

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, SEPTEMBER 30, 1986

SESSION OF 1986

170TH OF THE GENERAL ASSEMBLY

No. 62

### HOUSE OF REPRESENTATIVES

The House convened at 11 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:

Most Holy and Glorious Lord God, Thou hast not only formed our world, but Thou art ever in the midst thereof to extend Thy very being over all of Thy creation. As Thou art conscious of every sparrow that falls to the ground, so we are assured that Thou art aware of every circumstance that affects the lives of each one of us.

O God, we humbly pray that we may not only be cognizant of Thy tender mercy and Thy loving care, but that we may call upon Thee for the continuance of Thy blessing toward each of us. Keep us in Thy loving care, challenge us to expand our horizons of service to Thee and our fellow men, and share with us Thy benevolent peace. Amen.

##### PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

##### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal for Monday, September 29, 1986, will be postponed until the Journal is in print. The Chair hears no such objection.

##### SENATE MESSAGE

##### ADJOURNMENT RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate, September 29, 1986

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, November 17, 1986, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Monday, October 6, 1986, unless sooner recalled by the Speaker of the House of Representatives; and be it further

RESOLVED, That when the House of Representatives adjourns the week of October 6, 1986, it reconvene on Monday, November 17, 1986, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

##### REPORT OF COMMITTEE OF CONFERENCE PRESENTED

Mr. STEWART presented the Report of the Committee of Conference on **HB 2515, PN 4013**.

##### SENATE MESSAGE

##### AMENDED HOUSE BILL RETURNED FOR CONCURRENCE

The clerk of the Senate, being introduced, returned **HB 2120, PN 3939**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

##### SENATE MESSAGE

##### HOUSE BILLS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 1626, PN 2078; HB 2305, PN 3182; and HB 2417, PN 3372**, with information that the Senate has passed the same without amendment.

##### WELCOME

The SPEAKER. The Chair is delighted to welcome to the hall of the House, as the guests of Representative Bud George, the mayor of the city of DuBois, Leo Karoleski, and a councilman from the city of DuBois, Paul Begler. Welcome to the hall of the House. We are glad to have you here.

**CITATION PRESENTED**

The SPEAKER. The most important people in DuBois, however, are not the city councilmen or the mayor. The most important people of the city of DuBois are the Senior Little League All-Stars. They are seated to the rear of the hall of the House, and the Chair invites the gentleman, Mr. Distler, to come here and make the announcement about this winning team.

Mr. DISTLER. Thank you, Mr. Speaker.

Ladies and gentlemen, it is certainly a pleasure of mine to have with me today the Senior Little League All-Stars from the DuBois area in the rear of the House and their parents and friends in the gallery.

These young men won the sectional, the divisional, the State of Pennsylvania, and the northeast section of the United States, went to Florida and competed in the World Series and came in fourth in the world.

We from the city of DuBois, of course, believe that these young men are number one, and we are here today to honor them with a citation, which I would like to read.

**COMMONWEALTH OF PENNSYLVANIA**

**CITATION BY  
THE HOUSE OF REPRESENTATIVES**

WHEREAS, The 1986 DuBois Senior Little League All-Star Team captured the District, Sectional, Pennsylvania and Eastern Regional of the USA banners and participated in the World Series losers' bracket semifinals held in Kissimmee, Florida; and

WHEREAS, The team compiled an impressive record of sixteen wins and three losses. The All-Stars split in four games in the World Series, losing two games and winning two games. The wins are the most ever for a DuBois little league all-star team in tournament play; and

WHEREAS, The team, comprised of Bill Nesbitt, Sean Hogan, Mike Misiewicz, Lou Luffy, Brian Shaffer, Todd Hamilton, Matt Cook, Joel Volansky, Ed Seduski, Mike Radaker, Scott Frano, Bub Maietta, Lou Russell and Jude Lander, is skillfully guided by Manager Tom Frank and Coach Jerry Pyne.

Now therefore, the House of Representatives of the Commonwealth of Pennsylvania extends hearty congratulations to the 1986 DuBois Senior Little League All-Star Team on the completion of a highly successful season; commends the manager and coach for their exceptional discipline and training in helping the team to attain such an impressive status; expresses its hope for continued success in future years; and further directs that a copy of this citation be delivered to the 1986 DuBois Senior Little League All-Star Team.

Submitted by:  
James T. Distler  
Sponsor

K. Leroy Irvis  
Speaker

ATTEST:  
John J. Zubeck  
Chief Clerk

Ladies and gentlemen, it gives me great pleasure to present to you the DuBois Senior Little League All-Star Team from the DuBois area.

Gentlemen, please rise.

The SPEAKER. The Chair thanks the gentleman for presenting such star performers, and the Chair congratulates the team. We are all very proud of you - not just the people in DuBois; all of the people in Pennsylvania are proud of you. We get so many stories on the floor of the House of young people going wrong, it does our hearts good to see young people who are doing right.

Thank you for coming, and congratulations.

**MASTER ROLL CALL**

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

The following roll call was recorded:

**PRESENT—197**

Acosta	Dietz	Langtry	Robbins
Afflerbach	Dininni	Lashinger	Roebuck
Angstadt	Distler	Laughlin	Rudy
Argall	Dombrowski	Lescovitz	Ryan
Arty	Donatucci	Letterman	Rybak
Baldwin	Dorr	Levdansky	Saloom
Barber	Duffy	Linton	Saurman
Barley	Durham	Livengood	Scheetz
Battisto	Evans	Lloyd	Schuler
Belardi	Fargo	Lucyk	Semmel
Belfanti	Fattah	McCall	Serafini
Birmelin	Fee	McClatchy	Seventy
Black	Fischer	McHale	Showers
Blaum	Flick	McVerry	Sirianni
Book	Foster	Mackowski	Smith, B.
Bortner	Fox	Maiale	Smith, L. E.
Bowley	Freeman	Mandertino	Snyder, D. W.
Bowser	Freind	Manmiller	Snyder, G.
Boyes	Fryer	Markosek	Staback
Brandt	Gallagher	Mayernik	Stairs
Broujos	Gallen	Merry	Steighner
Bunt	Gamble	Michlovic	Stevens
Burd	Gannon	Micozzie	Stewart
Burns	Geist	Miller	Stuban
Bush	George	Mochlmann	Sweet
Caltagirone	Gladeck	Morris	Swift
Cappabianca	Godshall	Mowery	Taylor, E. Z.
Carlson	Greenwood	Mrkonic	Taylor, J.
Carn	Gruitza	Murphy	Telek
Cawley	Gruppo	Nahill	Tigue
Cessar	Hagarty	Noye	Trello
Chadwick	Haluska	O'Brien	Truman
Cimini	Harper	O'Donnell	Van Horne
Civera	Hasay	Olasz	Veon
Clark	Hayes	Oliver	Vroon
Clymer	Herman	Perzel	Wambach
Cohen	Hershey	Petrarca	Wass
Colafella	Honaman	Petrone	Weston
Cole	Howlett	Phillips	Wiggins
Cornell	Hutchinson	Piccola	Wilson
Coslett	Itkin	Pistella	Wogan
Cowell	Jackson	Pitts	Wozniak
Coy	Jarolin	Pott	Wright, D. R.
Deluca	Johnson	Pressmann	Wright, J. L.
DeVerter	Josephs	Preston	Wright, R. C.
DeWeese	Kasunic	Punt	Yandrisevits
Daley	Kennedy	Raymond	
Davies	Kenney	Reinard	Irvis,
Dawida	Kosinski	Richardson	Speaker
Deal	Kukovich	Rieger	

ADDITIONS—1

Cordisco

NOT VOTING—1

Reber

EXCUSED—2

Pievsky

Taylor, F.

LEAVES ADDED—1

Reber

LEAVES CANCELED—1

Reber

LEAVES OF ABSENCE

The SPEAKER. The Chair now turns to leaves of absence. Mr. Hayes, do you have any? The Chair recognizes the minority whip.

Mr. HAYES. Thank you, Mr. Speaker.

I request a leave for the gentleman from Montgomery, Mr. REBER, for the day. Mr. Reber was involved in an automobile accident on his way to Harrisburg this morning. My early report is that Mr. Reber, while taken to the hospital, is in satisfactory condition, but he will have to be on leave today.

The SPEAKER. We are sorry to hear about the reason for the leave and hope that Mr. Reber is going to be all right.

Mr. HAYES. Indications are that he will be all right, but he had to be taken to the hospital for an arm injury, I believe.

The SPEAKER. Thank you. The leave, of course, is granted.

The Chair recognizes the gentleman from Lawrence, Mr. Fee.

Mr. FEE. Mr. Speaker, there are no leaves for the Democratic side at this time.

The SPEAKER. The Chair thanks the gentleman.

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

**HB 1935, PN 4014 (Amended)**

By Rep. MORRIS

An Act creating an independent commission known as the Animal Health and Diagnostic Commission; establishing a fund; and making an appropriation.

AGRICULTURE AND RURAL AFFAIRS.

**SB 1445, PN 2311**

By Rep. MORRIS

An Act amending the act of March 1, 1974 (P. L. 90, No. 24), entitled "Pennsylvania Pesticide Control Act of 1973," further providing for licensing of commercial applicator firms, for licensing and certification of commercial applicators and public applicators, for registration and training of certain noncertified employees, for increased recordkeeping requirements, for additional enforcement authority and additional authority on product registration data review, and for increase of fees.

AGRICULTURE AND RURAL AFFAIRS.

**HOUSE BILLS INTRODUCED AND REFERRED**

**No. 2791** By Representatives G. SNYDER, DORR, FOSTER, B. SMITH, BORTNER, BUNT, MOEHLMANN, DISTLER, PHILLIPS, GREENWOOD, NOYE, FLICK, GALLEN, GODSHALL, McVERRY, JOHNSON and WOGAN

An Act amending the act of August 22, 1953 (P. L. 1344, No. 383), known as "The Marriage Law," eliminating the requirement for a premarital examination for syphilis.

Referred to Committee on HEALTH AND WELFARE, September 30, 1986.

**No. 2792** By Representatives G. SNYDER, DORR, FOSTER, B. SMITH, BORTNER, BUNT, MOEHLMANN, DISTLER, PHILLIPS, GREENWOOD, NOYE, FLICK, GALLEN, GODSHALL, McVERRY, JOHNSON and WOGAN

An Act repealing section 12 of the act of April 23, 1956 (1955 P. L. 1510, No. 500), known as the "Disease Prevention and Control Law of 1955," eliminating the requirement for a premarital examination for syphilis.

Referred to Committee on HEALTH AND WELFARE, September 30, 1986.

**No. 2793** By Representatives G. SNYDER, B. SMITH, DORR, BORTNER, JACKSON, FARGO, J. L. WRIGHT, KUKOVICH, BUNT, MICOZZIE, STABACK, PRESSMANN, WOGAN, DISTLER, PHILLIPS, GREENWOOD, NOYE, FLICK, GALLEN, GODSHALL, CIVERA, BARLEY, McVERRY, MERRY and JOHNSON

An Act amending the act of November 26, 1975 (P. L. 438, No. 124), known as the "Child Protective Services Law," requiring funeral directors to report suspected child abuse.

Referred to Committee on HEALTH AND WELFARE, September 30, 1986.

**No. 2794** By Representatives FLICK, STEIGHNER, GREENWOOD, YANDRISEVITS, STABACK, GEIST, MORRIS, KOSINSKI, FARGO, R. C. WRIGHT and LANGTRY

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for securing loads in vehicles.

Referred to Committee on TRANSPORTATION, September 30, 1986.

**No. 2795** By Representatives DALEY, KASUNIC, DeWEESE and F. TAYLOR

An Act amending the act of March 28, 1986 (P. L. 75, No. 25), entitled, as amended, "An act providing for grants to persons for property damaged or destroyed by tornado or flood; establishing

the basis for the grants and tax moratoria; and making appropriations," further providing for eligibility.

Referred to Committee on APPROPRIATIONS, September 30, 1986.

**No. 2796** By Representatives YANDRISEVITS, BORTNER, KUKOVICH, EVANS, JOSEPHS, ACOSTA, ROEBUCK and FREEMAN

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," adding an exclusion from the sales tax.

Referred to Committee on FINANCE, September 30, 1986.

**No. 2797** By Representatives MOWERY, RYAN, HAYES and FOSTER

An Act amending the act of July 1, 1986 (P. L. , No. 8A), entitled "An act making an appropriation from the Public School Employees' Retirement Board for the fiscal year July 1, 1986, to June 30, 1987, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 1986," authorizing the use of executive authorizations for in-lieu-of-tax payments.

Referred to Committee on APPROPRIATIONS, September 30, 1986.

**No. 2798** By Representatives MOWERY, RYAN, HAYES and FOSTER

An Act amending the act of July 1, 1986 (P. L. , No. 7A), entitled "An act making an appropriation from the State Employees' Retirement Fund to provide for expenses of the State Employees' Retirement Board for the fiscal year July 1, 1986, to June 30, 1987, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 1986," authorizing the use of executive authorizations for in-lieu-of-tax payments.

Referred to Committee on APPROPRIATIONS, September 30, 1986.

**No. 2799** By Representatives PITTS, RAYMOND, ARTY, FREIND and HERSHEY

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), known as the "Public Welfare Code," further providing for medical assistance payments for institutional care.

Referred to Committee on HEALTH AND WELFARE, September 30, 1986.

### HOUSE RESOLUTION INTRODUCED AND REFERRED

**No. 347** By Representative DAWIDA

Encouraging the Pennsylvania Higher Education Assistance Agency to develop creative and innovative financing plans.

Referred to Committee on RULES, September 30, 1986.

### SENATE BILLS FOR CONCURRENCE

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

**SB 1275, PN 2411**

Referred to Committee on STATE GOVERNMENT, September 30, 1986.

**SB 1650, PN 2395**

Referred to Committee on STATE GOVERNMENT, September 30, 1986.

### WELCOMES

The SPEAKER. The Chair wishes to take note for the historical record that Fran Weston had her daughter present on the floor of the House yesterday, and her daughter got tired marching up and down the center aisle and finally went to sleep on her mother's shoulder.

And Paul Wass has his grandson, who apparently is quite an armful, over there on the floor of the House. He may be a beginning acrobat, if you watch him over there. But we wanted that for the historical record. Someday it may be important for the two children.

### CALENDAR

#### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2739, PN 3943**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," clarifying the definition of "tangible personal property"; and providing a specific exclusion from tax for the sale or use of electricity for newly constructed, separately metered dwelling units.

On the question,

Will the House agree to the bill on second consideration?

#### BILL RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that HB 2739 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 bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

**HB 2577, PN 3602; HB 2635, PN 3929; and HB 2637, PN 3930.**

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **SB 1649, PN 2424**, entitled:

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for the fiscal year 1986-1987.

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

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

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

(Members proceeded to vote.)

**VOTE STRICKEN**

Mr. RYAN. Mr. Speaker?

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Our members should understand that this was caucused on very, very briefly, if they have any questions with respect to it.

The SPEAKER. Would you like me to strike the vote?

Mr. RYAN. I would like someone just to get up to explain the bill. I am in favor of it; I see no reason why it is not going to sail through here, but the fact remains that someone should stand up and explain it.

The SPEAKER. Very well.

Strike the vote, please, Mr. Clerk.

Mr. O'Donnell, are you aware of this bill? Would you please give a brief explanation of the bill?

Mr. Ryan, we will go over it temporarily.

Mr. RYAN. Mr. Speaker?

The SPEAKER. Yes?

Mr. RYAN. If I may.

The SPEAKER. Very well. The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, for the benefit of our members, what this particular bill is is a loan from the Sunny Day Fund in the amount of \$4 million requested by the Governor for a location in Washington County. The bill specifically provides that the appropriation be loaned by the department to Genesis Packaging Systems at an annual rate of interest of 3 percent for a term not to exceed 15 years.

I think it is a good bill; it is a proper use of the Sunny Day Fund, and I would recommend that the members vote in favor of it. Thank you, Mr. Speaker.

The SPEAKER. Mr. O'Donnell, are you satisfied with that procedure?

Mr. O'DONNELL. Yes, Mr. Speaker.

The plant is located in Washington County. There has been a thorough investigation of the bona fides of this transaction. It is kind of a historic moment. It is the first time we are going to use these funds, and we are all looking forward to it and in favor of the bill.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?

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

**YEAS—196**

Acosta	Dininni	Lashinger	Robbins
Afflerbach	Distler	Laughlin	Roebuck
Angstadt	Dombrowski	Lescovitz	Rudy
Argall	Donatucci	Letterman	Ryan
Arty	Dorr	Levdansky	Rybak
Baldwin	Duffy	Linton	Saloom
Barber	Durham	Livengood	Saurman
Barley	Evans	Lloyd	Scheetz
Battisto	Fargo	Lucyk	Schuler
Belardi	Fattah	McCall	Semmel
Belfanti	Fee	McClatchy	Serafini
Birmelin	Fischer	McHale	Seventy
Black	Flick	McVerry	Showers
Blaum	Foster	Mackowski	Sirianni
Book	Fox	Maiale	Smith, B.
Bortner	Freeman	Manderino	Smith, L. E.
Bowley	Freind	Manmiller	Snyder, D. W.
Bowser	Fryer	Markosek	Snyder, G.
Boyes	Gallagher	Mayernik	Staback
Brandt	Gallen	Merry	Stairs
Broujos	Gamble	Michlovic	Steighner
Bunt	Gannon	Micozzie	Stevens
Burd	Geist	Miller	Stewart
Burns	George	Moehlmann	Stuban
Bush	Gladeck	Morris	Sweet
Caltagirone	Godshall	Mowery	Swift
Cappabianca	Greenwood	Mrkonic	Taylor, E. Z.
Carlson	Gruitza	Murphy	Taylor, J.
Carn	Gruppo	Nahill	Telek
Cawley	Hagarty	Noye	Tigue
Cessar	Haluska	O'Brien	Trello
Chadwick	Harper	O'Donnell	Truman
Cimini	Hasay	Olasz	Van Horne
Civera	Hayes	Oliver	Veon
Clark	Herman	Perzel	Vroon
Clymer	Hershey	Petrarca	Wambach
Colafella	Honaman	Petrone	Wass
Cole	Howlett	Phillips	Weston
Cornell	Hutchinson	Piccola	Wiggins
Coslett	Itkin	Pistella	Wilson
Cowell	Jackson	Pitts	Wogan
Coy	Jarolin	Pott	Wozniak
Deluca	Johnson	Pressmann	Wright, D. R.
DeVerter	Josephs	Preston	Wright, J. L.
DeWeese	Kasunic	Punt	Wright, R. C.
Daley	Kennedy	Raymond	Yandrisevits
Davies	Kenney	Reinard	
Dawida	Kosinski	Richardson	Irvis,
Deal	Kukovich	Rieger	Speaker
Dietz	Langtry		

**NAYS—0**

**NOT VOTING—2**

Cohen Cordisco

**EXCUSED—3**

Pievsky Reber Taylor, F.

