show any of the following:

(1) that the [inspection, examination] search, seizure, test, or sampling is pursuant to a general administrative plan to determine compliance with this act;

(2) that the agent or employee has reason to believe that a violation of this act has occurred or may occur; or

(3) that the agent or employee has been refused access to the property, building, premise[,] or place, has been refused possession of any book, record or physical evidence, or has been prevented from conducting tests or taking samples.

Section 617. Limitation on action.

The provisions of any other statute to the contrary not withstanding, actions for civil or criminal penalties, and civil actions for activities governed under this act may be commenced at any time within a period of 20 years from the date the offense is discovered.

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

The SPEAKER. The gentleman from Clearfield, Mr. George, is recognized on the amendment.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is identical to the amendment that was placed into the previous bill that we just passed. It allows the inspector or the employee the opportunity to be able to put his hands on records that will be all-important for him to establish exactly what is going on at these sites.

I would urge that we adopt this amendment.

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

The following roll call was recorded:

YEAS—188

Table with 4 columns of names: Acosta, Angstadt, Argall, Arty, Barley, Battisto, Belardi, Belfanti, Billow, Birmelin, Black, Blaum, Book, Bortner, Bowley, Bowser, Boyes, Brandt, Broujos, Bunt, Burd, Burns, Bush, Caltagirone, Cappabianca, Carlson, Cawley, Cessar, Chadwick, Civera, Clark, Clymer, Cohen, Colafella, Cole, Cornell, Corrigan, Cowell, Coy, DeLuca, DeVerter, DeWeese, Daley, Davies, Dawida, Dempsey, Diatterick, Dininni, Distler, Dombrowski, Donatucci, Dorr, Duffy, Durham, Evans, Fargo, Farmer, Fattah, Fee, Fischer, Flick, Foster, Fox, Freeman, Freind, Gallen, Gamble, Gannon, Geist, George, Gladeck, Godshall, Gruitza, Gruppo, Hagarty, Haluska, Harper, Hasay, Hayden, Hayes, Heckler, Herman, Hershey, Hess, Howlett, Hughes, Hutchinson, Itkin, Jackson, Jadowiec, Jarolin, Johnson, Kasunic, Kennedy, Kenney, Kitchen, Kosinski, Kukovich, LaGrotta, Lashinger, Leh, Lescovitz, Letterman, Levdansky, Linton, Livengood, Lloyd, Lucyk, McCall, McClatchy, McHale, Maine, Manderino, Manmiller, Markosek, Mayernik, Melio, Merry, Michlovic, Micozzie, Moehlmann, Morris, Mowery, Mrkonic, Murphy, Nahill, Noye, O'Brien, O'Donnell, Olasz, Oliver, Perzel, Petrarca, Petrone, Phillips, Piccola, Pievsky, Pistella, Pitts, Pressmann, Preston, Punt, Raymond, Reinard, Richardson, Rieger, Ritter, Robbins, Roebuck, Rudy, Ryan, Rybak, Saloom, Scheetz, Schuler, Semmel, Serafini, Seventy, Showers, Sirianni, Smith, B., Smith, S. H., Snyder, D. W., Snyder, G., Staback, Stairs, Steighner, Stuban, Sweet, Taylor, E. Z., Taylor, F., Taylor, J., Tigre, Trello, Van Horne, Veon, Vroon, Wambach, Wass, Weston, Wiggins, Wogan, Wozniak, Wright, D. R., Wright, J. L., Wright, R. C., Yandrisevits, Irvis, Speaker



NAYS—0

NOT VOTING—5

|         |         |       |         |
|---------|---------|-------|---------|
| Carn    | Langtry | Reber | Saurman |
| Josephs |         |       |         |

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question,

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

Mr. STEIGHNER offered the following amendment No. A2943:

Amend Sec. 11, page 45, by inserting between lines 19 and 20 Section 509. Completeness review.

