An Act Itemizing Fiscal Year 1992-1993 capital budget projects in the categories of highway projects and Fish Fund and Boat Fund projects to be constructed or acquired by the Department of Transportation or the Pennsylvania Fish and Boat Commission, together with their estimated financial costs; and stating the estimated useful life of the projects.

HB 734 (Pr. No. 3902)

An Act designating the section of L.R. 238, Spur C, in Mercer County, Pennsylvania, as the Nick Strimbu Jr., Industrial Corridor.

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, I would request a legislative leave for Senator Peterson, and a temporary Capitol leave for Senator Shaffer.

Senator FUMO. Mr. President, I have a request for a legislative leave for Senator Lynch for the rest of today's Session.

The PRESIDENT. Senator Loeper requests legislative leaves for Senator Peterson and Senator Shaffer.

Senator Fumo seeks to achieve legislative leave for Senator Lynch.

The Chair does not seem to hear any objections, and the leaves will be granted.

Senator LOEPER. Mr. President, may we be at ease for a moment?

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

LEGISLATIVE LEAVE

Senator LOEPER. Mr. President, I need an additional temporary Capitol leave on behalf of Senator Hopper, who has been called to his office.

The PRESIDENT. Senator Loeper requests a temporary Capitol leave for Senator Hopper. The Chair hears no objection. That leave will be granted.

SB 444 TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I move that Senate Bill No. 444, Printer's No. 471, be taken from the table and placed on a Supplemental Calendar.

The motion was agreed to.

The PRESIDENT. The bill will be placed on a Supplemental Calendar.

CONSIDERATION OF CALENDAR RESUMED

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 1000 (Pr. No. 2413) — The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, changing provisions relating to judicial discipline.

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 1000.

On the question,

Will the Senate agree to the motion?

Senator GREENLEAF. Mr. President, I rise in support of the compromise version of Senate Bill No. 1000 because I find the provisions are acceptable reforms and because it appears unlikely that the original Senate version would be approved anytime soon in the House. We are faced with the choice between stalemate and compromise on an important issue, the integrity of the system of judicial discipline in Pennsylvania. The current, often criticized, system of judicial conduct review is unacceptable. It is discredited by the appearance of judges judging other judges and by the secrecy under which it operates. The Judicial Inquiry and Review Board system must be revised to provide more involvement of laymen in the process, and this process must be opened to public view.

Senate Bill No. 1000, as it has come to us from the House, accomplishes both those goals. I do not believe we can pass up this opportunity for a successful compromise plan reaching the voters in a ballot referendum in two years because of a desire for more stringent reforms or for partisan advantage.

Voting against this compromise with the knowledge that it is the only vehicle for reform that we have would be akin to the old expression of cutting off your nose to spite your face. Voting for this proposal is difficult for many of us who have worked very long for a new system of judicial discipline in the Commonwealth and had our hopes set on the version we sent to the House earlier this year, but we cannot let this opportunity for reform pass by. We have in our hands a workable compromise, and we are facing a deadline to get the reform to the voters within two years, and we are facing the possibility of an indefinite stalemate ensuring the continuation of an unacceptable status quo. Those who find the status quo unacceptable I urge to join with me in voting for a compromise that will satisfy the major objections to the current system.

Under the bill before us, we can establish a fair and effective two-tier system of conduct review and discipline, we can end the domination of the board by judges by providing an equal number of executive and judicial appointees, we can provide a system that is accessible to the public by the requirement of public hearings in the proposed court of judicial discipline. We have waited a long time for such reforms. We worked for them. We have experienced setbacks and disappointments over the years. It would be defeating our own purposes now if we rejected this version of reform because we have hardened our positions. I, for one, am willing to sign on to this version, to push it again next Session, and to urge voters to ratify the legislative action to amend the Constitution. We need a new judicial discipline system. We need it as soon as possible.

A vote for Senate Bill No. 1000 is a vote to expedite needed changes that will provide a better system for reviewing judicial conduct, and for offering the people of the Commonwealth of Pennsylvania a system that they can have faith in.

I ask for your affirmative vote for concurrence in the House amendments and thank the gentleman from Blair, Senator Jubelirer, who has worked on this issue for many years; Representative DeWeese in the House, who has also offered similar plans; and Representative Caltagirone, the Chairman of the House Judiciary Committee, and Members of both sides who have worked on this issue for many years, and it looks as if we are very close to success.