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

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

**SPECIAL ORDER OF BUSINESS  
RESOLUTION**

Messrs. MANDERINO and RYAN called up **HR 343, PN 3970**, entitled:

Designating the month of October as "Housing Month" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

**YEAS—196**

Acosta	Dietz	Lashinger	Robbins
Afflerbach	Dininni	Laughlin	Roebuck
Angstadt	Distler	Lescovitz	Rudy
Argall	Dombrowski	Letterman	Ryan
Arty	Donatucci	Levdansky	Rybak
Baldwin	Dorr	Linton	Saloom
Barber	Duffy	Livengood	Saurman
Barley	Durham	Lloyd	Scheetz
Battisto	Evans	Lucyk	Schuler
Belardi	Fargo	McCall	Semmel
Belfanti	Fattah	McClatchy	Serafini
Birmelin	Fee	McHale	Seventy
Black	Fischer	McVerry	Showers
Blaum	Foster	Mackowski	Sirianni
Book	Fox	Maiale	Smith, B.
Bortner	Freeman	Manderino	Smith, L. E.
Bowley	Freind	Manmiller	Snyder, D. W.
Bowser	Fryer	Markosek	Snyder, G.
Boyes	Gallagher	Mayernik	Staback
Brandt	Gallen	Merry	Stairs
Broujos	Gamble	Michlovic	Steighner
Bunt	Gannon	Micozzie	Stevens
Burd	Geist	Miller	Stewart
Burns	George	Moehlmann	Stuban
Bush	Gladeck	Morris	Sweet
Caltagirone	Godshall	Mowery	Swift
Cappabianca	Greenwood	Mrkonic	Taylor, E. Z.
Carlson	Gruitza	Murphy	Taylor, J.
Carn	Gruppo	Nahill	Telek
Cawley	Hagarty	Noye	Tigue
Cessar	Haluska	O'Brien	Trello
Chadwick	Harper	O'Donnell	Truman
Cimini	Hasay	Olasz	Van Horne
Civera	Hayes	Oliver	Veon
Clark	Herman	Perzel	Vroon
Clymer	Hershey	Petrarca	Wambach
Cohen	Honaman	Petrone	Wass
Colafella	Howlett	Phillips	Weston
Cole	Hutchinson	Piccola	Wiggins
Cornell	Itkin	Pistella	Wilson
Coslett	Jackson	Pitts	Wogan
Cowell	Jarolin	Pott	Wozniak
Coy	Johnson	Pressmann	Wright, D. R.
Deluca	Josephs	Preston	Wright, J. L.
DeVerter	Kasunic	Punt	Wright, R. C.
DeWeese	Kennedy	Raymond	Yandrisevits
Daley	Kenney	Reinard	
Davies	Kosinski	Richardson	Irvis,
Dawida	Kukovich	Rieger	Speaker
Deal	Langtry		

**NAYS—0**

**NOT VOTING—2**

Cordisco Flick

**EXCUSED—3**

Pievsky Reber Taylor, F.

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

Ordered, That the clerk present the same to the Senate for concurrence.

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

**HB 259, PN 276** By Rep. PISTELLA

An Act regulating smoking at public places and in public meetings; and providing a penalty.

**HEALTH AND WELFARE.**

**BILL REREPORTED FROM COMMITTEE**

**SB 377, PN 421** By Rep. PISTELLA

An Act amending the act of July 19, 1979 (P. L. 130, No. 48), entitled "Health Care Facilities Act," permitting health care facilities to board an animal in certain cases.

**HEALTH AND WELFARE.**

**DEMOCRATIC CAUCUS**

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Itkin. Do you wish to announce a Democratic caucus?

Mr. ITKIN. Mr. Speaker, at the declaration of recess the Democrats will immediately report to the majority caucus room. We must caucus on bills in order to be able to vote the bills on the calendar today. I ask for your cooperation in getting there quickly so that we can attend to the business of the caucus, and then there are other festivities and celebrations at the noon hour that we would like to get to as well. So please be on time and let us finish with our business.

**PROFESSIONAL LICENSURE  
COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the gentleman from Somerset, Mr. Lloyd. Why do you rise?

Mr. LLOYD. Mr. Speaker, just a reminder to members of the Professional Licensure Committee that we will have a short meeting in room 401 immediately upon the recess. Before you go to caucus, come to the Professional Licensure Committee meeting. There are a number of bills and regulations which we must vote on today. Very short; room 401.

**REPUBLICAN CAUCUS**

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

Mr. NOYE. Thank you, Mr. Speaker.

Republicans will caucus immediately in the caucus room. We would like to get started promptly so those who want to get to the program in the rotunda may get there.

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

**HB 871, PN 997** By Rep. LAUGHLIN

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing that the commission shall not regulate the rates, terms and conditions for cable television pole attachments.

CONSUMER AFFAIRS.

**HB 2767, PN 3984** By Rep. LAUGHLIN

An Act requiring the Department of Environmental Resources and the Department of Health to investigate high concentrations of heavy metals in the soil in certain areas of this Commonwealth; and making an appropriation.

CONSUMER AFFAIRS.

**WELCOME**

The SPEAKER. The Chair is delighted to welcome Norman Laudenslager, who is the Democratic leader of the 25th ward in Philadelphia, as the guest of the Philadelphia delegation and particularly Representative Kosinski. Welcome, Norman. Glad to see you here. Nice seeing you.

**REMARKS ON VOTE**

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Flick. Why do you rise?

Mr. FLICK. Thank you, Mr. Speaker.

On HR 343 I believe I was the only member who was not voted. I was in my seat and would like to be recorded in the affirmative.

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

**RECESS**

The SPEAKER. The House will stand in recess until 1:30.

**AFTER RECESS**

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

**LEAVE OF ABSENCE CANCELED**

The SPEAKER. The members of the House will be glad to know that the gentleman, Mr. Reber, has returned to the floor of the House. He is taken off leave. But you will be more glad to know that he was indeed in a very, very life threatening accident, and only by the grace of God is he here today at all as a living man. We are glad he is back on the floor.

**CALENDAR CONTINUED  
BILLS ON CONCURRENCE  
IN SENATE AMENDMENTS**

The clerk of the Senate, being introduced, returned the following **HB 2330, PN 3928**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested:

An Act amending the act of April 28, 1961 (P. L. 111, No. 50), known as the "Tourist Promotion Law," adding definitions; and further providing for grants to tourist promotion agencies.

On the question,

Will the House concur in Senate amendments?

The SPEAKER. The Chair recognizes the gentleman from Monroe, Mr. Battisto. Will you briefly explain the amendments and your recommendation?

Mr. BATTISTO. Thank you, Mr. Speaker.

Mr. Speaker, this bill passed the House and went to the Senate, and the Senate added two amendments. One amendment is sort of a technical amendment, and the other is sort of a substantive amendment.

The technical amendment is in section 3, number (6) on page 3. In defining regional tourist promotion agencies, the definitions include Allegheny County and Philadelphia County; that is, of a regional tourist promotion agency. What the Senate did technically, they changed Allegheny County to a second-class county; that is, they inserted "county of the second class" in place of Allegheny County, and in place of the city of Philadelphia, they of course replaced it with "city of the first class." So those are two technical changes.

They made a substantive change toward the end of the bill in section 4. As you know, the intent of this bill is to put more money into promoting and advertising tourism in Pennsylvania. Presently, presently, without this bill, tourist promotion agencies are allowed to, as their eligible costs, to charge not only advertising money but also overhead expenses. The intent of this bill is to exclude overhead expenses; that is, wages, travel, and things like that. That is the intent.

However, there are members who thought that small tourist promotion agencies would not be able to adjust to that immediately. Therefore, we sent the bill to the Senate and we allowed these small agencies 2 years to live under the provisions of the present law; then after 2 years they would have to fall within the purview of the new law. The Senate changed 2 years to 1 year. The rationale was simply this: Originally the bill was supposed to take effect July 1, 1986; now the bill is going to take effect July 1, 1987. So really these agencies have had a year, because they know about this bill. So we are really giving them 1 more year instead of 2 years now. Everyone seems to agree to that. Therefore, I move for concurrence.

The SPEAKER. The Chair recognizes the gentleman from Indiana, Mr. Wass, on the question.

Mr. WASS. Thank you.

May I interrogate the gentleman, the previous speaker, Mr. Speaker?

Mr. BATTISTO. Yes.

The SPEAKER. Mr. Battisto indicates he will stand for interrogation. You may proceed, Mr. Wass.

Mr. WASS. Mr. Speaker, we are one of those small tourist bureaus in Indiana, Pennsylvania, and we are surely concerned about being swallowed up by the big tourist bureaus that have all the manpower and the expertise and the wherewithal to really do promotion.

Under any part of this bill, does my tourist bureau get penalized financially?

Mr. BATTISTO. It does not get penalized, no. What happens is this: It allows your bureau 1 year to live by the present provisions of the law. And here is what the law is now: The law is that you will receive matching funds now based upon eligible costs, and eligible costs involve not only the money that is needed to advertise and promote tourism, but also you can include under eligible costs such things as overhead, like rent and salaries and car expenses. You can do that and you will be able to do that for the next year. Now, beginning in July of 1988, you will not be able to use overhead expenses as matching money. That means it will give you a year to work this into your budget. That is really what happens.

Mr. WASS. Mr. Speaker, you said July of 1988?

Mr. BATTISTO. Yes. This bill takes effect July 1, 1987, but you have until July 1, 1988, to adjust to the law.

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

Mr. BATTISTO. All right.

The SPEAKER. On the question, will the House concur in the amendments, it has been suggested that the vote be in the affirmative by the gentleman, Mr. Battisto.

On the question recurring,

Will the House concur in Senate amendments?

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

YEAS—197

Afflerbach	Dininni	Lashing	Robbins
Angstadt	Distler	Laughlin	Roebuck
Argall	Dombrowski	Lescovitz	Rudy
Arty	Donatucci	Letterman	Ryan
Baldwin	Dorr	Levdansky	Rybak
Barber	Duffy	Linton	Saloom
Barley	Durham	Livengood	Saurman
Battisto	Evans	Lloyd	Scheetz
Belardi	Fargo	Lucyk	Schuler
Belfanti	Fattah	McCall	Semmel
Birmelin	Fee	McClatchy	Serafini
Black	Fischer	McHale	Seventy
Blaum	Flick	McVerry	Showers
Book	Foster	Mackowski	Sirianni
Bortner	Fox	Maiale	Smith, B.
Bowley	Freeman	Manderino	Smith, L. E.
Bowser	Freind	Manmiller	Snyder, D. W.
Boyes	Fryer	Markosek	Snyder, G.
Brandt	Gallagher	Mayernik	Staback
Broujos	Gallen	Merry	Stairs
Bunt	Gamble	Michlovic	Steighner
Burd	Gannon	Micozzie	Stevens
Burns	Geist	Miller	Stewart
Bush	George	Moehlmann	Stuban
Caltagirone	Gladeck	Morris	Sweet
Cappabianca	Godshall	Mowery	Swift
Carlson	Greenwood	Mrkonic	Taylor, E. Z.

Carn	Gruitza	Murphy	Taylor, J.
Cawley	Gruppo	Nahill	Telek
Cessar	Hagarty	Noye	Tigue
Chadwick	Haluska	O'Brien	Trello
Cimini	Harper	O'Donnell	Truman
Civera	Hasay	Olasz	Van Horne
Clark	Hayes	Oliver	Veon
Clymer	Herman	Perzel	Vroon
Cohen	Hershey	Petrarca	Wambach
Colafrilla	Honaman	Petrone	Wass
Cole	Howlett	Phillips	Weston
Cornell	Hutchinson	Piccola	Wiggins
Coslett	Itkin	Pistella	Wilson
Cowell	Jackson	Pitts	Wogan
Coy	Jarolin	Pott	Wozniak
Deluca	Johnson	Pressmann	Wright, D. R.
DeVerter	Josephs	Preston	Wright, J. L.
DeWeese	Kasunic	Punt	Wright, R. C.
Daley	Kennedy	Raymond	Yandrisevits
Davies	Kenney	Reber	
Dawida	Kosinski	Reinard	Irvis,
Deal	Kukovich	Richardson	Speaker
Dietz	Langtry	Rieger	

NAYS—0

NOT VOTING—2

Acosta Cordisco

EXCUSED—2

Pievsky Taylor, F.

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

FILMING PERMISSION

The SPEAKER. The Chair announces it has given permission for channel 10 to film for 10 minutes on the floor of the House and for "The People's Business" to film on the floor of the House.

SUPPLEMENTAL CALENDAR A  
REPORT OF COMMITTEE  
OF CONFERENCE CONSIDERED

Mr. STEWART called up for consideration the following Report of the Committee of Conference on **HB 2515, PN 4013**, entitled:

An Act making appropriations to the Thomas Jefferson University, Philadelphia, Pennsylvania.

On the question,

Will the House adopt the report of the committee of conference?

The SPEAKER. The Chair recognizes, on the question, the gentleman from Cambria, Mr. Stewart.

Mr. STEWART. Thank you, Mr. Speaker.

Mr. Speaker, this is a nonpreferred, one of the many non-preferreds that we voted on earlier this year. This one in particular is for the Thomas Jefferson University. There was a hangup in the numbers that were proposed by both the Gover-



nor and the final conference version of the budget. That difficulty has been worked out in a conference.

The numbers are actually the same as those that were presented back in late June or early July, and I urge the members to vote in the affirmative.

The SPEAKER. The question is, will the House adopt the committee of conference report? It has been suggested that the vote be in the affirmative by the gentleman, Mr. Stewart.

On the question recurring,

Will the House adopt the report of the committee of conference?

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

YEAS—194

Afflerbach	Dininni	Lashingner	Rieger
Angstadt	Distler	Laughlin	Robbins
Argall	Dombrowski	Lescovitz	Roebuck
Arty	Donatucci	Letterman	Rudy
Baldwin	Dorr	Levdansky	Ryan
Barber	Duffy	Linton	Rybak
Barley	Durham	Livengood	Saloom
Battisto	Evans	Lloyd	Saurman
Belardi	Fargo	Lucyk	Scheetz
Belfanti	Fee	McCall	Schuler
Birmelin	Fischer	McClatchy	Semmel
Black	Flick	McHale	Serafini
Blaum	Foster	McVerry	Seventy
Book	Fox	Mackowski	Showers
Bortner	Freeman	Majale	Sirianni
Bowley	Freind	Manderino	Smith, B.
Bowser	Fryer	Manmiller	Smith, L. E.
Boyes	Gallagher	Markosek	Snyder, D. W.
Brandt	Gallen	Mayernik	Snyder, G.
Broujos	Gamble	Merry	Staback
Burd	Gannon	Michlovic	Stairs
Burns	Geist	Micozzie	Steighner
Bush	George	Miller	Stevens
Caltagirone	Gladeck	Moehlmann	Stewart
Cappabianca	Godshall	Morris	Stuban
Carlson	Greenwood	Mowery	Sweet
Carn	Gruitza	Mrkonic	Swift
Cawley	Gruppo	Murphy	Taylor, E. Z.
Cessar	Hagarty	Nahill	Taylor, J.
Chadwick	Haluska	Noye	Telek
Cimini	Harper	O'Brien	Tigue
Civera	Hasay	O'Donnell	Trello
Clark	Hayes	Olasz	Van Horne
Clymer	Herman	Oliver	Veon
Cohen	Hershey	Perzel	Vroon
Colafella	Honaman	Petrarca	Wambach
Cole	Howlett	Petrone	Wass
Cornell	Hutchinson	Phillips	Weston
Coslett	Itkin	Piccola	Wiggins
Cowell	Jackson	Pistella	Wilson
Coy	Jarolin	Pitts	Wogan
DeLuca	Johnson	Pott	Wozniak
DeVerter	Josephs	Pressmann	Wright, D. R.
DeWeese	Kasunic	Preston	Wright, J. L.
Daley	Kennedy	Punt	Wright, R. C.
Davies	Kenney	Raymond	Yandrisevits
Dawida	Kosinski	Reber	
Deal	Kukovich	Reinard	Irvis,
Dietz	Langtry	Richardson	Speaker

NAYS—0

NOT VOTING—5

Acosta  
Bunt

Cordisco

Fattah

Truman

EXCUSED—2

Pievsky

Taylor, F.

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the report of the committee of conference was adopted.

Ordered, That the clerk inform the Senate accordingly.