(a) General rule.—After receipt of a permit application to operate a hazardous waste storage, treatment or disposal facility, the department shall determine whether the application is administratively complete. If the application is not administratively complete, the department shall, within 90 days of receipt of the application, return it to the applicant, along with a written statement of the specific information which is required to make the application administratively complete.

(b) Review period.—The department shall either issue or deny a permit application to operate a hazardous waste storage, treatment or disposal facility within 18 months of the date of the determination by the department that the application is administratively complete.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Butler, Mr. Steighner.

Mr. STEIGHNER. Thank you, Mr. Speaker.

Mr. Speaker, this amendment sets a time period for the review of a permit application. The timetable obviously would protect the operator as well as the public itself. Also, the language very closely parallels the language that we had in the recycling bill, which was SB 528, about a week, week and a half ago.

I would ask for the approval of the House.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Levdansky, on the amendment.

Mr. LEVDANSKY. I agree with the speaker's comments and urge the adoption of the amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George, on the amendment.

Mr. GEORGE. Mr. Speaker, the timeframe insisted upon by this amendment I am sure is acceptable, and the department can work within that timeframe.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—189

|             |            |            |               |
|-------------|------------|------------|---------------|
| Angstadt    | Distler    | Kukovich   | Richardson    |
| Argall      | Dombrowski | LaGrotta   | Rieger        |
| Arty        | Donatucci  | Langtry    | Ritter        |
| Barley      | Dorr       | Lashingier | Robbins       |
| Battisto    | Duffy      | Leh        | Roebuck       |
| Belardi     | Durham     | Lescovitz  | Rudy          |
| Belfanti    | Evans      | Letterman  | Ryan          |
| Billow      | Fargo      | Levdansky  | Rybak         |
| Birmelin    | Farmer     | Linton     | Saloom        |
| Black       | Fee        | Livengood  | Saurman       |
| Blaum       | Fischer    | Lloyd      | Scheetz       |
| Book        | Flick      | Lucyk      | Schuler       |
| Bortner     | Foster     | McCall     | Semmel        |
| Bowley      | Fox        | McClatchy  | Serafini      |
| Bowser      | Freeman    | McHale     | Seventy       |
| Boyes       | Freind     | Maine      | Showers       |
| Brandt      | Gallen     | Manderino  | Sirianni      |
| Broujos     | Gamble     | Manmiller  | Smith, B.     |
| Bunt        | Gannon     | Markosek   | Smith, S. H.  |
| Burd        | Geist      | Mayernik   | Snyder, D. W. |
| Burns       | George     | Melio      | Snyder, G.    |
| Bush        | Gladeck    | Merry      | Staback       |
| Caltagirone | Godshall   | Michlovic  | Stairs        |
| Cappabianca | Gruitza    | Micozzi    | Steighner     |
| Carlson     | Gruppo     | Moehlmann  | Stuban        |
| Carn        | Hagarty    | Morris     | Sweet         |
| Cawley      | Haluska    | Mowery     | Taylor, E. Z. |
| Cessar      | Harper     | Mrkonic    | Taylor, F.    |
| Chadwick    | Hasay      | Murphy     | Taylor, J.    |
| Civera      | Hayes      | Nahill     | Tigue         |
| Clark       | Heckler    | Noye       | Trello        |
| Clymer      | Herman     | O'Brien    | Van Horne     |
| Cohen       | Hershey    | O'Donnell  | Veon          |
| Colafella   | Hess       | Olasz      | Vroon         |
| Cole        | Howlett    | Oliver     | Wambach       |
| Cornell     | Hughes     | Perzel     | Wass          |
| Corrigan    | Hutchinson | Petrarca   | Weston        |
| Cowell      | Itkin      | Petrone    | Wiggins       |
| Coy         | Jackson    | Phillips   | Wogan         |
| DeLuca      | Jadlowiec  | Piccola    | Wozniak       |
| DeVerter    | Jarolin    | Pievsky    | Wright, D. R. |
| DeWeese     | Johnson    | Pistella   | Wright, J. L. |
| Daley       | Josephs    | Pitts      | Wright, R. C. |
| Davies      | Kasunic    | Pressmann  | Yandrisevits  |
| Dawida      | Kennedy    | Preston    |               |
| Dempsey     | Kenney     | Punt       | Irvis,        |
| Dietterick  | Kitchen    | Raymond    | Speaker       |
| Dininni     | Kosinski   | Reinard    |               |