Thank you.

The PRESIDENT pro tempore. Mr. President, I join with the Chairman of the Senate Committee on Judiciary, Senator Greenleaf, in applauding many people who brought this issue to the floor today. And it is more than a decade now since this issue began, and it has been Senate Bill No. 1 for as long as I can remember. Without question, it is a compromise. It is not perfect, but, by anyone's reading of the issue and studying of the problems within the system itself, it clearly is a step in the right direction, and in my judgment, Mr. President, it is a reform that we should all recognize is much better than the status quo.

Having said that, I truly respect those, either in this body or in the House of Representatives, who feel that the bill that was sent from the Senate to the House was a stronger bill, was a bill that would go further than this bill, and perhaps if the House had concurred in what we had sent over we would be even further ahead. But, frankly, in a legislative body, the operative word is "compromise," and this is a compromise, but it has not compromised principle to the extent that we are not much further ahead than we would be if nothing had happened.

I professionally have been involved in this issue at least 10 or 12 years, and it is time to put the issue behind us, it is time to move on. Judicial reform does not come easy. There have been many players, many staff people, many Members of the Senate and the House of Representatives who have worked tirelessly. Let me point out that Pennsylvanians for a Modern Court, and if I may single out people like Judge Phyllis Beck, Judge Edmund Spaeth, people who are known, have reputations as judicial reformers who have stood the test of perseverance, I suppose I should say, over this last decade or so have said that they believe this to be a strong, strong reform and one that deserves the positive support of the Members of this body.

I recognize that Common Cause thinks that we are better off with nothing at all than this, and with all due respect to that fine organization, I vehemently disagree. I think the time has come that we have put together all we can, have achieved a compromise of merit. It is a far, far better system. It is an open system, it is a two-tiered system, it is not a judicially dominated system, and it is one that I believe can gain the public's confidence.

I congratulate Senator Greenleaf, as Chairman of the Senate Committee on Judiciary, and Representative Caltagirone, the Chairman of the House Judiciary Committee, and all those people, some who are here today, some who are no longer Members of the General Assembly. It has gone through two Governors - Governor Thornburgh and Governor Casey - and the time has come to put this issue behind us. I would hope that my colleagues would see fit to vote in favor of this, and hopefully we will do the same in the next Session of the General Assembly and the people of Pennsylvania in 1993 at last will have an opportunity to vote for true judicial reform.

I thank you, Mr. President, and Members of the Senate for the opportunity to make these remarks. It has been a long, long haul.

Senator CORMAN. Mr. President, I, for one, am frankly quite disappointed in the compromise that was arrived at in Senate Bill No. 1000, and I have had many who were quite interested in judicial reform encourage me to cast a negative vote. However, as the expression goes, a journey of a thousand miles begins with the first step, and maybe we can consider this a first step as we once again try to tackle the issue of judicial reform and add to those things that are included in Senate Bill No. 1000.

It has been a very frustrating job, I am sure, on the part of the gentleman from Montgomery, Senator Greenleaf, and I congratulate him in the effort of bringing it to the point that it is. I, for one, would rather have voted for Senate Bill No. 1000 or the reform as it left the Senate, but the only thing I am faced with is accepting or rejecting what is in front of us, and I am going to vote for it to accept this as a first step and hopefully we can move from here to bring about additional judicial reform.

Thank you.

Senator FUMO. Mr. President, I rise to discuss the bill. I probably will vote for it, although very cautiously and, quite frankly, out of a lot of frustration.

Mr. President, there are a number of things wrong with this piece of legislation, the first of which deals with pensions. For some reason, the House inserted an amendment that says that a judge or a justice of the peace can have their pension removed if they are even suspended under Section 18 or Article IV of this bill. Mr. President, I have trouble with that. I wonder how many of us in here would allow ourselves to come under the same standard. One thing that I found all Members usually jealously guard is their pension rights, but yet when it comes to a bill that does not affect us, we are very cavalier in taking away the rights of others, or at least attempting to do that.

Mr. President, I have some general problems with the whole concept as envisioned in Senate Bill No. 1000. I thought the way it went out of the Senate the first time was blatantly wrong. I was not here, unfortunately, to vote "no," but I would have. One Senator did have the courage to do that on our side of the aisle.