WELCOME

The SPEAKER. We have some Boy Scouts and Cub Scouts as the guests of Representative Tom Murphy. They are from Brighton Heights on the north side of Pittsburgh. Welcome to the hall of the House, boys.

CALENDAR CONTINUED

The SPEAKER. Page 12 of the active calendar, please, HB 433, PN 3281. The question is, will the House agree to the bill?

On that question, the Chair recognizes first the gentleman from Allegheny, Mr. DeLuca.

Mr. DeLUCA. Mr. Speaker, could we go over that just for a little while? We have correspondence to be distributed to the members of the House that has not been distributed yet.

The SPEAKER. Very well. Will you let us know when you are ready, please.

Mr. DeLUCA. Thank you.

BILLS REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND TABLED

HB 2656, PN 4016 (Amended)

By Rep. LLOYD

An Act amending the act of May 22, 1951 (P. L. 317, No. 69), known as "The Professional Nursing Law," prohibiting the Board from making changes in entry-level nursing education or licensure requirements; and further providing for nursing programs.

PROFESSIONAL LICENSURE.

HB 2734, PN 4017 (Amended)

By Rep. LLOYD

An Act amending the act of March 2, 1956 (1955 P. L. 1211, No. 376), known as the "Practical Nurse Law," further providing for eligibility for nursing examinations.

PROFESSIONAL LICENSURE.

SB 1484, PN 2464 (Amended)

By Rep. LLOYD

An Act amending the act of February 14, 1986 (P. L. 2, No. 2), entitled "Acupuncture Registration Act," authorizing the registration of acupuncturists by the State Board of Osteopathic Medicine; further providing for the supervision of acupuncturists by physicians; and further providing for disciplinary measures.

PROFESSIONAL LICENSURE.

**ANNOUNCEMENT BY MRS. LANGTRY**

The SPEAKER. The Chair recognizes the lady from Allegheny, Mrs. Langtry. The lady wishes to make an announcement.

Mrs. LANGTRY. Mr. Speaker, thank you very much.

Mr. Speaker, I think that we are all aware of the high cost of college education as well as the continuing increased costs of that education. For those reasons, I am introducing today a four-bill package which will create individual education accounts, which is a savings account for higher education. There are two approaches to the legislation, both private sector and PHEAA (Pennsylvania Higher Education Assistance Agency), and I have the legislation. I will put it on the desk if anyone cares to cosponsor it. Thank you very much.

The SPEAKER. The Chair thanks the lady.

**BILLS ON THIRD CONSIDERATION CONTINUED**

The House proceeded to third consideration of **SB 1346, PN 2037**, entitled:

An Act providing for identification, possession and unlawful use of shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, bakery trays and bakery baskets; and providing a penalty.

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

**BILL RECOMMITTED**

The SPEAKER. The Chair recognizes the majority leader. Mr. MANDERINO. Mr. Speaker, I move that SB 1346 be recommitted to the Committee on Education.

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

The following roll call was recorded:

**YEAS—188**

Acosta	Deal	Laughlin	Roebuck
Afflerbach	Dietz	Lescovitz	Rudy
Angstadt	Dininni	Levdansky	Ryan
Argall	Distler	Linton	Rybak
Arty	Dombrowski	Livengood	Saloom
Baldwin	Donatucci	Lloyd	Saurman
Barber	Dorr	Lucyk	Scheetz
Barley	Duffy	McCall	Schuler
Battisto	Durham	McClatchy	Semmel
Belardi	Evans	McHale	Serafini
Belfanti	Fargo	McVerry	Seventy
Birmelin	Fattah	Mackowski	Showers
Black	Fee	Maiale	Sirianni
Blaum	Fischer	Manderino	Smith, B.
Book	Flick	Manmiller	Smith, L. E.
Bortner	Fox	Markosek	Snyder, D. W.
Bowley	Freeman	Mayernik	Snyder, G.
Bowser	Fryer	Merry	Staback
Boyes	Gallagher	Michlovic	Stairs
Brandt	Gallen	Micozzie	Steighner
Broujos	Gamble	Miller	Stevens

Bunt	Gannon	Moehlmann	Stewart
Burd	Geist	Morris	Stuban
Burns	George	Mowery	Swift
Bush	Gladeck	Mrkonic	Taylor, E. Z.
Caltagirone	Godshall	Murphy	Taylor, J.
Cappabianca	Greenwood	Nahill	Telek
Carlson	Gruitza	Noye	Tigue
Carn	Gruppo	O'Brien	Trello
Cawley	Hagarty	O'Donnell	Truman
Cessar	Haluska	Olasz	Van Horne
Chadwick	Harper	Oliver	Veon
Cimini	Hasay	Perzel	Vroon
Civera	Hayes	Petrarca	Wambach
Clark	Herman	Petrone	Wass
Clymer	Hershey	Phillips	Weston
Cohen	Honaman	Pitts	Wiggins
Colafella	Howlett	Pott	Wilson
Cole	Jackson	Pressmann	Wogan
Cornell	Jarolin	Preston	Wozniak
Coslett	Johnson	Punt	Wright, D. R.
Coy	Josephs	Raymond	Wright, J. L.
Deluca	Kasunic	Reber	Wright, R. C.
DeVerter	Kennedy	Reinard	Yandrisevits
DeWeese	Kenney	Richardson	
Daley	Kosinski	Rieger	Irvis,
Davies	Kukovich	Robbins	Speaker
Dawida	Langtry		

**NAYS—0**

**NOT VOTING—11**

Cordisco	Freind	Lashingier	Pistella
Cowell	Hutchinson	Letterman	Sweet
Foster	Itkin	Piccola	

**EXCUSED—2**

Pievsky	Taylor, F.
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The question was determined in the affirmative, and the motion was agreed to.

**EDUCATION COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher. Why do you rise, sir?

Mr. GALLAGHER. Mr. Speaker, I call for an immediate meeting of the Education Committee in the conference room in the back of the House, immediately.

The SPEAKER. An immediate meeting of the Education Committee in the conference room at the rear of the hall of the House. An immediate meeting of the Education Committee in the conference room.

**BILLS SIGNED BY SPEAKER**

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

**HB 1626, PN 2078**

An Act repealing certain acts relating to gypsies.

**HB 2305, PN 3182**

An Act authorizing the release of Project 70 restrictions imposed on certain lands owned by the Township of Sewickley, Westmoreland County.

**HB 2330, PN 3928**

An Act amending the act of April 28, 1961 (P. L. 111, No. 50), known as the "Tourist Promotion Law," adding definitions; and further providing for grants to tourist promotion agencies.

**HB 2417, PN 3372**

An Act amending the act of June 21, 1937 (P. L. 1969, No. 389), entitled "An act relating to nonprofit cooperative corporations organized to engage in rural electrification, providing for the organization, consolidation and dissolution of such corporations; prescribing the qualification for membership therein; conferring certain rights, powers, duties and immunities upon them and their officers and members; prescribing the conditions on which such corporations may exercise their powers; providing for the inclusion of certain existing cooperative or nonprofit corporations and associations within the provisions of this act; conferring powers, and imposing duties on certain State departments, commissions and officers; fixing fees; conferring the right of eminent domain; prohibiting the use of certain terms in the corporate names of other corporations; exempting such corporations from excise taxes; imposing on them a license fee; and exempting such corporations from the jurisdiction of the Pennsylvania Public Utility Commission, and from the provisions of the Securities Act," further providing for dissolution.

**COMMUNICATION****LOBBYIST LIST PRESENTED**

The SPEAKER. The Chair acknowledges receipt from the gentleman, Mr. Corrigan, the Secretary of the Senate, and from the gentleman, Mr. Zubeck, Chief Clerk of the House of Representatives, of the list of lobbyists as required under Act No. 712 of the 1961 session. The clerk will file the list.

The following communication was submitted:

Senate of Pennsylvania  
September 30, 1986

To the Honorable, the Senate of the  
Commonwealth of Pennsylvania  
To the Honorable, the House of Representatives  
of the Commonwealth of Pennsylvania

In compliance with Act No. 712 of the 1961 Session and Act No. 212 of the 1976 Session of the General Assembly titled the "Lobbying Registration and Regulation Act," we herewith jointly present a list containing the names and addresses of the persons who have registered from July 1, 1986 through September 30, 1986 inclusive, for the 170th Session of the General Assembly. This list also contains the names and addresses of the organizations represented by these registrants.

Respectfully submitted:  
Mark R. Corrigan  
Secretary  
Senate of Pennsylvania  
John J. Zubeck  
Chief Clerk  
House of Representatives

(For list, see Appendix.)

**REMARKS ON VOTES**

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

Mr. BUNT. Correction of the record, Mr. Speaker.

On the Conference Report on HB 2515, my button did not operate. Had I been recorded, I would have wished 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. Reber. Why do you rise, sir?

Mr. REBER. Mr. Speaker, earlier today I was unable to vote when SB 1649 and HR 343 were called up. Had I been here, I would have voted in the affirmative. Thank you.

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

**BILL REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND TABLED****HB 1397, PN 4022 (Amended)**

By Rep. FRYER

An Act amending the act of June 21, 1939 (P. L. 626, No. 294), referred to as the "Second Class County Assessment Law," providing for errors in assessments and refunds.

LOCAL GOVERNMENT.

**BILL REREPORTED FROM COMMITTEE****SB 1346, PN 2465 (Amended)**

By Rep. GALLAGHER

An Act amending the act of August 7, 1963 (P. L. 549, No. 290), referred to as the "Pennsylvania Higher Education Assistance Agency Act," clarifying the authority of the agency to acquire real property.

EDUCATION.

**BILL ON THIRD  
CONSIDERATION POSTPONED**

The House proceeded to **HB 433, PN 3281**, on third consideration postponed, entitled:

An Act regulating sheriffs' foreclosure and tax sales.

On the question recurring,

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

Mr. DeLUCA offered the following amendments No. A4540:

Amend Title, page 1, line 1, by striking out all of said line and inserting  
Providing for sheriff's sales of residential property.

Amend Bill, page 1, line 4; page 2, lines 15 through 30; page 3, lines 1 through 20, by striking out all of said lines on said pages and inserting

Section 1. Short title.

This act shall be known and may be cited as the Sheriff's Sale Equity Protection Act.

Section 2. Definitions.

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

"Appraised value." The preliminary value or, if an appraisal is requested under this act, the value as established by an appraiser minus the amount of all undischarged liens. If a party disagrees with the value established by the court-appointed appraiser, the party may, at its expense, present to the court other evidence of value, including other appraisals, as it deems appropriate; and the appraised value shall be the value as determined by the court following its consideration and hearing of the additional evidence.

"Appraiser." A licensed, qualified, independent real estate appraiser selected from a list of approved appraisers promulgated annually by the president judge of the court of common pleas of the county in which the residence is located and containing not less than a number of appraisers equal to 10% of the average number of properties sold by sheriff's sale during the previous year in the county. To be eligible for inclusion on the list, an appraiser must be qualified and approved to appraise residential real estate for the Federal Housing Administration, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If it is impossible to obtain the required number of appraisers for the list, the court shall appoint a smaller number.

"Final value." The appraised value.

"Preliminary value." The value obtained for the residence by:

- (1) adjusting the assessed value or, where the assessment includes other real estate, a commensurate part of the assessed value of the residence for local real estate tax purposes by the common level ratio of assessed values to market values of the taxing district as established and most recently published by the State Tax Equalization Board; and
- (2) subtracting from the adjusted value the amount of undischarged liens.

"Residence." Real property containing two or fewer residential units, at least one of which is occupied by the record owner of the real estate.

"Sale price." The greater of the amount bid by the successful bidder at a sheriff's sale or the amount of all liens, including the lien of the levying creditor, which are discharged from the real estate by the sale, regardless of any right of redemption following such sale.

"Undischarged lien." A lien not discharged from the real estate sold at sheriff's sale, including, without limitation, liens for taxes, municipal claims and other priority items not paid out of the proceeds of sale and senior mortgage liens which, by law, are not discharged by the sale.

Section 3. Notice for sheriff's sales of residences.

(a) General rule.—At least 30 days prior to a sheriff's sale of a residence, the plaintiff or the plaintiff's attorney shall file a certification with the prothonotary showing that the notice under subsection (b) has either been delivered to sheriff for service on the owner of the residence with the notice of sheriff's sale or has been sent by the plaintiff or the plaintiff's attorney to the owner of the residence by ordinary mail, with the United States Postal Service Certificate of Mailing, addressed to the residence.

(b) Form.—The notice under this section shall be on a form bearing no letterhead and shall read:

(Caption of Case)

**IMPORTANT NOTICE ABOUT YOUR RIGHT TO GET A FAIR PRICE FOR YOUR HOUSE IF IT IS SOLD AT SHERIFF'S SALE.**

Your home at \_\_\_\_\_, \_\_\_\_\_, Pennsylvania, has or will be listed for sheriff's sale to satisfy a judgment held by \_\_\_\_\_

--- ("Plaintiff") which was enter \_\_\_\_\_, 1986, in the amount of \$\_\_\_\_\_. Under the Sheriff's Sale Equity Protection Act, the sale price of your property at the sheriff's sale (as defined in the act) must be more than 60% of the value determined under the act or the sale will not be completed. After the sheriff's sale, you will receive notice of the sale price and your rights under the act.

(c) Exemption.—No notice need be sent under this subsection in sheriff's sales of properties which are not residences or which are exempt from this act under section 6. In such cases, the plaintiff shall certify that the property is not a residence as defined in section 2 or is exempt under section 6.

Section 4. Procedure for sheriff's sale.

(a) General rule.—Except as provided in subsection (f), no sheriff's sale of a residence shall be valid unless the amount of the sale price is at least 60% of the final value of the residence. Within ten days following the sheriff's sale, the plaintiff or the plaintiff's attorney shall file a certification with the sheriff showing a calculation of preliminary value of the residence; to the best of such certifier's knowledge, a schedule of undischarged and discharged liens; a calculation of the sale price; and that the notice required by subsection (b) has been sent. Absent certification, the sheriff shall mark the sale "terms of sale not complied with" and may not deliver a deed pursuant to the sale. The amount of the discharged and undischarged liens on the certificate shall be based upon the real estate records for the liens as of the date of the writ of execution and shall be in that face amount of the liens or in an amount as calculable from the records. The plaintiff shall not be required to search or make inquiry beyond the record.

(b) Notice.—Within ten days following a sheriff's sale of a residence, the plaintiff or the plaintiff's attorney shall send notice to the owner on a form bearing no letterhead and reading as follows:

(Caption of Case)

Important Notice of Rights Under Sheriff's Sale Equity Protection Act.

Your house at (address) was sold at sheriff's sale on (date). The sale price of your house at such sale was \$\_\_\_\_\_. (Use following sentence only if "sale price" is based not on the amount bid, but rather on the amount of discharged liens.) Such sale price is based on the following liens against your property which are discharged by the sale:

<u>Name of Creditor</u>	<u>Amount</u>
Total (Including plaintiff's claim) _____	

According to county tax records, the fair market value of your house has been estimated as \$\_\_\_\_\_, less \$\_\_\_\_\_, representing the following liens which were not discharged by the sale and therefore continue against the property:

<u>Name of Creditor</u>	<u>Amount</u>
Total Undischarged Liens _____	

Accordingly, the preliminary value of your home is \$\_\_\_\_\_ representing the estimated fair market value less such undischarged liens. If you disagree with that preliminary value and believe its value is more than \$\_\_\_\_\_ (insert figure which is 1.67 times the sale price) you have the right to ask the Court of Common Pleas of \_\_\_\_\_ County to appoint an appraiser to inspect your property at your expense and submit an estimate of value to the court. In order to exercise your rights, you must return to the Sheriff of \_\_\_\_\_ County the form at the end of this notice

together with a certified check, cashier's check or money order for \$----- to cover the cost of such appraisal. Such request form and payment must be actually received by the sheriff within 15 days from the date of this letter.

If you return the request form and payment within 15 days, the court will appoint an independent appraiser who will, within 30 days, perform an appraisal, file a copy with the court and send you and the Plaintiff copies. You must make your home available to be inspected by such appraiser as well as any appraiser designated by the Plaintiff at a reasonably convenient time. If you fail to allow your home to be inspected by either appraiser upon request, your rights to an appraisal hereunder shall be terminated.

If you or the Plaintiff disagree with the value determined by the court-appointed appraiser, you can request a hearing and present additional evidence of value. In that case, the court shall determine the "appraised value" for the purpose of the sheriff's sale of your home. If you do not ask for an appraisal, the preliminary value set forth above shall be deemed to be the value of your home.

Also, if you want to challenge the amount of the liens listed above, you must complete the second part of the return form attached and return that form to the sheriff within 15 days, and the court will schedule a hearing to decide if they are correct. You will be notified of the date and time of the hearing.

**RETURN FORM**

**TO REQUEST AN APPRAISAL COMPLETE THE FOLLOWING INFORMATION AND ENCLOSE THE APPROPRIATE AMOUNT:**

I request an appraisal of my home located at ----- and enclose my payment of \$----- by (circle one) certified check, cashier's check, money order payable to the order of the Sheriff of ----- County, representing the appraisal fee. I agree to allow my home to be inspected at a reasonably convenient time between the hours of 9 a.m. and 8 p.m. Monday through Saturday by the court-appointed appraiser as well as any appraiser appointed by the Plaintiff. An appointment to inspect my home can be made by calling me at -----.

I hereby certify that I own the above real estate, such real estate is one-family or two-family property, and I live in the property as may primary residence.

-----  
(Signature)

**TO CHALLENGE THE AMOUNT OF THE LIENS LISTED ON THIS NOTICE COMPLETE THE FOLLOWING:**

I disagree with the following liens stated in the notice against my property:

Name of Creditor	Amount I Think Is Owed
------------------	------------------------

I hereby certify that I own the above real estate, such real estate is one-family or two-family property, and I live in the property as my primary residence. I request a hearing on the amount of the liens.