NAYS—0

NOT VOTING—4

|        |        |        |       |
|--------|--------|--------|-------|
| Acosta | Fattah | Hayden | Reber |
|--------|--------|--------|-------|

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

On the question recurring,

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

Mr. LEVDANSKY offered the following amendments No. A2942:

Amend Sec. 1, page 26, line 18, by striking out "102(10)" and inserting

102(4)

Amend Sec. 1 (Sec. 102), page 26, by inserting between lines 28 and 29

(4) protect the public health, safety and welfare from the short and long term dangers of transportation, processing,

treatment, storage, [and] disposal, recycling and improper uses of all wastes;

\*\*\*

Amend Sec. 1 (Sec. 102), page 26, line 29, by striking out the bracket before "IMPLEMENT"

Amend Sec. 1 (Sec. 102), page 26, line 30, by inserting a bracket before "AND"

Amend Sec. 1 (Sec. 102), page 26, line 30; page 27, lines 1 through 3 by striking out "REDUCE OVERALL USE OF TOXIC" in line 30, page 26 and all of lines 1 through 3, page 27

Amend Sec. 1 (Sec. 102), page 27, line 6, by inserting after "PROGRAM"

including source reduction, waste minimization, beneficial reuse, materials recovery and recycling of solid wastes

Amend Sec. 1 (Sec. 102), page 27, line 15, by inserting after "WASTE"

and to encourage recycling and beneficial uses of solid wastes in a manner protective of human health and the environment

Amend Bill, page 27, by inserting between lines 18 and 19

Section 2. The definitions of "hazardous waste," "processing" and "treatment" in section 103 are amended and the section is amended by adding definitions to read:

Section 103. Definitions.

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

\*\*\*

"Beneficial use." The use of any waste for other than its original purpose or the process that generated it, and where such use does not harm or present a threat of harm to the health and welfare to the people and environment of the Commonwealth.

\*\*\*

"Discard." To relinquish possession, whether by abandonment, disposal or transfer to another.

\*\*\*

"Hazardous waste." Any garbage, refuse, sludge from an industrial or other waste water treatment plant, sludge from a water supply treatment plant, or air pollution control facility and other discarded material or other waste including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities, or any combination of the above, (but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880) or source, special nuclear, or by-product material as defined by the U.S. Atomic Energy Act of 1954, as amended (68 Stat. 923)), which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or

(2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

The term "hazardous waste" shall not include coal refuse as defined in the act of September 24, 1968 (P.L.1040, No.318), known as the "Coal Refuse Disposal Control Act." "Hazardous waste" shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law."

\*\*\*

"Processing." Any technology used for the purpose of reducing the volume or bulk of municipal or residual waste or any technology used to convert part or all of such waste materials for [off-site reuse] beneficial use or recycling. Processing facilities include but are not limited to transfer facilities, composting facilities, and resource recovery facilities.

"Recycling." The reclamation or processing of a waste to return it to a form suitable for use in its original purpose, reuse in the process that generated it or other beneficial use.

\*\*\*

"Treatment." Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, suitable for recovery, [suitable for] beneficial use, or storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of waste so as to render it neutral or nonhazardous.

"Waste." Any garbage, refuse, spent material, by-product or other material that is no longer of use to its owner; whether discarded, transferred to another or collected or stored in anticipation of disposal or transfer. A material is a waste whether or not it has some value to the person or municipality receiving it or whether or not the generator receives consideration for its transfer.