Mr. President, the compromise does not work either. Who are we to tell another branch of government that we are going to set up a committee which the Governor will appoint, along with the other branch of government, to remove people from an office to which they have been elected during their term of office? I recognize there may be some problems with our

system, but it is still an elected democracy. How many of us would be willing to sponsor a constitutional amendment that would say that the Governor and us, or maybe the Supreme Court and us, can set up an equal committee that would determine whether or not we could stay in our office? I doubt very much if anyone would step up to the plate to do that. And we are not free from scandal. There have been times when this Chamber and the House have been tainted with scandal far worse than we have seen in the Judiciary, but, yet, we feel the need to respond because another branch of government is involved.

The Constitution already provides for a way to remove judges, two ways. First, the one set up by the Judicial Board, and, secondly, through impeachment. That is still available to us, but we do not want to dirty our hands with that process, so we hide behind this.

I will vote for this, Mr. President, but with great trepidation, and I caution the Members of this Chamber who are overjoyed today that this will now pass, and I would hope that the public would think twice about stampeding to say "yes" if and when this ever does reach the ballot, if it ever passes this Chamber again.

I repeat, again, we should stop trying to make laws that apply to other people and not to us. Every legislative chamber does that, and we today are doing the same thing. One of the biggest criticisms of Congress is that they enact laws that do not pertain to them but to everyone else. When I see the day that we have a comprehensive amendment on discipline that says that we can remove Senators and House Members with a similar committee, and maybe even members of the executive branch with a committee, then I would be the first to support it, but I think this is flawed constitutionally. I think it is flawed in principle, more than constitutionally. I think we are making a big mistake and I think we should move a lot more cautiously, and certainly we should not be gleeful today about what is about to happen.

Senator BORTNER. Mr. President, I, likewise, join in support for Senate Bill No. 1000. This is another one of those issues that I became involved with first as a House Member and which I have followed along as I became a Member of the Senate. I think that we take a significant step today toward reforming the Judiciary. Much has been said about the specifics of this legislation, and I have some prepared remarks that I would like to submit for the record, which I will.

Very briefly, what I would like to say in my time that I have on the floor is that I think this is the result of compromise. I think this has had input from the public, from the Bar Association, from groups who represent the public interest. Like most compromises, not everybody is entirely satisfied. I believe that this will deal with the significant issues that have caused public confidence to be eroded in the Judiciary. It will open up the proceedings. We will no longer have judges judging judges, and I think the public will believe that judges will be held to a much higher standard of conduct than they have in the past.

I would urge support for this legislation, and as stated earlier, I would like to submit some additional remarks for the record.

Thank you.

The PRESIDENT. Without objection, the gentleman's complete remarks will be spread upon the record. The Chair sees no objection, so ordered.

(The following prepared statement was made a part of the record at the request of the gentleman from York, Senator BORTNER:)

"Today we have the opportunity to take a significant step toward meaningful reform of our judicial discipline system.

Over the past several years the public has lost confidence that judges who violate the law or do not follow ethical rules will face appropriate and timely punishment.

The present system—where the Judicial Inquiry and Review Board makes recommendations but only the Supreme Court can decide upon the discipline—simply has not worked.

The present constitutional provisions require that complete secrecy be maintained, even when a judge is formally accused of serious violations of the law.

The present system has led to needless delay. Judges accused of serious infractions have been permitted to stay on the bench or be suspended with pay, in some instances for years. In this, as in so many other instances, justice delayed certainly gives the appearance of being justice denied.

The present system has been totally controlled by the Supreme Court.

It has operated in such a way as to permit the Supreme Court, time and again, to impose punishment on errant judges which has been totally different from that recommended by the people who have actually heard the evidence.

The present system has permitted the Supreme Court to sit in judgment in a case where one of its own members is accused of improprieties.

Is there any wonder that the people of Pennsylvania have no confidence that judges will be held accountable to high ethical and legal standards?

The time has come, once and for all, to change that system.

Senate Bill 1000, Printer's Number 2413, would make major, positive and significant improvements to the present, discredited system.

First, the total secrecy of the Judicial Inquiry and Review Board would be replaced. The public would have the right to know that a judge is accused of improprieties after a determination of probable cause is made. All hearings before the new Court of Judicial Discipline would be open to the public. The people and the press would be able to see and judge for themselves whether the system is working.