-----  
(Signature)

**TO PROTECT YOUR RIGHTS, THIS FORM SHOULD BE RETURNED TO THE SHERIFF OF -----**

----- COUNTY AT -----

----- (Address).

(c) Cost of appraisal.—If the sale price calculated by the plaintiff is less than 80% of the preliminary value, the first \$50 of the cost of the appraisal shall be borne by the owner; and the balance shall be paid by the sheriff out of sheriff commissions and other funds available to the sheriff. If the sale price is 80% or more of the preliminary value, the owner shall pay the entire cost of the appraisal.

(d) Appraiser.—If an owner of a resident returns a request for an appraisal within 15 days of the date of the notice under subsection (b), the sheriff shall assign the appraisal, on a rotating basis, to an appraiser. Appointment shall be made within three business days after receipt of the request. The appraisal shall be completed on the standard FNMA/FHLMC appraisal form and be submitted by the appraiser to the sheriff, with copies for the levying creditor and the defendant, within 30 days of appointment. If the owner does not permit the appraisal to be made, the appraiser shall report this fact to the sheriff, with copies to the plaintiff and owner. The appraiser shall attach to all copies of the appraisal report, including a report that the owner refused to cooperate, a notice reading:

**NOTICE**

If you disagree with this report, you must request a hearing within ten days of the date of this notice to present evidence that it is not correct. You may request a hearing by filing the attached form with the sheriff's office at ----- (address).

DATE -----

**RETURN FORM**

I disagree with the report of the appraiser regarding ----- (address of property). I request a hearing to determine whether the report is correct.

-----  
(Signature)

(e) Hearing.—If a hearing is requested by either party contesting the liens under subsection (b) or contesting the appraiser's report under subsection (d) within 15 days of the notice under subsection (b), or within ten days of the notice under subsection (d), the request shall be deemed a contested motion and shall be scheduled for a hearing to be held within 30 days after request. If the owner has requested a hearing under subsection (b) and also requested an appraisal, the hearing may be held within 40 days after the appraisal report so that, if a challenge is made to the appraisal report, both matters shall be heard together. At the hearing the court shall determine the final value and sale price, and whether the sale complies with subsection (a). The party requesting the presence of the court-appointed appraiser shall pay the appraiser's fees for appearance.

(f) Relisting.—If a sheriff's sale of a residence is invalidated under subsection (a) or (e), the plaintiff shall have the right to relist the property for sale for any date more than 179 days after the invalidated sale, the sheriff shall promptly send the homeowner a notice, by ordinary mail, reading:

**NOTICE THAT SHERIFF'S SALE WAS NOT VALID**

The sheriff's sale of your residence held on (date) was not completed because the sale price was not at least 60% of the final value of your residence, as required by the Sheriff's Sale Equity Protection Act. However, the creditor may reschedule a sheriff's sale of your residence to be held any time after ----- (insert date which is 179 days after invalidated sale), and the rescheduled sale cannot be set aside because of sale price no matter how low the price may be at that sale. If you wish to get the benefit of the value of your home, you should act promptly.

**TO FIND OUT DIFFERENT ACTIONS YOU CAN TAKE, YOU MAY WANT TO CONSULT A LAWYER. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE**

**THE OFFICE LISTED BELOW TO FIND OUT WHERE TO GET LEGAL HELP.**

(Address and phone number of Lawyer's Reference Service for County).

At the second sale, the notices and certifications required by section 3 and this section shall not be required, and the property shall be sold at the second sale to the highest bidder, regardless of the amount of the sale price in relation to the value of the residence.

(g) Deeds.—In a sale valid under this act, the sheriff may not deliver a deed until after the following dates:

(1) If no appraisal is requested by the owner, and if the owner does not contest the statement of liens, 15 days after the date of the notice sent under subsection (b).

(2) If an appraisal is requested, the owner does not contest the statement of liens and no party contests the appraisal report, ten days after the submission and mailing of the appraisal report.

(3) If a hearing is requested, five days after the court's determination of the final value.

(h) Appraisal reports.—The appraisal report under subsection (d) shall be kept on file by the sheriff and shall be available for inspection by the public during the sheriff's regular business hours until the sheriff's deed to the property has been delivered. Thereafter, the appraisal report shall be stored or disposed of in accordance with the regulations for the retention of other sheriff's records.

**Section 5. Costs of sheriff's sale.**

(a) Advertising for invalidated sales.—The cost of advertising invalidated sheriff's sales shall be an allowable court cost collectible under the judgment.

(b) Interest.—Interest shall be allowed, to the extent the funds held by the sheriff are sufficient, through the date of actual distribution by the sheriff. If the lien being paid by the sheriff is a mortgage or deed of trust, interest shall be allowed at the higher of:

(1) the interest rate provided in the instrument evidencing the indebtedness, applied to the outstanding principal amount of the indebtedness; or

(2) at the highest rate allowed by law for judgments.

(c) Purchased by plaintiff.—If the plaintiff is the successful bidder at the sheriff's sale, no poundage or sheriff's commission may be charged by the sheriff on the amount of the plaintiff's bid except to the extent that the bid exceeds plaintiff's claim plus costs and other priority claims.

(d) Deposits.—If the successful bid at a sheriff's sale is less than \$2,000, the successful bidder shall deposit 5% of the bid with the sheriff. If the successful bid at a sheriff's sale is \$2,000 or more, the successful bidder shall deposit the greater of 5% of the bid or \$2,000 with the sheriff. This subsection does not apply if the successful bidder is the plaintiff.

(e) Balance.—The successful bidder shall be allowed 60 days following the sale to pay the remainder of its bid to the sheriff. Unless the plaintiff agrees to a further extension of the 60-day period, if the successful bidder does not deposit the remainder of its bid within 60 days, the bidder's deposit shall be forfeited and applied first to reimburse the plaintiff for the expenses of the defaulted sale; second to the expenses of relisting the property for sale, if the property is relisted by the plaintiff; and third to pay the plaintiff. The sheriff shall mark the defaulted sale "terms of sale not complied with."

**Section 6. Exemptions.**

The provisions of sections 3 and 4 do not apply to sheriff's sales by creditors who are one of the following:

(1) Individuals, estates or trusts for the benefit of individuals.

(2) Persons who:

(i) did not hold nor extend five or more loans secured by residences in the preceding year; and

(ii) did not hold nor extend 25 or more loans not secured by real estate in the preceding year.

**Section 7. Waiver.**

The protections of this act may not be waived by an owner except by failure of the owner to take advantage of the rights under this act.

**Section 8. Application.**

This act shall not apply to writs of execution filed more than three years after the act takes effect.

**Section 9. Effective date.**

This act shall take effect in 90 days.

On the question,

Will the House agree to the amendments?

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

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I stand before you today to speak about the concerns of the State's many unemployed homeowners who are fighting to keep the roof over their families' heads.

I urge your support for my amendment to HB 433. This proposal would protect homeowners who have built equity into their homes but have gone into foreclosure mainly due to the State's industrial collapse. I am referring to those people who have been hit hardest by the economic recession. These people are suffering from extended layoffs and permanent—

The SPEAKER. The gentleman yield.

Is the gentleman addressing the amendment or the bill?

Mr. DeLUCA. I am addressing the amendment, Mr. Speaker.

The SPEAKER. Very well. You may continue.

Mr. DeLUCA. Mr. Speaker, these people are suffering from extended layoffs and permanent disability which this amendment addresses.

If you will recall, last spring when I brought this measure before you, it was defeated. I do not believe it was the intention of the members of this House to further contribute to the hardships of the unemployed, but rather, it was an indication that a compromise should be reached between the State's savings and loan associations, primary mortgage holders for many of the homeowners in question, and those who have helped draft the original amendments, including the sheriff of Allegheny County, Eugene Coon; the AFL-CIO, the United Auto Workers, and the Philadelphia Unemployment Project, and United Steelworkers.

The SPEAKER. Just a moment, Mr. DeLuca. It is going to be a long afternoon. Stick to the amendment, please, sir.

Mr. DeLUCA. Yes, sir, Mr. Speaker.

The SPEAKER. Not on the bill, the amendment.

Mr. DeLUCA. Mr. Speaker, what we are addressing with amendment 4540 is a sheriff's-sale-equity-protection amendment. Under this act the sheriff's sale of an owner-occupied residence will be invalidated unless the sale price is 60 percent of the value of the residence. The purpose of this amendment is to protect the equity of the homeowner whose residence is sold at sheriff's sale.

This is an agreed-to amendment. It has been worked on all summer, and I ask for the support of my fellow colleagues. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Bradford, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

Much good work has been done since this bill was before us this spring. The amendment before us now represents a fair compromise which will allow a homeowner to protect his equity in his home without unnecessarily or unreasonably burdening the foreclosure process.

I recommend an affirmative vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—193

Acosta	Dietz	Lashingner	Rieger
Afflerbach	Dininni	Laughlin	Robbins
Angstadt	Distler	Lescovitz	Roebuck
Argall	Dombrowski	Letterman	Rudy
Arty	Donatucci	Levdansky	Ryan
Baldwin	Duffy	Linton	Saloom
Barber	Durham	Livengood	Saurman
Battisto	Evans	Lloyd	Scheetz
Belardi	Fargo	Lucyk	Semmel
Belfanti	Fattah	McCall	Serafini
Birmelin	Fee	McClatchy	Seventy
Black	Fischer	McHale	Showers
Blaum	Flick	McVerry	Sirianni
Book	Foster	Mackowski	Smith, B.
Bortner	Fox	Maiale	Smith, L. E.
Bowley	Freeman	Manderino	Snyder, D. W.
Bowser	Freind	Manmiller	Snyder, G.
Boyes	Fryer	Markosek	Staback
Brandt	Gallagher	Mayernik	Stairs
Broujos	Gamble	Merry	Steighner
Bunt	Gannon	Michlovic	Stevens
Burd	Geist	Micozzie	Stewart
Burns	George	Miller	Stuban
Bush	Gladeck	Moehlmann	Sweet
Caltagirone	Godshall	Morris	Swift
Cappabianca	Greenwood	Mowery	Taylor, E. Z.
Carlson	Gruitza	Mrkonic	Taylor, J.
Carn	Gruppo	Murphy	Telek
Cawley	Hagarty	Nahill	Tigue
Cessar	Haluska	Noye	Trello
Chadwick	Harper	O'Brien	Truman
Cimini	Hasay	O'Donnell	Van Horne
Civera	Hayes	Olasz	Veon
Clark	Herman	Oliver	Vroon
Clymer	Hershey	Perzel	Wambach
Cohen	Honaman	Petrarca	Wass
Colafella	Howlett	Petrone	Weston
Cole	Hutchinson	Phillips	Wiggins
Cornell	Itkin	Piccola	Wilson
Coslett	Jackson	Pistella	Wogan
Cowell	Jarolin	Pitts	Wozniak
Coy	Johnson	Pott	Wright, D. R.
DeLuca	Josephs	Pressmann	Wright, J. L.
DeVertter	Kasunic	Preston	Wright, R. C.
DeWeese	Kennedy	Punt	Yandrisevits
Daley	Kenney	Raymond	
Davies	Kosinski	Reber	Irvis,
Dawida	Kukovich	Reinard	Speaker
Deal	Langtry	Richardson	

NAYS—2

Dorr Gallen

NOT VOTING—4

Barley Cordisco Rybak Schuler

EXCUSED—2

Pievsky Taylor, F.

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 recognizes the gentleman from Washington, Mr. Lescovitz. Are you offering your own amendment or Mr. Taylor's at this point?

Mr. LESCOVITZ. Mr. Speaker, due to this compromise, Mr. Taylor's amendment A2493 and my amendment A1959 will be withdrawn.

The SPEAKER. The Chair thanks the gentleman.

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?

The Chair recognizes the gentleman from Allegheny, Mr. DeLuca. If you wish to make your statement now on the bill, you are in order, sir.

Mr. DeLUCA. Thank you, Mr. Speaker.

I just want to commend the people involved in this compromise. We worked all summer for it, and I want to commend the savings and loans for being able to work together with the unemployed and people of other organizations to come up with this compromise. I think they should be commended. Thank you, Mr. Speaker.

On the question recurring,

Shall the bill pass finally?

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

YEAS—192

Acosta	Deal	Langtry	Richardson
Afflerbach	Dietz	Lashingner	Rieger
Angstadt	Dininni	Laughlin	Robbins
Argall	Distler	Lescovitz	Roebuck
Arty	Dombrowski	Letterman	Rudy
Baldwin	Donatucci	Levdansky	Ryan
Barber	Duffy	Linton	Saloom
Barley	Durham	Livengood	Saurman
Battisto	Evans	Lloyd	Scheetz
Belardi	Fargo	Lucyk	Schuler
Belfanti	Fattah	McCall	Semmel
Birmelin	Fee	McClatchy	Serafini
Black	Fischer	McHale	Seventy
Blaum	Flick	McVerry	Showers
Book	Foster	Mackowski	Sirianni
Bortner	Fox	Maiale	Smith, B.
Bowley	Freeman	Manderino	Snyder, D. W.

Bowser	Freind	Manmiller	Snyder, G.
Boyes	Fryer	Markosek	Staback
Brandt	Gallagher	Mayernik	Stairs
Broujos	Gamble	Merry	Steighner
Bunt	Gannon	Michlovic	Stevens
Burd	Geist	Micozzie	Stewart
Burns	George	Miller	Stuban
Bush	Gladeck	Moehlmann	Sweet
Caltagirone	Godshall	Morris	Swift
Cappabianca	Greenwood	Mowery	Taylor, E. Z.
Carlson	Gruitza	Mrkonic	Taylor, J.
Carn	Gruppo	Murphy	Telek
Cawley	Hagarty	Nahill	Tigue
Cessar	Haluska	Noye	Trello
Chadwick	Harper	O'Brien	Truman
Cimini	Hasay	O'Donnell	Van Horne
Civera	Hayes	Olasz	Veon
Clark	Herman	Oliver	Vroon
Clymer	Hershey	Perzel	Wambach
Cohen	Honaman	Petrarca	Wass
Colafella	Howlett	Petrone	Weston
Cole	Hutchinson	Phillips	Wiggins
Cornell	Itkin	Piccola	Wilson
Coslett	Jackson	Pistella	Wogan
Cowell	Jarolin	Pitts	Wozniak
Coy	Johnson	Pott	Wright, D. R.
DeLuca	Josephs	Pressmann	Wright, J. L.
DeVerter	Kasunic	Preston	Yandrisevits
DeWeese	Kennedy	Punt	
Daley	Kenney	Reber	Irvis,
Davies	Kosinski	Reinard	Speaker
Dawida	Kukovich		

NAYS—3

Dorr                      Gallen                      Smith, L. E.

NOT VOTING—4

Cordisco                Raymond                Rybak                      Wright, R. C.

EXCUSED—2

Pievsky                Taylor, F.

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

Ordered, That the clerk present the same to the Senate for concurrence.

The SPEAKER. The Chair thanks the gentleman, Mr. DeLuca, for presenting the arguments on the floor of the House which the Chair was precluded from its position of presenting.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Rybak. Why do you rise?

Mr. RYBAK. My button did not work. I pushed it. I would like to be recorded in the affirmative on that amendment.

The SPEAKER. On the amendment or on the bill?

Mr. RYBAK. On the bill and on the amendment.

The SPEAKER. On the amendment A4540 and the bill, HB 433, the gentleman's remarks will be spread upon the record.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **SB 1389, PN 2249**, entitled:

An Act amending the act of November 30, 1965 (P. L. 847, No. 356), entitled "Banking Code of 1965," providing for Statewide and nationwide branching by savings banks and for regional, reciprocal interstate banking for savings banks; permitting savings banks to take demand deposits; further providing for the articles of incorporation and classes of stock of banking institutions; and making repeals.

On the question,

Will the House agree to the bill on third consideration?

Mr. LESCOVITZ offered the following amendments No. A4174:

Amend Title, page 1, line 20, by inserting after "INSTITUTIONS;" granting additional powers to savings banks; clarifying the right of directors, trustees and officers to consider the effect of an institution's actions upon employees, depositors, borrowers and others; providing for interested shareholder transactions; conferring certain rights on noncontrolling shareholders of institutions and national banks; revising provisions for savings banks' conversion to stock form;

Amend Preamble, page 2, by inserting between lines 14 and 15

(4) Geographical limitations on interstate operations by thrift institutions are important to the competitiveness, safety and soundness of Pennsylvania's thrift institutions.

Amend Bill, page 2, by inserting between lines 16 and 17

Section 1. Section 102(f), (g), (i) and (x) of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, amended April 8, 1982 (P.L.262, No.79), are amended to read:

Section 102. Definitions

Subject to additional definitions contained in subsequent chapters of this act which are applicable to specific chapters or sections thereof, 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:

\*\*\*

(f) "Bank"—a corporation which exists under the laws of this Commonwealth and, as a bank under the Banking Code of 1933, was authorized to engage in the business of receiving demand deposits on the effective date of this act, or which receives authority to engage in such business as a bank pursuant to this act, but which is not authorized to act as fiduciary.

(g) "Bank and trust company"—a corporation which exists under the laws of this Commonwealth and, as a bank and trust company under the Banking Code of 1933, was authorized to engage in the business of receiving demand deposits and to act as fiduciary on the effective date of this act, or which receives authority both to engage in such business and to act as fiduciary as a bank and trust company pursuant to this act.