Amend Sec. 2, page 27, line 19, by striking out "2" and inserting

3

Amend Sec. 2, page 27, line 19, by striking out "104(16)" and inserting

104(6), (16)

Amend Sec. 2 (Sec. 104), page 27, by inserting between lines 25 and 26

(6) regulate the storage, collection, transportation, processing, treatment, beneficial use, recycling, source reduction, minimization and disposal of solid waste;

\*\*\*

Amend Sec. 2 (Sec. 104), page 29, by inserting between lines 11 and 12

(19) Issue general permits for any category of recycling or beneficial uses of solid waste, on a regional or Statewide basis, in accordance with rules adopted by the Environmental Quality Board, if the department determines that the operations in the category are similar in nature and can be adequately regulated utilizing standardized specifications and conditions. General permits shall specify the design, operating and monitoring conditions as are necessary to adequately protect life, health, property and the environment, under which the operations may be conducted without applying for and obtaining individual permits. The department may require the registration of any activity carried out or planned pursuant to a general permit. All general permits shall be published in the Pennsylvania Bulletin 30 days prior to the effective date of the permit.

Amend Sec. 3, page 29, line 12, by striking out "3" and inserting

4

Amend Sec. 3 (Sec. 105), page 29, line 13, by striking out "A SUBSECTION" and inserting subsections

Amend Sec. 3 (Sec. 105), page 29, line 24, by inserting after "FOLLOWED"

after the effective date of those regulations

Amend Sec. 3 (Sec. 105), page 30, by inserting between lines 10 and 11

(1) The Environmental Quality Board shall have the power and its duty shall be to promulgate regulations to control and

encourage the beneficial use, source reduction, minimization and recycling of solid wastes. These regulations may, where necessary, include standards for the storage and transportation of wastes prior to use or recycling, prior restrictions on the use of materials before they become wastes and restrictions on the methods for use and recycling to assure that these activities are conducted in a manner that protects the health and welfare of the people and the environment and resources of the Commonwealth. To assure that these conditions are met, the board may require permits or licenses for these activities.

Amend Sec. 4, page 30, line 11, by striking out "4" and inserting

5

Amend Sec. 5, page 31, line 3, by striking out "5" and inserting

6

Amend Sec. 5 (Sec. 401), page 31, line 19, by striking out "AND" and inserting

or

Amend Sec. 5 (Sec. 401), page 31, by inserting between lines 19 and 20

(2) The person obtained ownership of the site before it was placed on the National Priority List or corresponding state list, and at the time of acquisition, the person could not have reasonably known that the site would be placed on the National Priority List or corresponding state list after making all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice; and

Amend Sec. 5 (Sec. 401), page 31, line 20, by striking out "(2)" and inserting

(3)

Amend Sec. 6, page 32, line 1, by striking out "6" and inserting

7

Amend Sec. 7, page 32, line 22, by striking out "7" and inserting

8

Amend Sec. 7 (Sec. 408), page 40, lines 8 and 9, by striking out all of said lines and inserting

(3) The maintenance of a 24-hour emergency reporting system for hazardous waste emergencies by the Pennsylvania Emergency Management Agency.

(4) The department shall establish procedures for the public to obtain hazardous waste information during normal office hours.

Amend Sec. 7 (Sec. 408), page 40, line 10, by striking out "(4)" and inserting

(5)

Amend Sec. 7 (Sec. 408), page 40, line 12, by striking out "(5)" and inserting

(6)

Amend Sec. 7 (Sec. 408), page 40, line 14, by striking out "(6)" and inserting

(7)

Amend Sec. 7 (Sec. 408), page 40, line 16, by striking out "(7)" and inserting

(8)

Amend Sec. 7 (Sec. 408), page 40, line 17, by striking out "ON-SITE" and inserting

State response

Amend Sec. 7 (Sec. 408), page 40, line 18, by striking out "(8)" and inserting

(9)