Next, the Bill strips the Supreme Court of the power to impose discipline on judges. The new Court of Judicial Discipline would now have that authority.

Appeals could be taken from decisions of the Court of Judicial Discipline. But even here, the discretion given to the Supreme Court would be severely limited—and the Supreme Court would be forbidden from hearing cases involving its own members.

If a Supreme Court Justice were disciplined by the new Court of Judicial Discipline, that individual would have to appeal to a special court composed of Commonwealth Court and Superior Court judges.

The reforms proposed by Senate Bill 1000 would replace the current Judicial Inquiry and Review Board with a two-phased system with separate investigative and adjudicative bodies. The investigative body - the Judicial Conduct Board - would be 'an independent board within the Judicial Branch.'

The proposed amendment gives the board broad authority to appoint its own staff, 'prepare and administer its own budget, exercise supervisory and administrative authority over all board staff and board functions, (and) establish and promulgate its own rules of procedures.'

This autonomy, coupled with imposition of punishment by the new Court of Judicial Discipline, would not only insure that the system works, but also that it has the appearance of disciplining judges in appropriate cases without interference from the Supreme Court.

In addition, the proposed constitutional amendment increases the amount of non-judge representation over the present system.

The Judicial Conduct Board, the investigative body, contains three judges and nine non-judges. The Court of Judicial Discipline contains four judges and four non-judges.

Now, the Judicial Inquiry and Review Board, which under the present system performs both investigative and adjudicative functions, contains five judges and four non-judges.

Frankly, Senate Bill 1000 in its present form does not go as far as I would like it to have gone with respect to removing the power of appointment from the Supreme Court.

However, the Bill before us for concurrence reflects a compromise between those who are deeply concerned with separation of power and those just as deeply concerned with checks and balances between the judicial and other branches of government.

As a compromise, I feel strongly that the appointment process will result in meaningful reform.

When taken together with the other major structural reforms contained in Senate Bill 1000, it is clear that this is significant, positive reform.

I urge you to vote to concur in the House amendments."

Senator STEWART. Mr. President, the previous speakers, no deference meant, are all lawyers, and those who worked on Senate Bill No. 1000 throughout the years as well are mostly all lawyers, and I would like to congratulate them for what they have produced, albeit not perfect, but I would like to congratulate them on behalf of the nonlawyers in this Chamber and the people of Pennsylvania who do not always understand how the judicial system works. And in particular, Mr. President, I would like to congratulate their efforts on behalf of the citizens of Cambria County.

As most of you know, the citizens of Cambria County went through a very convoluted, very difficult time with one of our Common Pleas judges and they felt the frustration that I believe many of the sponsors of the bill have felt over the years in not being able to do anything about a member of the judicial system who had clearly violated some public trust. They thank you for the effort you put forth, and I think all Pennsylvanians, even those who have never gone through it like my constituents have, will thank you eventually for putting into place a system that I believe will be far better than the system we have now.

I would urge concurrence.

And the question recurring,

Will the Senate agree to the motion?

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

YEAS—49

Afflerbach	Fumo	Lincoln	Rhoades
Andrezeski	Greenleaf	Loeper	Robbins
Armstrong	Greenwood	Lynch	Scanlon
Baker	Hart	Madigan	Schwartz
Belan	Helfrick	Mellow	Shaffer
Bell	Holl	Musto	Shumaker
Bodack	Hopper	O'Pake	Stapleton
Bortner	Jones	Pecora	Stewart
Brightbill	Jubelirer	Peterson	Stout
Corman	LaValle	Porterfield	Tilghman
Dawida	Lemmond	Punt	Wenger
Fattah	Lewis	Reibman	Williams
Fisher			

NAYS—0

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

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

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1959 (Pr. No. 3921) — The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of December 8, 1982 (P. L. 848, No. 235), known as the "Highway-Railroad and Highway Bridge Capital Budget Supplemental Act for 1991-1992," itemizing bridge projects.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—49

Afflerbach	Fumo	Lincoln	Rhoades
Andrezeski	Greenleaf	Loeper	Robbins
Armstrong	Greenwood	Lynch	Scanlon
Baker	Hart	Madigan	Schwartz
Belan	Helfrick	Mellow	Shaffer
Bell	Holl	Musto	Shumaker
Bodack	Hopper	O'Pake	Stapleton
Bortner	Jones	Pecora	Stewart