\*\*\*

(i) "Capital"—the sum of the par value of the [preferred and common] issued and outstanding shares of an institution [issued and outstanding] having a par value and the consideration received by an institution for the issued and outstanding shares of the institution without par value except such part thereof as may have been allocated other than to capital, but not in an amount greater than the amount, if any, by which:

(i) the total assets of the institution which would properly be shown on its balance sheet, exclusive of amounts due on unpaid subscriptions for shares, exceed



(ii) the total of the items which would properly be shown on the liability side of its balance sheet other than such sum of the par value of its shares.

\*\*\*

(x) "Savings bank"—a corporation with or without capital stock which exists under the laws of this Commonwealth and as a savings bank under the Banking Code of 1933 was authorized to engage in the business of receiving savings deposits on the effective date of this act or which receives authority to engage in such business as a savings bank pursuant to this act.

\*\*\*

Amend Sec. 1, page 2, line 17, by striking out "1" and inserting

2

Amend Sec. 1, page 2, lines 17 and 18, by striking out "of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965"

Amend Sec. 2, page 3, line 8, by striking out "2" and inserting

3

Amend Sec. 2 (Sec. 117), page 5, lines 16 through 22, by striking out "WHEN CONSIDERING" in line 16 and all of lines 17 through 22

Amend Sec. 2 (Sec. 117), page 6, line 14, by striking out "satisfied" and inserting

satisfies

Amend Sec. 2 (Sec. 117), page 6, line 22, by inserting after "department."

When considering a proposed acquisition by a regional thrift institution or a regional thrift institution holding company, the department shall give specific attention to the effect of the acquisition on the availability, in this Commonwealth, of those banking and basic transaction account services set forth in subsections (i) and (j).

Amend Sec. 2 (Sec. 117), page 14, line 21, by striking out "ESTABLISHMENT OF ADVISORY" and inserting

Advisory

Amend Sec. 2 (Sec. 117), page 14, lines 23 through 30; page 15, lines 1 through 15, by striking out "THERE IS HEREBY ESTABLISHED AN ADVISORY" in line 23, all of lines 24 through 30, page 14, lines 1 through 15, page 15 and inserting the advisory commission established by section 116(k) is empowered and directed to

Amend Sec. 2, page 15, by inserting between lines 22 and 23 Section 206. Interested Directors and Shareholders; Quorum

(a) Voting requirements—Any transaction authorized under Chapter 16 of this act between an institution or subsidiary thereof and a shareholder of such an institution, or any transaction authorized under section 1803 of this act in which a shareholder is treated differently from other shareholders of the same class (other than any dissenting shareholders under section 1607 of this act), shall require the affirmative vote of the shareholders entitled to cast at least a majority of the votes which all shareholders other than the interested shareholder are entitled to cast with respect to the transaction, without counting the vote of the interested shareholder. For the purposes of the preceding sentence, interested shareholder shall include the shareholder who is a party to the transaction or who is treated differently from other shareholders and any person, or group of persons, that is acting jointly or in concert with the interested shareholder and any person who, directly or indirectly, controls, is controlled by or is under common control with the interested shareholder. An interested shareholder shall not include any person who, in good faith and not for the purpose of circumventing this subsection, is an agent, bank, broker, nominee or trustee for one or more other persons, to the extent that such other person or persons are not interested shareholders.

(b) Exceptions—Subsection (a) shall not apply to a transaction:

(i) which has been approved by a majority vote of the board of directors or trustees without counting the vote of directors or trustees who:

(A) are directors, trustees or officers of, or have a material equity interest in, the interested shareholder; or

(B) were nominated for election as a director or trustee by the interested shareholder, and first elected as a director or trustee, within twenty-four months of the date of the vote on the proposed transaction; or

(ii) in which the consideration to be received by the shareholders for shares of any class of which shares are owned by the interested shareholder is not less than the highest amount paid by the interested shareholder in acquiring shares of the same class.

(c) Approvals required—The approvals required by this section shall be in addition to, and not in lieu of, any other approval required by this act, the articles of the institution, the bylaws of the institution or otherwise.

Amend Sec. 3, page 15, line 23, by striking out "3" and inserting

4

Amend Sec. 4, page 16 line 20, by striking out "4" and inserting

5

Amend Sec. 5, page 17, line 5, by striking out "5" and inserting

6

Amend Sec. 5 (Sec. 1004), page 18, line 3, by inserting after "CLASS" that are to have a par value and the par value of each class and the number of shares of each class, if any, that are to be without par value

Amend Sec. 5 (Sec. 1004), page 18, lines 4 and 5, by striking out all of line 4 and "(III)" in line 5 and inserting

(ii)

Amend Sec. 5 (Sec. 1004), page 18, line 11, by striking out "(IV)" and inserting

(iii)

Amend Sec. 6, page 19, line 4, by striking out "6. SECTIONS 1202 AND 1503(D) OF THE ACT ARE" and inserting

7. Section 1202 of the act is

Amend Sec. 6 (Sec. 1202), page 19, line 9, by inserting brackets before and after "PREFERRED" and inserting immediately thereafter

other

Amend Sec. 6 (Sec. 1202), page 19, line 10, by striking out "PREFERRED"

Amend Sec. 6 (Sec. 1202), page 19, line 11, by striking out "SHALL" and inserting

may

Amend Sec. 6 (Sec. 1202), page 19, line 12, by inserting after "VALUE"

or shares without par value

Amend Sec. 6 (Sec. 1202), page 19, line 30, by striking out "PREFERRED"

Amend Sec. 6 (Sec. 1202), page 20, line 3, by inserting brackets before and after "PREFERRED" where it appears the first time and inserting immediately thereafter

redeemable

Amend Sec. 6 (Sec. 1202), page 20, line 3, by inserting brackets before and after "PREFERRED" where it appears the second time

Amend Sec. 6 (Sec. 1202), page 21, line 17, by striking out "(A)"

Amend Sec. 6 (Sec. 1202), page 21, lines 18 and 19, by striking out "IN ACCORDANCE WITH CLAUSE (I)."

Amend Bill, page 22, by inserting between lines 19 and 20

Section 8. Section 1203(a) of the act, amended July 23, 1970 (P.L.597, No.199), is amended to read:

Section 1203. Consideration for Shares

(a) Minimum requirements—Except in the case of a distribution of shares of the institution authorized by section 1303 or shares issued upon exchanges or conversions, shares of an institution may be issued only for cash in an amount, or for assets with a value, which shall be at least:

(i) in the case of the issuance of common shares and other shares with par value either:

(A) the par value of the shares if the surplus of the institution will be at least equal to its capital after the issuance of the shares, or

(B) the par value of the shares and such additional amount up to fifty percent of the par value of the shares as may be required to provide surplus equal to capital after the issuance of the shares, or

(C) the par value of the shares and an additional amount equal to fifty percent of the par value of the shares if the surplus of the institution will not be at least equal to its capital after the issuance of the shares, and in the case of a new institution, such additional amount as may be necessary to provide the expense fund required by section 1010(b)(i) of this act; and

(ii) in the case of the issuance of [preferred shares, the par value thereof.] other shares without par value, the amount of value of the agreed consideration received for such shares which the board of directors shall, in the resolution authorizing the issue of such shares, allocate to capital or surplus by specifying in dollars the part of such consideration allocated to capital, which shall not be less than the preferential right of such shares in the assets of the institution in the event of involuntary liquidation, and the part of such consideration allocated to surplus.

\*\*\*

Section 9. Sections 1205(a) and 1303(b) of the act are amended to read:

Section 1205. Share Certificates

(a) Contents—The shares of an institution shall be represented by share certificates which shall in every case contain:

(i) a statement that the institution is incorporated under the laws of this Commonwealth,

(ii) the name of the registered holder of the shares represented thereby,

(iii) the number and class of shares which the certificate represents, and the designation of the series, if any,

(iv) the par value of each share represented, or a statement that the shares are without par value,

and if the institution is authorized to issue shares of more than one class, the certificate shall contain on the face or back either a full or a summary statement, or a statement that the institution will furnish to any shareholder upon request and without charge a full statement, of the designations, preferences, limitations and relative rights of the shares of each class authorized to be issued and, if the institution is authorized to issue any class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

\*\*\*

Section 1303. Distributions of Shares of Institution

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(b) Capital and surplus requirements—No distribution may be made in authorized but unissued shares of the institution unless:

(i) if the distribution is made in shares having a par value, there shall be transferred to capital an amount equal to the aggregate par value of the shares distributed, [and]

(ii) if the distribution is made in shares without par value, the board of directors may fix a value for the shares so issued and there shall be transferred to capital at the time of such distribution an amount of accumulated net earnings equal to the aggregate value so fixed, and

(iii) immediately after the distribution, surplus would be at least equal to the amount of capital.

\*\*\*

Section 10. Section 1306 of the act, amended May 21, 1980 (P.L.173, No.51), is amended to read:

Section 1306. Redemption and Acquisition of [Preferred] Redeemable Shares; Statement of Reduction of Authorized Shares

(a) Unless otherwise provided in its articles, an institution may by resolution of its board of directors and with the prior approval of the department redeem or otherwise acquire [preferred] shares subject to redemption if immediately after the redemption or other acquisition surplus would be at least equal to the amount of capital. In determining whether or not to give its approval under this subsection (a), the department shall give primary consideration to the question whether or not, after the cancellation of the [preferred] shares, the capital accounts of the institution would be adequate to support its anticipated deposit volume. The provisions of this section do not restrict or otherwise affect the power of an institution with prior approval of the department to purchase (subject to the requirements of this act as to capital and surplus), hold and own its shares other than [preferred] shares subject to redemption.

(b) [Preferred shares] Share subject to redemption which are redeemed or otherwise acquired shall be canceled and shall not be reissued. Immediately upon the redemption or other acquisition, the institution shall deliver to the department a statement of reduction of authorized shares which shall be signed by two duly authorized officers under its seal and shall set forth:

(i) the aggregate number of shares of each class which the institution had authority to issue and the number of issued shares of each class,

(ii) the number of [preferred] shares of each class subject to redemption which have been canceled,

(iii) the aggregate number of shares of each class which the institution has authority to issue after giving effect to the reduction made by such cancellation, and

(iv) the provisions of the articles of the institution which are to be changed by reason of the reduction of authorized shares.

If the Department of Banking finds that the statement conforms to law it shall deliver the statement with its written approval to the Department of State for filing. Receipt thereof by the Department of State shall have the effect of amending the articles of the institution to the extent of the changes set forth in the statement. The Department of State shall make and retain a copy of the statement and shall send the approved statement to the institution.

Section 11. Sections 1411 and 1503(d) of the act are amended to read:

Section 1411. Responsibility of Directors, Trustees and Officers

(a) Good faith—Directors, trustees and officers of an institution shall discharge the duties of their respective positions in good faith and with that diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions.

(b) Consideration of effect of action—In discharging the duties of their respective positions, the board of directors or trustees, committees of the board, individual directors and trustees and individual officers may, in considering the best interests of the institution, consider the effects of any action upon employees, depositors, borrowers, beneficiaries of fiduciary accounts, creditors and suppliers of the institution, communities

in which offices or other establishments of the institution are located and all other pertinent factors.

Amend Sec. 6 (Sec. 1503), page 22, line 24, by striking out "DESIGNATIONS,"

Amend Sec. 6 (Sec. 1503), page 22, line 25, by inserting brackets before and after "REDEMPTION PROVISIONS,"

Amend Sec. 6 (Sec. 1503), page 22, line 25, by striking out "PRIVILEGES,"

Amend Sec. 6 (Sec. 1503), page 22, line 26, by striking out the bracket before "RESTRICTIONS"

Amend Sec. 6 (Sec. 1503), page 22, line 26, by striking out "] OPTIONS, CONVERSION RIGHTS"

Amend Sec. 6 (Sec. 1503), page 22, line 27, by striking out "OTHER"

Amend Sec. 6 (Sec. 1503), page 22, line 27, by striking out the bracket before "OR"

Amend Sec. 6 (Sec. 1503), page 22, line 27, by striking out the bracket after "RELATIVE"

Amend Sec. 6 (Sec. 1503), page 22, line 27, by inserting after "CLASS"

or series

Amend Sec. 6 (Sec. 1503), page 22, line 28, by inserting after "CLASS"

or series

Amend Sec. 6 (Sec. 1503), page 23, line 2, by inserting after "CLASS"

or series

Amend Sec. 6 (Sec. 1503), page 23, line 2, by striking out "ORIGINAL"

Amend Sec. 6 (Sec. 1503), page 23, lines 2 through 6, by striking out "OR" in line 2 and all of lines 3 through 6

Amend Sec. 6 (Sec. 1503), page 23, line 9, by inserting after "CLASS"

or series

Amend Sec. 6 (Sec. 1503), page 23, line 11, by inserting after "CLASS"

or series, having a preference as to dividends or assets

Amend Sec. 6 (Sec. 1503), page 23, line 12, by striking out "THE" and inserting

a

Amend Sec. 6 (Sec. 1503), page 23, line 13, by striking out all of said line and inserting

authorized,] or series, or

Amend Sec. 6 (Sec. 1503), page 23, lines 15 through 18, by striking out "DESIGNATIONS, PREFERENCES, REDEMPTION" in line 15 and all of lines 16 through 18 and inserting

relative rights and preferences as between series of any preferred or special class,

Amend Sec. 6 (Sec. 1503), page 23, line 19, by inserting after "CLASS"

or series

Amend Sec. 6 (Sec. 1503), page 23, line 21, by inserting brackets before and after "SUCH" and inserting immediately thereafter

any

Amend Bill, page 23, by inserting between lines 25 and 26 Section 12. The heading of Chapter 16 and section 1601 of the act are amended to read:

Chapter 16

Mergers [and], Consolidations and Certain Other Fundamental Transactions

Section 1601. Application of Chapter

This chapter shall apply to, and the word "institution" in this chapter shall mean, an incorporated institution, except that section 1610 shall apply to a national bank as provided therein.

Amend Sec. 7, page 23, line 26, by striking out "7" and inserting

Amend Bill, page 27, by inserting between lines 7 and 8 Section 14. The act is amended by adding a section to read: Section 1610. Right of Shareholders to Receive Payment for Shares Following a Control Transaction

(a) Rights and remedies—Unless (i) the bylaws, by amendment adopted within ninety days of the date of enactment of this section and not subsequently rescinded by an amendment of the articles, or (ii) the articles explicitly provide that this section shall not be applicable to the institution, any holder of voting shares of an institution that becomes the subject of a control transaction described in subsection (b) who shall object to the transaction shall be entitled to the rights and remedies herein provided.

(b) Definition—

(i) A controlling person or group shall mean, for the purposes of this section, a person who has, or a group of persons acting in concert that has, voting power over voting shares of the institution that would entitle the holders thereof to cast at least thirty percent of the votes that all shareholders would be entitled to cast in an election of directors or trustees of the institution.

(ii) Notwithstanding clause (i), a person or group which would otherwise be a controlling person or group within the meaning of this section shall not be deemed such a controlling person or group unless, subsequent to the enactment of this section, that person or group increases the percentage of outstanding voting shares of the institution over which it has voting power to in excess of the percentage of outstanding voting shares of the institution over which that person or group had voting power on the date of enactment of this section, and to at least the amount specified in clause (i), as the result of forming or enlarging a group, or acquiring, by purchase, voting power over voting shares of the institution.

(iii) (A) A person shall not be a controlling person under clause (i) if such person holds voting power, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee or trustee for one or more beneficial owners who do not individually or, if they are a group acting in concert, as a group have the voting power specified in clause (i) or who are not deemed a controlling person or group under clause (ii).

(B) For the purposes of this section, a person has voting power over a voting share if such person has or shares, directly or indirectly, through any option, contract, arrangement, understanding, conversion right or relationship, or by acting jointly or in concert or otherwise, the power to vote, or to direct the voting of, such voting share.

(iv) A control transaction shall mean, for the purposes of this section, the acquisition by a person or group of the status of a controlling person or group other than in the conversion to stock form of a mutual savings bank.

(c) Notice—Prompt notice that a control transaction has occurred shall be given by the controlling person or group to each shareholder of record of the institution holding voting shares. If the person or group so requests, the institution shall, at the option of the institution and at the expense of the person or group, either furnish a list of all such shareholders to the person or group or mail the notice to all such shareholders. There shall be included in or enclosed with the notice a copy of this section and subsections (F) through (I) of section 515 of the act of May 5, 1933 (P.L.364, No.106), known as the Business Corporation Law.

(d) Demand for payment—After the occurrence of the control transaction, any holder of voting shares of the institution may, prior to or within a reasonable time after the notice required by subsection (c) is given, which time period may be specified in the notice, make written demand on the controlling person or group for payment of the amount provided in subsection (e) with

respect to the voting shares of the institution held by the shareholder, and the controlling person or group shall agree to pay that amount to the shareholder upon surrender of the share certificate or certificates representing such shares. The demand of the shareholder shall state the number and class or series, if any, of the shares owned by him with respect to which the demand is made. Nothing contained in this section shall preclude a controlling person or group subject to this section from offering, whether in such notice or otherwise, to purchase voting shares of the institution at a price other than that provided in subsection (e), and nothing contained in this section shall preclude any shareholder from agreeing to sell his voting shares at that or any other price to any person.

(e) Shareholders' rights—A shareholder making written demand under subsection (d) shall be entitled to receive cash for each of his shares in an amount equal to the fair value of each voting share as of the day prior to the date on which the control transaction occurs, taking into account all relevant factors, including an increment representing a proportion of any value payable for acquisition of control of the institution. Either the controlling person or group or the shareholder may proceed under subsections (F) through (I) of section 515 of act of May 5, 1933 (P.L.364, No.106), known as the Business Corporation Law, for a determination of the fair value of such share as defined in this subsection. The date of notice of the occurrence of the control transaction, or if no notice is given, the date of written demand made by the shareholder, shall be deemed to be the effective date of the plan, the shareholders who make written demand shall be deemed to be the dissenting shareholders, and the controlling person or group shall be deemed to be the institution for the purposes of those subsections.