Amend Sec. 7 (Sec. 408), page 40, lines 21 and 22, by striking out "HAVE EMERGENCY RESPONSE AS THEIR PRINCIPAL DUTIES" and inserting

provide technical assistance and recommendations for emergency response

Amend Sec. 8, page 40, line 27, by striking out "8" and inserting

9

Amend Sec. 9, page 41, line 16, by striking out "9" and inserting

10

Amend Sec. 9 (Sec. 503), page 42, line 24, by inserting after "REMOVED;"

or

Amend Sec. 10, page 43, line 2, by striking out "10" and inserting

11

Amend Sec. 11, page 45, line 19, by striking out "11" and inserting

12

Amend Sec. 12, page 51, line 9, by striking out "12" and inserting

13

Amend Sec. 12 (Sec. 604), page 51, line 15, by striking out "A CIVIL" and inserting

an

Amend Sec. 12 (Sec. 604), page 51, lines 17 and 18, by striking out "OTHER THAN THE DEPARTMENT"

Amend Sec. 12 (Sec. 604), page 51, line 19, by inserting after "NOTWITHSTANDING,"

the Environmental Hearing Board shall have jurisdiction of such actions against the department and

Amend Sec. 12 (Sec. 604), page 51, line 21, by inserting after "ACTIONS"

against other persons

Amend Sec. 13, page 52, line 25, by striking out "13" and inserting

14

Amend Sec. 13, page 52, line 25, by striking out "AND 701(A)" and inserting

, 606(f), 609, 617 and 701(a)

Amend Sec. 13 (Sec. 701), page 54, line 20, by inserting after "FINES,"

fees,

Amend Sec. 14, page 55, line 2, by striking out "14" and inserting

15

Amend Bill, page 55, by inserting between lines 14 and 15

Section 16. The definitions of "coal ash" and "drill cuttings" and the last sentence in the definition of "solid waste" in section 103 of the act, and section 508 of the act are repealed as of the effective date of the beneficial use regulations for these activities promulgated under this act.

Amend Sec. 15, page 55, line 15, by striking out "15" and inserting

17

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Levdansky.

Mr. LEVDANSKY. Mr. Speaker, this amendment is the result of hearings conducted by the Conservation Committee and the testimony that was given.

The amendment basically provides for three things. In the first part of the amendment there is language to encourage recycling and beneficial use of hazardous materials. It provides that the Department of Environmental Resources will

promulgate regulations to utilize these materials and guarantee that their implementation will be done in a safe manner that will not threaten the environment.

The second part of the amendment has language to provide for another exemption from what has been called the permit-block provisions of HB 1394. The provision in this amendment will provide that a person who obtains ownership after the site was placed on an NPL (national priority list) list or a corresponding State list, that if the person could not have reasonably known that the site would be placed on the NPL list and if they can prove that, it will be another exemption from the permit-block provisions.

The final provision of this amendment contains language for a citizen-suit provision. This language is modeled after the citizen-suit language contained in the low-level radioactive waste bill and also the solid waste bill which we passed a couple of weeks ago.

Those are the three provisions contained in this amendment, and I would urge adoption by the members.

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

The following roll call was recorded:

YEAS—190

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Dininni    | Kukovich  | Reinard       |
| Angstadt    | Distler    | LaGrotta  | Richardson    |
| Argall      | Dombrowski | Langtry   | Rieger        |
| Arty        | Donatucci  | Lashinger | Ritter        |
| Barley      | Dorr       | Leh       | Robbins       |
| Battisto    | Duffy      | Lescovitz | Roebuck       |
| Belardi     | Durham     | Letterman | Rudy          |
| Belfanti    | Evans      | Levdansky | Ryan          |
| Billow      | Fargo      | Linton    | Rybak         |
| Birmelin    | Farmer     | Livengood | Saloom        |
| Black       | Fee        | Lloyd     | Saurman       |
| Blaum       | Fischer    | Lucyk     | Scheetz       |
| Book        | Flick      | McCall    | Schuler       |
| Bortner     | Foster     | McClatchy | Semmel        |
| Bowley      | Fox        | McHale    | Serafini      |
| Bowser      | Freeman    | Maine     | Seventy       |
| Boyes       | Freind     | Manderino | Showers       |
| Brandt      | Gallen     | Manmiller | Sirianni      |
| Broujos     | Gamble     | Markosek  | Smith, B.     |
| Bunt        | Gannon     | Mayernik  | Smith, S. H.  |
| Burd        | Geist      | Melio     | Snyder, D. W. |
| Burns       | George     | Merry     | Snyder, G.    |
| Bush        | Gladeck    | Michlovic | Staback       |
| Caltagirone | Godshall   | Micozzie  | Stairs        |
| Cappabianca | Gruitza    | Moehlmann | Steighner     |
| Carlson     | Gruppo     | Morris    | Suban         |
| Carn        | Hagarty    | Mowery    | Sweet         |
| Cawley      | Haluska    | Mrkonic   | Taylor, E. Z. |
| Cessar      | Harper     | Murphy    | Taylor, F.    |
| Chadwick    | Hasay      | Nahill    | Taylor, J.    |
| Civera      | Hayes      | Noye      | Tigue         |
| Clark       | Heckler    | O'Brien   | Trello        |
| Clymer      | Herman     | O'Donnell | Van Horne     |
| Cohen       | Hershey    | Olasz     | Veon          |
| Colafella   | Hess       | Oliver    | Vroon         |
| Cole        | Howlett    | Perzel    | Wambach       |
| Cornell     | Hughes     | Petrarca  | Wass          |
| Corrigan    | Hutchinson | Petrone   | Weston        |
| Cowell      | Itkin      | Phillips  | Wiggins       |
| Coy         | Jackson    | Piccola   | Wogan         |
| DeLuca      | Jadlowiec  | Pievsky   | Wozniak       |
| DeVerter    | Jarolin    | Pistella  | Wright, D. R. |
| DeWeese     | Johnson    | Pitts     | Wright, J. L. |
| Daley       | Josephs    | Pressmann | Wright, R. C. |

|            |          |         |              |
|------------|----------|---------|--------------|
| Davies     | Kasunic  | Preston | Yandrisevits |
| Dawida     | Kennedy  | Punt    |              |
| Dempsey    | Kitchen  | Raymond | Irvis,       |
| Dietterich | Kosinski | Reber   | Speaker      |

NAYS—0

NOT VOTING—3

|        |        |        |
|--------|--------|--------|
| Fattah | Hayden | Kenney |
|--------|--------|--------|

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS—192

|             |            |           |               |
|-------------|------------|-----------|---------------|
| Acosta      | Distler    | Kosinski  | Reber         |
| Angstadt    | Dombrowski | Kukovich  | Reinard       |
| Argall      | Donatucci  | LaGrotta  | Richardson    |
| Arty        | Dorr       | Langtry   | Rieger        |
| Barley      | Duffy      | Lashinger | Ritter        |
| Battisto    | Durham     | Leh       | Robbins       |
| Belardi     | Evans      | Lescovitz | Roebuck       |
| Belfanti    | Fargo      | Letterman | Rudy          |
| Billow      | Farmer     | Levdansky | Ryan          |
| Birmelin    | Fattah     | Linton    | Rybak         |
| Black       | Fee        | Livengood | Saloom        |
| Blaum       | Fischer    | Lloyd     | Saurman       |
| Book        | Flick      | Lucyk     | Scheetz       |
| Bortner     | Foster     | McCall    | Schuler       |
| Bowley      | Fox        | McClatchy | Semmel        |
| Bowser      | Freeman    | McHale    | Serafini      |
| Boyes       | Freind     | Maine     | Seventy       |
| Brandt      | Gallen     | Manderino | Showers       |
| Broujos     | Gamble     | Manmiller | Sirianni      |
| Bunt        | Gannon     | Markosek  | Smith, B.     |
| Burd        | Geist      | Mayernik  | Smith, S. H.  |
| Burns       | George     | Melio     | Snyder, D. W. |
| Bush        | Gladeck    | Merry     | Snyder, G.    |
| Caltagirone | Godshall   | Michlovic | Staback       |
| Cappabianca | Gruitza    | Micozzie  | Stairs        |
| Carlson     | Gruppo     | Moehlmann | Steighner     |
| Carn        | Hagarty    | Morris    | Suban         |
| Cawley      | Haluska    | Mowery    | Taylor, E. Z. |
| Cessar      | Harper     | Mrkonic   | Taylor, F.    |
| Chadwick    | Hasay      | Murphy    | Taylor, J.    |
| Civera      | Hayden     | Nahill    | Tigue         |
| Clark       | Hayes      | Noye      | Trello        |
| Clymer      | Heckler    | O'Brien   | Van Horne     |
| Cohen       | Herman     | O'Donnell | Veon          |
| Colafella   | Hershey    | Olasz     | Vroon         |
| Cole        | Hess       | Oliver    | Wambach       |
| Cornell     | Howlett    | Perzel    | Wass          |
| Corrigan    | Hughes     | Petrarca  | Weston        |
| Cowell      | Hutchinson | Petrone   | Wiggins       |
| Coy         | Itkin      | Phillips  | Wogan         |
| DeLuca      | Jackson    | Piccola   | Wozniak       |
| DeVerter    | Jadlowiec  | Pievsky   | Wright, D. R. |
| DeWeese     | Jarolin    | Pistella  | Wright, J. L. |
| Daley       | Johnson    | Pitts     | Wright, R. C. |
| Davies      | Josephs    | Pressmann | Yandrisevits  |
| Dawida      | Kasunic    | Preston   |               |