(f) Control transactions—A person or group that proposes to engage in a control transaction may comply with the requirements of this section in connection with the control transaction, and the effectiveness of the rights afforded herein to shareholders may be conditioned upon the consummation of the control transaction. The person or group shall give prompt written notice of the satisfaction of any such condition to each shareholder who has made demand as herein provided.

(g) Application—Subsections (a) through (f) shall apply to any national bank located in Pennsylvania unless such application is in conflict with an express provision of the national banking laws.

Amend Sec. 8, page 27, lines 8 through 16, by striking out all of said lines

Amend Sec. 9, page 27, line 17, by striking out "9" and inserting

15

Amend Sec. 10, page 27, line 19, by striking out all of said line and inserting

Section 16. Section 6 (section 1004), section 7 (section 1202), section 11 (section 1503(d)) and section 13 (section 1609(i) and (j)), shall take effect immediately. All other provisions of this act shall take effect in 60 days.

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

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Washington, Mr. Lescovitz.

Mr. LESCOVITZ. Thank you, Mr. Speaker.

Mr. Speaker, this is a technical amendment which has to be put into the legislation. What it does is parallel the corporation business law so it puts safeguards in for the stockholders.

I believe it is an agreed-to amendment.

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

The following roll call was recorded:

YEAS—194

Acosta	Dietz	Langtry	Robbins
Afflerbach	Dininni	Lashinger	Roebuck
Angstadt	Distler	Laughlin	Rudy
Argall	Dombrowski	Lescovitz	Ryan
Arty	Donatucci	Levdansky	Rybak
Baldwin	Dorr	Linton	Saloom
Barber	Duffy	Livengood	Saurman
Barley	Durham	Lloyd	Scheetz
Battisto	Evans	Lucyk	Schuler
Belardi	Fargo	McCall	Semmel
Belfanti	Fattah	McClatchy	Serafini
Birmelin	Fee	McHale	Seventy
Black	Fischer	McVerry	Showers
Blaum	Flick	Mackowski	Sirianni
Book	Foster	Maiale	Smith, B.
Bortner	Fox	Manderino	Smith, L. E.
Bowley	Freeman	Manmiller	Snyder, D. W.
Bowser	Freind	Markosek	Snyder, G.
Boyes	Fryer	Mayernik	Staback
Brandt	Gallagher	Merry	Stairs
Broujos	Gallen	Michlovic	Steighner
Bunt	Gamble	Miller	Stevens
Burd	Geist	Moehlmann	Stewart
Burns	George	Morris	Stuban
Bush	Gladeck	Mowery	Sweet
Caltagirone	Godshall	Mrkonic	Swift
Cappabianca	Greenwood	Murphy	Taylor, E. Z.
Carlson	Gruitza	Nahill	Taylor, J.
Carn	Gruppo	Noye	Telek
Cawley	Hagarty	O'Brien	Tigue
Cessar	Haluska	O'Donnell	Trello
Chadwick	Harper	Olasz	Truman
Cimini	Hasay	Oliver	Van Horne
Civera	Hayes	Perzel	Veon
Clark	Herman	Petrarca	Vroon
Clymer	Hershey	Petrone	Wambach
Cohen	Honaman	Phillips	Wass
Colafella	Howlett	Piccola	Weston
Cole	Hutchinson	Pistella	Wiggins
Cornell	Itkin	Pitts	Wilson
Coslett	Jackson	Pott	Wogan
Cowell	Jarolin	Pressmann	Wozniak
Coy	Johnson	Preston	Wright, D. R.
Deluca	Josephs	Punt	Wright, J. L.
DeVerter	Kasunic	Raymond	Wright, R. C.
DeWeese	Kennedy	Reber	Yandrisevits
Daley	Kenney	Reinard	
Davies	Kosinski	Richardson	Irvis,
Dawida	Kukovich	Rieger	Speaker

NAYS—0

NOT VOTING—5

Cordisco	Gannon	Letterman	Micozzie
Deal			

EXCUSED—2

Pievsky	Taylor, F.
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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?

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—195

Acosta	Dietz	Lashinger	Robbins
Afflerbach	Dininni	Laughlin	Roebuck
Angstadt	Distler	Lescovitz	Rudy
Argall	Dombrowski	Letterman	Ryan
Arty	Donatucci	Levdansky	Rybak
Baldwin	Dorr	Linton	Saloom
Barber	Duffy	Livengood	Saurman
Barley	Durham	Lloyd	Scheetz
Battisto	Evans	Lucyk	Schuler
Belardi	Fargo	McCall	Semmel
Belfanti	Fattah	McClatchy	Serafini
Birmelin	Fee	McHale	Seventy
Black	Fischer	McVerry	Showers
Blaum	Flick	Mackowski	Sirianni
Book	Foster	Maiale	Smith, B.
Bortner	Fox	Manderino	Smith, L. E.
Bowley	Freind	Manmiller	Snyder, D. W.
Bowser	Fryer	Markosek	Snyder, G.
Boyes	Gallagher	Mayernik	Staback
Brandt	Gallen	Merry	Stairs
Broujos	Gamble	Michlovic	Steighner
Bunt	Gannon	Miller	Stevens
Burd	Geist	Moehlmann	Stewart
Burns	George	Morris	Stuban
Bush	Gladeck	Mowery	Sweet
Caltagirone	Godshall	Mrkonjic	Swift
Cappabianca	Greenwood	Murphy	Taylor, E. Z.
Carlson	Gruitza	Nahill	Taylor, J.
Carn	Gruppo	Noye	Telek
Cawley	Hagarty	O'Brien	Tigue
Cessar	Haluska	O'Donnell	Trello
Chadwick	Harper	Olasz	Truman
Cimini	Hasay	Oliver	Van Horne
Civera	Hayes	Perzel	Veon
Clark	Herman	Petrarca	Vroon
Clymer	Hershey	Petrone	Wambach
Cohen	Honaman	Phillips	Wass
Colafella	Howlett	Piccola	Weston
Cole	Hutchinson	Pistella	Wiggins
Cornell	Itkin	Pitts	Wilson
Coslett	Jackson	Pott	Wogan
Cowell	Johnson	Pressmann	Wozniak
Coy	Josephs	Preston	Wright, D. R.
DeLuca	Kasunic	Punt	Wright, J. L.
DeVerter	Kennedy	Raymond	Wright, R. C.
DeWeese	Kenney	Reber	Yandrisevits
Daley	Kosinski	Reinard	
Davies	Kukovich	Richardson	Irvis,
Dawida	Langtry	Rieger	Speaker
Deal			

NAYS—1

Freeman

NOT VOTING—3

Cordisco

Jarolin Micozzie  
EXCUSED—2

Pievsky

Taylor, F.

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

\* \* \*

The House proceeded to third consideration of **SB 1390, PN 2250**, entitled:

An Act amending the act of December 14, 1967 (P. L. 746, No. 345), entitled "Savings Association Code of 1967," providing for nationwide branching by savings associations, regional, reciprocal interstate banking for savings associations and expanding investment powers; and making repeals.

On the question,

Will the House agree to the bill on third consideration?

Mr. LESCOVITZ offered the following amendments No. A4173:

Amend Preamble, page 2, by inserting between lines 14 and 15

(4) Geographical limitations on interstate operations by thrift institutions are important to the competitiveness, safety and soundness of Pennsylvania's thrift institutions.

Amend Sec. 1 (Sec. 114), page 13, lines 14 through 30; page 14, lines 1 through 7, by striking out "THERE IS" in line 14, all of lines 15 through 30, page 13, all of lines 1 through 6 and "ADVISORY COMMISSION SHALL" in line 7, page 14 and inserting

the advisory commission established by section 116(k) of the act of November 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965," is empowered and directed to

Amend Sec. 7, page 16, line 19, by striking out "30" and inserting

60

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Washington, Mr. Lescovitz.

Mr. LESCOVITZ. Mr. Speaker, this is also a cleanup amendment. It insures in the legislation that we only need one commission, and it also changes the effective date of the legislation.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—196

Acosta	Dietz	Lashinger	Robbins
Afflerbach	Dininni	Laughlin	Roebuck
Angstadt	Distler	Lescovitz	Rudy
Argall	Dombrowski	Letterman	Ryan
Arty	Donatucci	Levdansky	Rybak
Baldwin	Dorr	Linton	Saloom
Barber	Duffy	Livengood	Saurman
Barley	Durham	Lloyd	Scheetz
Battisto	Evans	Lucyk	Schuler
Belardi	Fargo	McCall	Semmel
Belfanti	Fee	McClatchy	Serafini
Birmelin	Fischer	McHale	Seventy
Black	Flick	McVerry	Showers
Blaum	Foster	Mackowski	Sirianni
Book	Fox	Maiale	Smith, B.
Bortner	Freeman	Manderino	Smith, L. E.
Bowley	Freind	Manmiller	Snyder, D. W.

Bowser	Fryer	Markosek	Snyder, G.
Boyes	Gallagher	Mayernik	Staback
Brandt	Gallen	Merry	Stairs
Broujos	Gamble	Michlovic	Steighner
Bunt	Gannon	Micozzie	Stevens
Burd	Geist	Miller	Stewart
Burns	George	Moehlmann	Stuban
Bush	Gladeck	Morris	Sweet
Caltagirone	Godshall	Mowery	Swift
Cappabianca	Greenwood	Mrkonic	Taylor, E. Z.
Carlson	Gruitza	Murphy	Taylor, J.
Carn	Gruppo	Nahill	Telek
Cawley	Hagarty	Noye	Tigue
Cessar	Haluska	O'Brien	Trello
Chadwick	Harper	O'Donnell	Truman
Cimini	Hasay	Olasz	Van Horne
Civera	Hayes	Oliver	Veon
Clark	Herman	Perzel	Vroon
Clymer	Hershey	Petrarca	Wambach
Cohen	Honaman	Petrone	Wass
Colafella	Howlett	Phillips	Weston
Cole	Hutchinson	Piccola	Wiggins
Cornell	Itkin	Pistella	Wilson
Coslett	Jackson	Pitts	Wogan
Cowell	Jarolin	Pott	Wozniak
Coy	Johnson	Pressmann	Wright, D. R.
Deluca	Josephs	Preston	Wright, J. L.
DeVerter	Kasunic	Punt	Wright, R. C.
DeWeese	Kennedy	Raymond	Yandrisevits
Daley	Kenney	Reber	
Davies	Kosinski	Reinard	Irvis,
Dawida	Kukovich	Rieger	Speaker
Deal	Langtry		

NAYS—0

NOT VOTING—3

Cordisco	Fattah	Richardson
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EXCUSED—2

Pievsky Taylor, F.

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?

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—196

Acosta	Dininni	Laughlin	Robbins
Afflerbach	Distler	Lescovitz	Roebuck
Angstadt	Dombrowski	Letterman	Rudy
Argall	Donatucci	Levdansky	Ryan
Arty	Dorr	Linton	Rybak
Baldwin	Duffy	Livengood	Saloom
Barber	Durham	Lloyd	Saurman
Barley	Evans	Lucyk	Scheetz
Battisto	Fargo	McCall	Schuler
Belardi	Fattah	McClatchy	Semmel
Belfanti	Fee	McHale	Serafini
Birmelin	Fischer	McVerry	Seventy
Black	Flick	Mackowski	Showers
Blaum	Foster	Maiale	Sirianni
Book	Fox	Manderino	Smith, B.
Bortner	Freind	Manmiller	Smith, L. E.
Bowley	Fryer	Markosek	Snyder, D. W.

Bowser	Gallagher	Mayernik	Snyder, G.
Boyes	Gallen	Merry	Staback
Brandt	Gamble	Michlovic	Stairs
Broujos	Gannon	Micozzie	Steighner
Bunt	Geist	Miller	Stevens
Burd	George	Moehlmann	Stewart
Burns	Gladeck	Morris	Stuban
Bush	Godshall	Mowery	Sweet
Caltagirone	Greenwood	Mrkonic	Swift
Cappabianca	Gruitza	Murphy	Taylor, E. Z.
Carlson	Gruppo	Nahill	Taylor, J.
Carn	Hagarty	Noye	Telek
Cawley	Haluska	O'Brien	Tigue
Cessar	Harper	O'Donnell	Trello
Chadwick	Hasay	Olasz	Truman
Cimini	Hayes	Oliver	Van Horne
Civera	Herman	Perzel	Veon
Clark	Hershey	Petrarca	Vroon
Clymer	Honaman	Petrone	Wambach
Cohen	Howlett	Phillips	Wass
Colafella	Hutchinson	Piccola	Weston
Cole	Itkin	Pistella	Wiggins
Cornell	Jackson	Pitts	Wilson
Coslett	Jarolin	Pott	Wogan
Cowell	Johnson	Pressmann	Wozniak
Coy	Josephs	Preston	Wright, D. R.
Deluca	Kasunic	Punt	Wright, J. L.
DeVerter	Kennedy	Raymond	Wright, R. C.
Daley	Kenney	Reber	Yandrisevits
Davies	Kosinski	Reinard	
Dawida	Kukovich	Richardson	Irvis,
Deal	Langtry	Rieger	Speaker
Dietz	Lashinger		

NAYS—1

NOT VOTING—2

Cordisco	DeWeese
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EXCUSED—2

Pievsky Taylor, F.

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

**BILLS ON CONCURRENCE IN SENATE AMENDMENTS CONTINUED**

The clerk of the Senate, being introduced, returned the following **HB 2174, PN 3957**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested:

An Act amending the "Public School Code of 1949," approved March 10, 1949 (P. L. 30, No. 14), further providing for continuing professional development plans and requirements.

On the question,

Will the House concur in Senate amendments?

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Dombrowski.

Mr. DOMBROWSKI. Mr. Speaker, I urge concurrence in the Senate amendments.

### RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker.

Since I know I will be cut off quickly if I get into the issue itself, each of you has received a very detailed memo, not on the merits of the specific bill but of a need to take some action before the term ends. It is a very specific and narrow need, and because of that, Mr. Speaker, I move to suspend the rules for the purpose only of amending HB 2174 with the provisions of HB 877, the church schools bill, and for no other reason. Thank you, Mr. Speaker.

On the question,

Will the House agree to the motion?

### MEMBER'S PRESENCE RECORDED

The SPEAKER. The gentleman, Mr. Cordisco's name will be placed on the master roll.

### CONSIDERATION OF HB 2174 CONTINUED

The SPEAKER. Only the leaders may debate this motion; only the leaders.

The Chair recognizes the minority leader on the motion.

Mr. RYAN. Thank you, Mr. Speaker.

Mr. Speaker, in connection with the motion, I would appoint pro tem, if you will, or yield to Mr. Freind to speak on my behalf as leader.

The SPEAKER. The Chair will permit, under the special circumstances surrounding this, the Chair will permit the gentleman, Mr. Ryan, to yield to one person one time to argue the motion in his stead. But the Chair cautions all the members and the future historians that it is only under special circumstances, which the Chair will not here detail, that this is to be permitted.

Now, I am going to repeat that. Under special circumstances, the details of which the Chair will not give you, the Chair is allowing this one time only for Mr. Ryan.

You may now proceed to argue in the stead of Mr. Ryan, Mr. Freind.

### RULING OF CHAIR APPEALED

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, I object to the Chair's decision. I would like a vote on it.

The SPEAKER. Will the gentleman, Mr. Ryan, take the podium?

The gentleman, Mr. Letterman, has challenged the ruling of the Chair. The question is for the floor. The Chair requests that the gentleman, Mr. Ryan, preside.

We have gotten ourselves in one of those beautiful parliamentary barrels that we generally get into about this time of the year.

Mr. Letterman, we think we may have something resolved.

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, rather than go through a prolonged period of problem solving, I wonder if the gentleman, Mr. Letterman, would withdraw his motion and if I could simply ask that the rules be suspended to permit me to yield to Mr. Freind in connection with this particular motion.

Mr. LETTERMAN. I might, Mr. Speaker, if my leader would step aside for me then to talk.

The SPEAKER. Mr. Letterman, take the Chair's advice. Withdraw your motion and let the floor settle this.

Mr. LETTERMAN. Mr. Speaker, you know I hate to do that. You know, I just do not—I am not made up of that kind of character.

The SPEAKER. The Chair knows that you hate to do it. Please do it.

Mr. LETTERMAN. Amos just said he knew I would back down, and, Mr. Speaker, you know how bad that is now. You know, when Amos says that kind of stuff, you just do not back down. I will tell you—

The SPEAKER. Amos, will you withdraw your back-down statement?

Amos withdraws his back-down statement, so you can back down now.

### APPEAL WITHDRAWN

Mr. LETTERMAN. I will withdraw. Okay.

### RULES SUSPENDED

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. I have moved that the rules be suspended to accommodate this problem.

The SPEAKER. Now the House has an opportunity to vote whether or not the rules should be suspended. If the House votes to suspend the rules, then the reason for the suspension is to allow a debate by Mr. Freind.

On the question,

Will the House agree to the motion?

The SPEAKER. On that question, the Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I understand that the rules being suspended would mean that other members other than the leaders could debate the matter, and that would open it up to everyone.

The SPEAKER. Not the way Mr. Ryan moved, but if the gentleman wants to amend the motion, we will do that.

Mr. MANDERINO. I so move.

The SPEAKER. All right.

Those in favor of amending Mr. Ryan's motion will vote "aye"; those opposed, "no."

The "ayes" have it, and the motion is amended.