|            |         |         |         |
|------------|---------|---------|---------|
| Dempsey    | Kennedy | Punt    | Irvis,  |
| Dietterick | Kenney  | Raymond | Speaker |
| Dininni    | Kitchen |         |         |

NAYS—0

NOT VOTING—1

Sweet

EXCUSED—4

|         |         |        |        |
|---------|---------|--------|--------|
| Honaman | McVerry | Maiale | Miller |
|---------|---------|--------|--------|

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.

\* \* \*

**HB 1395 PASSED OVER**

The SPEAKER. HB 1395, PN 3340. The Chair recognizes the gentleman from Clearfield, Mr. George, who offers the following amendment, which the clerk will read.

The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, will you mark time with me for a minute. We may want to hold this up. I was under the mistaken impression that that amendment had been withdrawn. I am not sure that that is correct.

The SPEAKER. The House will stand at ease.

Mr. MANDERINO. Mr. Speaker, can we pass over this bill?

The SPEAKER. For the day?

Mr. MANDERINO. Yes.

The SPEAKER. Without objection, the bill is passed over.

We shall be meeting tomorrow at 10:30 in the morning, at 10:30 in the morning. There is no further business to be brought on the floor of the House.

**JUDICIARY COMMITTEE MEETING**

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

Mr. DeWEESE. Mr. Speaker, the House Judiciary Committee will meet at the immediate call of the recess or adjournment tomorrow. We will meet at lunchtime tomorrow in 22 Annex, in 22 Annex at lunchtime. Thank you.

The SPEAKER. Those people who wish to correct the record, please remain standing so we can recognize you.

**REMARKS ON VOTES**

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Robbins.

Mr. ROBBINS. Mr. Speaker, I would like to change my vote on amendment A2966 to HB 1852 from the affirmative to the negative.

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

The Chair recognizes the gentleman from York, Mr. Foster.

Mr. FOSTER. Mr. Speaker, on the Wozniak amendment A3013 to HB 1852, I distinctly remember pushing the green button, but my vote is not recorded in the affirmative. I would like to be recorded in the affirmative.

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

Mr. Bush, the Chair apologizes for not getting to your granddaughter. They left a little early. Tell her it is my fault, not hers.

The Chair recognizes the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Also on the Wozniak amendment A3013 to HB 1852, I would like to be recorded in the affirmative. Thank you.

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

The Chair recognizes the gentleman from Philadelphia, Mr. Acosta.

Mr. ACOSTA. On HB 1394, amendment A2943, I want to be recorded in the affirmative.

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

The Chair recognizes the gentleman from Schuylkill, Mr. Lucyk.

Mr. LUCYK. Mr. Speaker, on the Pitts amendment A2996 to HB 1852, I would like to be recorded in the negative.

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

The Chair recognizes the gentleman from Philadelphia, Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

On amendment A2943 to HB 1394, I would like to be recorded in the affirmative.

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

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

Mr. FOX. Mr. Speaker, on the Wozniak amendment A3013 to HB 1852, my vote should be in the affirmative.

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

Mr. FOX. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Gladeck.

Mr. GLADECK. Thank you, Mr. Speaker.

On HB 1852, amendment No. A2864, I would like to be recorded in the negative.

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

The Chair recognizes the gentleman from Erie, Mr. Boyes.

Mr. BOYES. Thank you, Mr. Speaker.

On the Wozniak amendment A3013 to HB 1852, I would like to be recorded in the affirmative.

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

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

**HB 68, PN 3430 (Amended)**

By Rep. RICHARDSON

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), known as the "Public Welfare Code," further providing for the computation of assistance payments.

HEALTH AND WELFARE.

**HB 281, PN 305**

By Rep. RICHARDSON

An Act establishing a Commission for Children.

HEALTH AND WELFARE.

**HB 973, PN 1070**

By Rep. RICHARDSON

An Act amending the act of June 29, 1953 (P. L. 304, No. 66), known as the "Vital Statistics Law of 1953," further providing for the medical certification for death certificates and for referrals to coroners.

HEALTH AND WELFARE.

**HB 1631, PN 2008**

By Rep. RICHARDSON

An Act providing direct reimbursement to providers for medical transportation services.

HEALTH AND WELFARE.

**HB 2307, PN 3059**

By Rep. RICHARDSON

An Act amending the act of December 18, 1980 (P. L. 1241, No. 224), known as the "Pennsylvania Cancer Control, Prevention and Research Act," further providing for the confidentiality of cancer registry records; and extending the sunset provision of the act.

HEALTH AND WELFARE.

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

**SB 1385, PN 2080**

By Rep. RICHARDSON

An Act providing for the establishment of a Family Preservation Program by the Department of Public Welfare; providing for grants to counties for programs enabling children who would otherwise be subject to out-of-home placement to remain at home; and making an appropriation.

HEALTH AND WELFARE.

**REMARKS ON VOTE**

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Kenney.

Mr. KENNEY. Mr. Speaker, to correct the record - to record a vote, actually.

On amendment A2942 to HB 1394, I would like to be recorded in the affirmative. Thank you.

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

**SUNSHINE NOTICE**

The SPEAKER. The clerk will read the notice of change in session time.

The following communication was read:

House of Representatives  
Commonwealth of Pennsylvania  
Harrisburg

**NOTICE  
SESSION TIME  
HOUSE OF REPRESENTATIVES**

Notice is hereby given, in accordance with the Act of July 3, 1986, P.L. 388, No. 84, that the House of Representatives will convene in open session in the Hall of the House on the following date and time:

Wednesday, June 8, 1988 at 10:30 a.m. instead of 11:00 a.m.

John J. Zubeck  
Chief Clerk  
House of Representatives

June 7, 1988

House of Representatives  
Commonwealth of Pennsylvania  
Harrisburg

I hereby certify that thirty copies of the foregoing notice were delivered to the Supervisor of the Newsroom of the State Capitol Building in Harrisburg, and a copy was also posted on the bulletin board outside the main entrance to the Chief Clerk's Office on the following date:

Wednesday, June 8, 1988 at 10:30 a.m. instead of 11:00 a.m.

John J. Zubeck  
Chief Clerk  
House of Representatives

June 7, 1988

**BILLS PASSED OVER**

The SPEAKER. Without objection, the remaining bills on today's calendar will be passed over. The Chair hears no objection.

**ADJOURNMENT**

The SPEAKER. There being no further business to be brought before this day's session, the Chair recognizes the lady from Allegheny, Mrs. Farmer.

Mrs. FARMER. Mr. Speaker, I move that this House do now adjourn until Wednesday, June 8, 1988, at 10:30 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 6:56 p.m., e.d.t., the House adjourned.