Therefore, if the House votes to suspend the rules, it is voting to allow debate on whether or not we should suspend the rules to allow a vote on an amendment to a Senate amendment.

What does Amos have to say about that?

May I suggest that we speak, if we are going to speak at all, one time on this.

The question is on the motion of the gentleman, Mr. Ryan, as amended by the gentleman, Mr. Manderino.

On the question,

Will the House agree to the motion?

Motion was agreed to.

The SPEAKER. The rules are suspended now so that Mr. Freind can be recognized and anyone else on the floor who wishes to debate the question of whether we should suspend the rules so that we may amend a Senate amendment.

**PARLIAMENTARY INQUIRY**

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Parliamentary inquiry.

Does not the suspension of the rules require a roll-call vote?

The SPEAKER. It does if there is an objection. Do you object, Mr. Davies?

Mr. DAVIES. No, Mr. Speaker.

The SPEAKER. Tell Amos that I won two out of three; I am not going to try the third one. I am not going to try the third one; do not worry.

Mr. LETTERMAN. No, Mr. Speaker, I do object. I would like a vote.

The SPEAKER. All right. I knew I would lose the third one anyway. I might have gotten it through if you had not said that, Mr. Davies, but when the "big bear" talks, the third time you had better listen.

The question is, will the rules be suspended on the motion of the gentleman, Mr. Ryan, and the amended motion by the gentleman, Mr. Manderino.

Those in favor of such a suspension will vote "aye"; those opposed, "no."

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—134**

Afflerbach	Dietz	Kenney	Rudy
Arty	Distler	Kosinski	Ryan
Baldwin	Dombrowski	Lashinger	Rybak
Barley	Dorr	Laughlin	Saloom
Battisto	Duffy	Livengood	Saurman
Belardi	Durham	Lloyd	Scheetz
Birmelin	Fargo	Lucyk	Seventy
Black	Fee	McVerry	Showers
Blaum	Fischer	Mackowski	Sirianni
Book	Flick	Maiale	Smith, B.
Bowser	Foster	Manderino	Smith, L. E.
Brandt	Fox	Merry	Snyder, G.
Broujos	Freind	Micozzie	Stairs
Burd	Gallagher	Miller	Steighner

Bush	Gallen	Moehlmann	Stuban
Caltagirone	Gamble	Mowery	Swift
Cappabianca	Gannon	Mrkonic	Taylor, E. Z.
Carlson	Geist	Murphy	Taylor, J.
Cawley	George	Nahill	Telek
Cessar	Gladeck	Noye	Tigue
Chadwick	Godshall	O'Brien	Trello
Cimini	Greenwood	O'Donnell	Van Horne
Civera	Haluska	Olasz	Vroon
Clymer	Hasay	Perzel	Wambach
Cohen	Hayes	Petrarca	Wass
Cole	Herman	Petrone	Weston
Cornell	Hershey	Phillips	Wilson
Coslett	Honaman	Pitts	Wogan
Coy	Howlett	Pott	Wright, D. R.
Deluca	Hutchinson	Pressmann	Wright, J. L.
DeVerter	Jackson	Raymond	Wright, R. C.
DeWeese	Johnson	Reber	
Daley	Kasunic	Reinard	Irvis,
Dawida	Kennedy	Robbins	Speaker

**NAYS—63**

Acosta	Dininni	Letterman	Rieger
Angstadt	Donatucci	Levdansky	Roebuck
Argall	Evans	Linton	Schuler
Barber	Fattah	McCall	Semmel
Belfanti	Freeman	McClatchy	Serafini
Bortner	Fryer	McHale	Snyder, D. W.
Bowley	Gruitza	Manmiller	Staback
Boyes	Gruppo	Markosek	Stevens
Bunt	Hagarty	Mayernik	Stewart
Burns	Harper	Michlovic	Sweet
Carn	Itkin	Morris	Truman
Clark	Jarolin	Oliver	Veon
Colafella	Josephs	Pistella	Wiggins
Cowell	Kukovich	Preston	Wozniak
Davies	Langtry	Punt	Yandrisevits
Deal	Lescovitz	Richardson	

**NOT VOTING—2**

Cordisco	Piccola
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**EXCUSED—2**

Pievsky	Taylor, F.
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The SPEAKER. The majority of the members of the House having voted in favor of suspension of the rules, the rules are temporarily suspended so that the gentleman, Mr. Freind, can be recognized.

Now, pay attention. He cannot be recognized on the merits; he is recognized only to debate whether or not the rules should be suspended so he may offer an amendment. He must limit himself to his reasons for asking for that suspension.

On the question recurring,

Will the House agree to the motion?

The SPEAKER. On the question, the Chair recognizes the gentleman from Delaware, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker. I hope, after all that, what I say is worthwhile.

I do not think most people have a problem with the bill itself, and it is unusual to suspend the rules to amend a House bill. The problem is we are very, very late in the term. There are not many education bills out there. You know the 4-year history of the proposed amendment which has been demonstrated time and again to have overwhelming support from the members of this chamber. The point of the matter is, this



is probably our last shot on the church schools bill before the term ends.

Now, if we suspend the rules and the amendment is adopted, nothing happens to the substance of the bill, notwithstanding what PSEA (Pennsylvania State Education Association) might say. All that happens is the bill is sent back to the Senate for concurrence. Given the fact that the Senate has previously overwhelmingly also supported the church schools bill, there is a strong likelihood, a virtual certainty, that they will concur, and we will have the provisions of HB 2174, which I believe virtually all of us want, and we will have the church schools bill, which the vast majority of the membership of the House and the Senate wants as well as virtually all of the church organizations, including the Catholic Conference, Keystone, Pennsylvanians for Biblical Morality, and the American Council of Churches.

It is a way, late in the term, to solve this problem, to get the issue resolved once and for all, and I sincerely would appreciate the support of the members to vote to suspend the rules so that we can put the church-schools-bill amendment in and no other. And I just want you to know that. There is some feeling that this might be an attempt to put in something relating to the School District of Philadelphia. That is not the case, Mr. Speaker. In fact, my motion was very specific and very narrow, but it was only for the purposes of amending in the provisions of HB 877, the church schools bill. For that reason I would really appreciate an affirmative vote on the rules suspension, and thank you, Mr. Speaker.

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

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I would urge that we not approve the motion to suspend the rules. If we had only one or two School Code bills that came before this chamber during any legislative session, I might better appreciate some extraordinary move as this is, and it is an extraordinary move when at this point in the process we choose to suspend the rules and to further amend the bill, a House bill that has already come back from the Senate.

The reality is that we have lots of School Code bills that come before this chamber in every session. The reality, as the gentleman suggested, is this House has acted on this issue; the Senate has acted on this issue; there apparently is no significant opposition to the normal process. There is no compelling reason for us to change the process now and to take an issue that deals with preparation of teachers and continuing preparation for teachers, continuing ed, if you will, and introduce a brand-new issue to it.

We have lots of School Code bills; we will have lots of other opportunities to deal with the very legitimate issue that Representative Freind brings before us. Let us not take the extraordinary measure of suspending rules at this point. I would urge that we defeat the motion.

The SPEAKER. On the question, the Chair recognizes the gentleman from Chester, Mr. Pitts.

Mr. PITTS. Thank you, Mr. Speaker.

I would like to mention to the members that we have been waiting 4 years for this bill. This is not a new issue; this is a very old issue. The House fully debated this issue last session and passed the bill, I think it was 172 to 24. The Senate debated the issue, passed it 39 to 9, and it happened in the waning moments of the session last session, and because of not having enough time, we were not able to consider it in the House. If we do not consider it this time, in all likelihood we are not going to get another shot until next session or the end of next session, and that would be 6 years.

Again, the issue is very clear. All of us have gotten much information. Just to recapitulate, this would establish in law the curriculum, the attendance, graduation requirements for the Christian, nonpublic, private, and parochial schools. Your Catholic Conference is behind this. Your Keystone Christian Education—

Mr. EVANS. Mr. Speaker?

The SPEAKER. Why does the gentleman from Philadelphia, Mr. Evans, interrupt the debate?

Mr. EVANS. Because I think that we are only on the issue of the question of can the rules be suspended to add this amendment, yes or no, not on the merits of the amendment.

The SPEAKER. The gentleman is correct. Mr. Pitts, you will limit yourself to arguments either affirming or denying the suspension of the rules.

Mr. PITTS. Thank you, Mr. Speaker.

As I said, in this session we have only had, I think, two pieces of legislation go from chamber to chamber through the legislative process, the Education Committee. This is our last and only shot. I would urge the members to support overwhelmingly the members who have supported this legislation in the past. Give us a shot to consider it by suspending the rules. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, the reason for my objection is, being a committee chairman, I do not like to see us go around what committees are supposed to do. This should have been handled in a committee; it should have been brought out and thought about. You are bringing us something that I probably am going to have to vote for if this is passed, and I am not objecting to voting for it; I am objecting to the manner in which it is being done. I think that our committee system has been very good for this House of Representatives, I think we should keep that method, and I do not think we should circumvent it in any way. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Evans, on the question.

Mr. EVANS. Mr. Speaker, I, too, rise to oppose the motion to suspend the rules on the basis that I think we should respect that process. I think that as my colleague expressed on the other side, if this particular amendment was a bill which was supported previously, I think it could be supported again. I think we need not suspend the rules solely so that we can

have the opportunity through the committee process to resolve this particular issue. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster, on the question.

Mr. FOSTER. Thank you, Mr. Speaker.

On the question of suspension of the rules, I strongly urge that we do so. Contrary to statements made on the floor, there are relatively few vehicles of this type that this amendment can be attached to. The last one was the school subsidy bill, which already addressed a multiplicity of issues. Here we have the opportunity to do it in a clean-cut fashion and pass the amendment, pass the bill, and have time for the Senate to concur. Let us do it so that we can get on with this important amendment.

The SPEAKER. The Chair recognizes the lady from Chester, Mrs. Taylor.

Mrs. TAYLOR. Thank you, Mr. Speaker.

As a member of the Education Committee, I would like to point out to the membership that we did review this bill in committee, and very early in the session, I think of March of last year, the bill was reported out of committee, but it has been in the Appropriations Committee since that time.

Also, as a member of that committee, I would like to point out that we have not had legislation in which we could have reviewed this important issue. This is not a new issue to this House. This is an issue that has been reviewed, and I would urge the members to vote in favor of suspension.

The SPEAKER. The Chair now recognizes the gentleman from Bucks, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I echo the sentiments of Representative Foster. We now have an opportunity to deal with this piece of legislation. I just would ask, respectfully to my colleagues, that they support suspension of the rules. Thank you.

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

Mr. MORRIS. As one of the sponsors of the private school legislation, I am in a terrible quandary because I do not think that we can get the basic bill here through the Senate and get the process done. This is a very important piece of legislation, the basic legislation here. I am afraid I am going to have to vote against the suspension.

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

Mr. TRELLO. Mr. Speaker, I just rise to announce the remarks made by my colleagues in supporting the motion to suspend the rules and allow every member to voice their opinion on the merits of the bill. Thank you.

The SPEAKER. The question is, shall the rules of the House be temporarily suspended? Those in favor will vote "aye"; those opposed, "no."

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

The following roll call was recorded:

YEAS—129

Argall	Dombrowski	Lashinger	Saloom
Arty	Donatucci	Laughlin	Saurman
Baldwin	Duffy	Lescovitz	Scheetz
Barley	Durham	Livengood	Schuler
Belardi	Fargo	Lloyd	Serafini
Birmelin	Fee	Lucyk	Seventy
Black	Fischer	McVerry	Showers
Blaum	Flick	Mackowski	Sirianni
Book	Foster	Manderino	Smith, L. E.
Bowser	Fox	Merry	Snyder, G.
Brandt	Freind	Micozzie	Stairs
Broujos	Gallen	Miller	Steighner
Burd	Gamble	Mowery	Stevens
Bush	Gannon	Mrkonic	Stuban
Caltagirone	Geist	Nahill	Swift
Cappabianca	George	Noye	Taylor, E. Z.
Carlson	Gladeck	O'Brien	Taylor, J.
Cawley	Godshall	O'Donnell	Telek
Cessar	Greenwood	Olasz	Tigue
Chadwick	Gruitza	Perzel	Trello
Cimini	Gruppo	Petrarca	Van Horne
Civera	Haluska	Petrone	Vroon
Clymer	Hasay	Phillips	Wambach
Cole	Hayes	Pitts	Wass
Cordisco	Herman	Pott	Weston
Cornell	Hershey	Raymond	Wilson
Coslett	Honaman	Reber	Wogan
Coy	Johnson	Reinard	Wright, D. R.
DeVerter	Kasunic	Rieger	Wright, J. L.
Daley	Kennedy	Robbins	
Dawida	Kenney	Rudy	Irvis,
Dietz	Kosinski	Ryan	Speaker
Distler	Langtry	Rybak	

NAYS—70

Acosta	Davies	Letterman	Pressmann
Afflerbach	Deal	Levdansky	Preston
Angstadt	Dininni	Linton	Punt
Barber	Dorr	McCall	Richardson
Battisto	Evans	McClatchy	Roebuck
Belfanti	Fattah	McHale	Semmel
Bortner	Freeman	Maiale	Smith, B.
Bowley	Fryer	Manmiller	Snyder, D. W.
Boyes	Gallagher	Markosek	Staback
Bunt	Hagarty	Mayermik	Stewart
Burns	Harper	Michlovic	Sweet
Carn	Howlett	Moehlmann	Truman
Clark	Hutchinson	Morris	Veon
Cohen	Itkin	Murphy	Wiggins
Colafella	Jackson	Oliver	Wozniak
Cowell	Jarolin	Piccola	Wright, R. C.
Deluca	Josephs	Pistella	Yandrisevits
DeWeese	Kukovich		

NOT VOTING—0

EXCUSED—2

Pievsky Taylor, F.

A majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,  
Will the House concur in Senate amendments?

Mr. FREIND offered the following amendments No. A4379:

Amend Title, page 1, line 7, by removing the period after "REQUIREMENTS" and inserting  
; further providing for compulsory school attendance requirements; prohibiting the refusal to enroll students because of race

or color; and further specifying requirements for high school certificates.

Amend Bill, page 5, by inserting between lines 28 and 29

Section 2. Section 1327 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 1327. Compulsory School Attendance.—[Every]

(a) Except as hereinafter provided, every child of compulsory school age having a legal residence in this Commonwealth, as provided in this article, and every migratory child of compulsory school age, is required to attend a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. In lieu of such school attendance, any child fifteen years of age with the approval of the district superintendent and the approval of the [Superintendent of Public Instruction] Secretary of Education, and any child sixteen years of age with the approval of the district superintendent of schools, may enroll as a day student in a private trade school or in a private business school licensed by the Department of [Public Instruction] Education, or in a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board for Vocational Education. [Every] Except as hereinafter provided, every parent, guardian, or other person having control or charge of any child or children of compulsory school age is required to send such child or children to a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. Such parent, guardian, or other person having control or charge of any child or children, fifteen or sixteen years of age, in accordance with the provisions of this act, may send such child or children to a private trade school or private business school licensed by the Department of [Public Instruction] Education, or to a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board for Vocational Education. Such child or children shall attend such school continuously through the entire term, during which the public schools in their respective districts shall be in session, or in cases of children of migrant laborers during the time the schools are in session in the districts in which such children are temporarily domiciled. The financial responsibility for the education of such children of migrant laborers shall remain with the school district in which such children of migrant laborers are temporarily domiciled; except in the case of special schools or classes conducted by an intermediate unit and approved by the Department of [Public Instruction] Education or conducted by the Department of [Public Instruction] Education. The certificate of any principal or teacher of a private school, or of any institution for the education of children, in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language, setting forth that the work of said school is in compliance with the provisions of this act, shall be sufficient and satisfactory evidence thereof. Regular daily instruction in the English language, for the time herein required, by a properly qualified private tutor, shall be considered as complying with the provisions of this section, if such instruction is satisfactory to the proper district superintendent of schools.

(b) A child enrolled in a day school which is operated by a bona fide church or other religious body, and the parent, guardian or other person having control or charge of any such child or children of compulsory school age shall be deemed to have met the requirements of this section if that school provides a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction per year at the elementary level, or nine hundred ninety (990) hours per year of instruction at the secondary level and:

(1) At the elementary school level, the following courses are taught: English, to include spelling, reading and writing; arithmetic; science; geography; history of the United States and Pennsylvania; civics; safety education, including regular and continuous instruction in the dangers and prevention of fires; health and physiology; physical education; music; and art.

(2) At the secondary school level, the following courses are offered: English, to include language, literature, speech and composition; science, to include biology and chemistry; geography; social studies, to include civics, economics, world history, history of the United States and Pennsylvania; a foreign language; mathematics, to include general mathematics and statistics, algebra and geometry; art; music; physical education; health and physiology; and safety education, including regular and continuous instruction in the dangers and prevention of fires.

The requirements contained in sections 1511 and 1605 of this act shall not apply to such schools. The notarized affidavit of the principal of any such school, filed with the Department of Education and setting forth that such subjects are offered in the English language in such school, whether it is a nonprofit organization, and that such school is otherwise in compliance with the provisions of this act, shall be satisfactory and sufficient evidence thereof. It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the education and training for such child. Nothing contained in this act shall empower the Commonwealth, any of its officers, agencies or subdivisions to approve the course content, faculty, staff or disciplinary requirements of any religious school referred to in this section without the consent of said school.

(c) A child enrolled in a day or boarding school accredited by an accrediting association which is approved by the State Board of Education, and the parent, guardian or other person having designated control or charge of any child or children of compulsory school age shall be deemed to have met the requirements of subsection (a).

Section 3. The act is amended by adding a section to read:

Section 1521. Limitation of Refusal to Enroll Student.—No public or private school shall refuse to enroll any students because of race or color.

Section 4. Section 1613 of the act, added July 27, 1953 (P.L.629, No.184), is amended to read:

Section 1613. High School Certificates.—(a) The board of school directors, joint board of joint school committee operating any high school shall issue a certificate to each pupil satisfactorily completing the prescribed course of instruction in the high school.

(b) For those pupils graduating at the close of the school year 1989-1990, and each school year thereafter, the following minimum courses in grades nine through twelve are established as a requirement for high school graduation in schools operated by a bona fide church or other religious body:

- (1) Four years of English.
- (2) Three years of mathematics.
- (3) Three years of science.
- (4) Three years of social studies.
- (5) Two years of arts and humanities.

(c) A child enrolled in a day or boarding school accredited by an accrediting association which is approved by the State Board of Education shall be deemed to have met the requirements of subsection (b).

Amend Sec. 2, page 5, line 29, by striking out "2. THIS" and inserting

5. Section 1 of this

Amend Sec. 3, page 5, line 30, by striking out "3" and inserting

On the question,

Will the House agree to the amendments?

The SPEAKER. On the question, shall the House adopt the Freind amendment, the Chair recognizes the gentleman from Delaware, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker.

This amendment contains the provisions of HB 877, the church schools bill, which was overwhelmingly reported out of the House Education Committee in March of 1985. It is almost identical to HB 1293 of last term, which again we passed 172 to 24 and the Senate passed 39 to 9.

All this bill does, no matter what you may have heard, is take existing requirements that are in regulation - for curriculum, for attendance, and for graduation - and take them out of reg and place them into law. There is absolutely no weakening; as a matter of fact, a number of the provisions of the bill with respect to curriculum and graduation requirements go farther than existing regulation.

There is a reason why, however, all of the church organizations support this legislation. They are aware in other States of attempts by bureaucrats to encroach upon the independence, the autonomy of our church schools, and they want to make certain that if in the future changes are made, they be made by the body that is elected to do that - the members of the Pennsylvania House and the Pennsylvania Senate - so that we do not have changes by bureaucratic whim; we have changes by legislation. And if there is going to be a change, it takes 102 votes here and 26 in the Senate. That is all it does.

I have heard some arguments from PSEA saying, do you realize if this passes there will not be any certification for non-public school teachers? True. There never has been. We are not changing anything. There has been an argument, if this bill passes there will be no way to evaluate course content. True. There never has been any mechanism to evaluate course content in either the nonpublic or the public schools. There is absolutely no departure whatsoever from what we are doing. The difference is, we are exercising the responsibility, doing it by legislation rather than by regulation.

It is a good bill. You have supported it in the past, and I would really appreciate your consideration for this amendment. Thank you, Mr. Speaker.

The SPEAKER. On the question, the Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. Thank you, Mr. Speaker.

Mr. Speaker, would the gentleman answer brief interrogation?

Mr. FREIND. Yes, Mr. Speaker.

The SPEAKER. The gentleman indicates he will stand for interrogation. You are in order, and you may proceed, Mr. Sweet.

Mr. SWEET. Mr. Speaker, are you familiar at all with the provisions of Act 34 of 1985 which this House passed and required that background checks be done of any employees in both public and private schools who would deal directly with children in their day-to-day activities?

Mr. FREIND. Yes.

Mr. SWEET. Would this amendment's provisions, particularly that provision at the top of page 3 which says, and I quote, "Nothing contained in this act shall empower the Commonwealth, any of its officers, agencies or subdivisions to approve the course content,"—and I underscore the next words—"faculty, staff or disciplinary requirements of any religious school referred to in this section without the consent of said school." Would the language of your amendment repeal, in effect, Act 34 of 1985?

Mr. FREIND. Not at all, Mr. Speaker.

Mr. SWEET. Could you share with me your reasoning for that legal conclusion?

Mr. FREIND. Two reasons: One, there is a constitutional provision which says you cannot repeal a specific rule by general reference. Number two, what that law, Act 34—

Mr. SWEET. Excuse me, Mr. Speaker. Would you repeat that again? You cannot do what with general revenues?

Mr. FREIND. You cannot repeal a specific rule by a general reference.

Number two, Act 34 says you first have to do a background check. Act 34 does not say that if you do a background check, you cannot hire. This does not relate to course content—in fact, I have the language right in front of me—it does not relate to a faculty requirement, a staff or disciplinary requirement. All that it relates to is the procedure that you have to do before you hire. So in no way, Mr. Speaker, does this affect whatsoever the provisions of Act 34. A, it is not the intention, and B, it does not do it.

Mr. SWEET. Thank you, Mr. Speaker.

May I make a brief comment?

The SPEAKER. The gentleman is in order, and he may make the comment.

Mr. SWEET. Mr. Speaker, I respectfully disagree with the gentleman's characterization of the language in his amendment. It may well be his intent, and I hope it is, that this amendment does not repeal the provisions of Act 34 of 1985, but I am afraid it does, and I again respectfully disagree with his statutory construction analysis. The plain language of the amendment says that nothing in this act—and this act will now be the School Code—may prevent— Excuse me; I will quote the exact language: "Nothing...in this act shall empower the Commonwealth,..."—which is the Department of Education under Act 34 of 1985, which amends the School Code—prevent the Commonwealth from approving the course content, faculty, and the like.

It seems to me pretty clear under Act 34 that the Commonwealth has been required, the Department of Education has been required, to establish a mechanism for doing background checks of employees. We established that mechanism because we wanted to make it absolutely clear that people who are hired by either public or private schools do not have in their history a record of criminal activity relating to child abuse.

Now, I do not think that we ought to be sub rosa repealing that act and saying that public schools and prospective public

school employees will have to go through that regulatory process but that those to be hired by these private schools would not. I think we want to have the same rules regarding background checks of potential employees for both the public and the private schools, and my personal clear reading of the language of the Freind amendment is that it would repeal the provisions of Act 34.

For that very narrow reason, Mr. Speaker, I would ask that we vote "no."

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman.

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

Again, I like Mr. Freind's amendment. I have to ask for us to vote in the affirmative. I just object to the way he goes about getting his job done. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Wayne, Mr. Birmelin.

Mr. BIRMELIN. Thank you, Mr. Speaker.

For those of you who carry your little House of Representatives legislative directory around, you will note in there that I am the only legislator as of this issue who lists his occupation as a teacher, although I am sure many more of you have been teachers, but I am speaking to you today as a teacher.

I have been in the education field for over 10 years, and I have taught in a Catholic parochial school, I have taught in a public high school, and I have taught in a private Christian school, an experience that I have found to be very rewarding and one of which I still am proud and still list myself as a teacher because of that.

The issue here that we have before us today strikes at the very heart of the private school system in Pennsylvania today. We have to give them the assurance that they will not be coming under the whim and whimsy of those who are unelected bureaucrats in the Pennsylvania Department of Education. Being familiar with battles that are being fought in Nebraska, Ohio, and other States across this continent, I can tell you that there is a real and present danger to the private school systems, not only in Pennsylvania but across our Nation, because there are bureaucrats, people who are non-elected, who wish to change the rules in midstream on these schools.

Much as you and I are buffeted about often by the public and we are construed as being somewhat less than intelligent, as Representative Murphy's memo recently pointed out, let me add to you the fact that the people who are pushing these bills have put their faith, their trust, and their confidence in you and me. They say that you and I, members of the House of Representatives, and our fellow members across the rotunda in the Senate, are the best judge of what the private school systems ought to be doing today in this Commonwealth, and I suggest to you that they have well placed their confidence and would ask that you would endorse Representative Freind's move here in his amendment, give our private schools the confidence that they can go to their elected officials and submit to them for the direction that they want in the future.

So I would ask you, encourage you, as a teacher primarily today who has been in all three areas of the private school sector, that you would please vote for the Freind amendment. Thank you.

The SPEAKER. On the question, the Chair recognizes the gentleman from Berks, Mr. Davies.

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

The SPEAKER. The gentleman, Mr. Freind, indicates he will so stand. You are in order, and you may proceed, sir.

Mr. DAVIES. Mr. Speaker, in the matter of subsection (b) on page 3 of section 4, "...operated by a bona fide church or other religious body..." What am I to take without definition of either "bona fide church" or the other one? Is that to include a bona fide religious body, or can you give me the parameters of the item?

Mr. FREIND. Yes. We went through that before, Mr. Speaker. We discussed this twice in committee and also on the floor last term. The worst thing we could attempt to do ourselves is to define for ourselves what a "bona fide" religion or church is. What in fact we did was leave that to the department, which in fact utilizes the IRS (Internal Revenue Service) regulations. If we would attempt to do that, I think the debate would probably last for about 3 years. But they have been doing this before under the existing regulations using that same language, so all we are doing is placing it in statute.

Mr. DAVIES. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—177

Acosta	Dawida	Langtry	Robbins
Afflerbach	Dietz	Lashinger	Rudy
Angstadt	Dininni	Laughlin	Ryan
Argall	Distler	Lescovitz	Rybak
Arty	Dombrowski	Letterman	Saloom
Baldwin	Donatucci	Levdansky	Saurman
Barley	Dorr	Livengood	Scheetz
Battisto	Duffy	Lloyd	Schuler
Belardi	Durham	Lucy	Semmel
Belfanti	Fargo	McCall	Serafini
Birmelin	Fee	McClatchy	Seventy
Black	Fischer	McHale	Showers
Blaum	Flick	McVerry	Sirianni
Book	Foster	Mackowski	Smith, B.
Bowley	Fox	Maiale	Smith, L. E.
Bowser	Freind	Manderino	Snyder, D. W.
Boyes	Gallagher	Manmiller	Snyder, G.
Brandt	Gallen	Markosek	Staback
Broujos	Gamble	Mayernik	Stairs
Bunt	Gannon	Merry	Steighner
Burd	Geist	Micozzie	Stevens
Burns	George	Miller	Stewart
Bush	Gladeck	Moehlmann	Suban
Caltagirone	Godshall	Mowery	Swift
Cappabianca	Greenwood	Mrkonic	Taylor, E. Z.
Carlson	Gruitza	Murphy	Taylor, J.
Cawley	Gruppo	Nahill	Telek
Cessar	Hagarty	Noye	Tigue
Chadwick	Haluska	O'Brien	Trello
Cimini	Hasay	O'Donnell	Van Horne
Civera	Hayes	Olasz	Veon
Clark	Herman	Petrarca	V:oon
Clymer	Hershey	Petrone	Wambach

Cohen	Honaman	Phillips	Wass
Colafella	Howlett	Piccola	Weston
Cole	Hutchinson	Pistella	Wilson
Cordisco	Jackson	Pitts	Wogan
Cornell	Jarolin	Pott	Wozniak
Coslett	Johnson	Pressmann	Wright, D. R.
Cowell	Josephs	Preston	Wright, J. L.
Coy	Kasunic	Punt	Wright, R. C.
Deluca	Kennedy	Raymond	
DeVerter	Kenney	Reber	Irvis,
Daley	Kosinski	Reinard	Speaker
Davies	Kukovich	Rieger	

NAYS—21

Barber	Fattah	Linton	Roebuck
Bortner	Freeman	Michlovic	Sweet
Carn	Fryer	Morris	Truman
DeWeese	Harper	Oliver	Wiggins
Deal	Itkin	Richardson	Yandrisevits
Evans			

NOT VOTING—1

Perzel

EXCUSED—2

Pievsky Taylor, F.

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

On the question,

Will the House concur in Senate amendments as amended?

The SPEAKER. The gentleman, Mr. Dombrowski, has recommended that on the question, will the House concur in Senate amendments, the vote be in the affirmative.

Those in favor of concurring in the amendments inserted by the Senate to HB 2174 will vote "aye"; those opposed will vote "no."

On the question recurring,

Will the House concur in Senate amendments as amended?

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

YEAS—191

Acosta	Dininni	Lashing	Robbins
Afflerbach	Distler	Laughlin	Roebuck
Angstadt	Dombrowski	Lescovitz	Rudy
Argall	Donatucci	Letterman	Ryan
Arty	Dorr	Levdansky	Rybak
Baldwin	Duffy	Linton	Saloom
Barber	Durham	Livengood	Saurman
Barley	Evans	Lloyd	Scheetz
Battisto	Fargo	Lucyk	Schuler
Belardi	Fattah	McCall	Semmel
Belfanti	Fee	McClatchy	Serafini
Birmelin	Fischer	McHale	Seventy
Black	Flick	McVerry	Showers
Blaum	Foster	Mackowski	Sirianni
Book	Fox	Maiale	Smith, B.
Bortner	Freeman	Manderino	Smith, L. E.
Bowley	Freind	Manmiller	Snyder, D. W.
Bowser	Fryer	Markosek	Snyder, G.
Boyes	Gallagher	Mayernik	Staback
Brandt	Gallen	Merry	Stairs
Bunt	Gamble	Micozzie	Steighner
Burd	Gannon	Miller	Stevens
Burns	Geist	Moehlmann	Stewart
Bush	George	Morris	Stuban
Caltagirone	Gladeck	Mowery	Swift
Cappabianca	Godshall	Mrkonic	Taylor, E. Z.
Carlson	Greenwood	Murphy	Taylor, J.

Cawley	Gruitza	Nahill	Telek
Cessar	Gruppo	Noye	Tigue
Chadwick	Hagarty	O'Brien	Trello
Cimini	Haluska	O'Donnell	Truman
Civera	Hasay	Olasz	Van Horne
Clark	Hayes	Oliver	Veon
Clymer	Herman	Perzel	Vroon
Cohen	Hershey	Petrarca	Wambach
Colafella	Honaman	Petrone	Wass
Cole	Howlett	Phillips	Weston
Cordisco	Hutchinson	Piccola	Wiggins
Cornell	Jackson	Pistella	Wilson
Coslett	Jarolin	Pitts	Wogan
Cowell	Johnson	Pott	Wozniak
Coy	Josephs	Pressmann	Wright, D. R.
Deluca	Kasunic	Preston	Wright, J. L.
DeVerter	Kennedy	Punt	Wright, R. C.
DeWeese	Kenney	Raymond	Yandrisevits
Daley	Kosinski	Reber	
Davies	Kukovich	Reinard	Irvis,
Dawida	Langtry	Rieger	Speaker
Dietz			

NAYS—7

Broujos	Harper	Michlovic	Sweet
Deal	Itkin	Richardson	

NOT VOTING—1

Carn

EXCUSED—2

Pievsky Taylor, F.

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments as amended were concurred in.

Ordered, That the clerk return the same to the Senate for concurrence.

REMARKS SUBMITTED FOR THE RECORD

REMARKS ON VOTES

The SPEAKER. Why does the gentleman from Delaware, Mr. Gannon, rise?

Mr. GANNON. Mr. Speaker, I would like to submit remarks for the record.

The SPEAKER. The gentleman will send the remarks forward. The clerk will insert them in the record.

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

Mr. Speaker, because of pressing constituent matters it was necessary for me to be away from my seat several times in the course of yesterday's session. As a result several of my votes were not recorded.

For the record, Mr. Speaker, I would like to be recorded as follows:

SB 483	Amendment A3910	Yes
SB 483	Amendment A3943	Yes
SB 483	Amendment A4495	Yes
SB 483	Amendment A3805	No
SB 483	Amendment A3809	Yes
SB 483	Amendment A3791	Yes
SB 483	Amendment A4435	Yes
SB 483	Amendment A3962	Yes

**BILLS REPORTED FROM COMMITTEES,  
CONSIDERED FIRST TIME, AND TABLED**

**HB 2235, PN 4023 (Amended)**

By Rep. DeWEESE

An Act amending the act of August 21, 1953 (P. L. 1273, No. 361), known as "The Private Detective Act of 1953," defining the term "patrol agency"; and further providing for employees and penalties.

JUDICIARY.

**HB 2239, PN 4024 (Amended)**

By Rep. TRELLO

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, imposing sanctions for failure to adopt zoning regulations for airport hazard areas; and placing a limitation on the amount of tax on jet fuels to be paid by a taxpayer in a calendar year.

FINANCE.

**HB 2506, PN 3510**

By Rep. DeWEESE

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for the disposition of certain persons who are convicted of gambling involving small games of chance.

JUDICIARY.

**HB 2638, PN 3729**

By Rep. DeWEESE

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, increasing the penalties for false reports to law enforcement authorities.

JUDICIARY.

**SB 1486, PN 2476 (Amended)**

By Rep. TRELLO

An Act amending the act of May 21, 1943 (P. L. 349, No. 162), entitled, as amended, "An act requiring political subdivisions to refund certain taxes, license fees, penalties, fines or moneys paid thereto, and providing procedure for obtaining such refunds," requiring interest to be paid on certain overpayments of tax.

FINANCE.

**REMARKS ON VOTES**

The SPEAKER. Why does the gentleman from Bucks, Mr. Cordisco, rise? Do you wish to correct the record?

Mr. CORDISCO. Mr. Speaker, on SB 1649, concurrence in HB 2330, and the Conference Report on HB 2515, I would like to be recorded in the affirmative.

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

**BILLS ON THIRD  
CONSIDERATION CONTINUED**

The House proceeded to third consideration of **SB 483, PN 2291**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the use of restraining systems.

On the question recurring,

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

Mr. FOSTER offered the following amendments No. A4444:

Amend Title, page 1, lines 3 and 4, by striking out all of said lines and inserting

providing for a compensation system for persons injured in motor vehicle accidents; requiring insurance for all motor vehicles required to be registered in Pennsylvania; defining compensable damage in motor vehicle accident cases; establishing an assigned claims plan; providing for arbitration; imposing powers and duties on courts, the Department of Transportation and the Insurance Commissioner; prohibiting certain discrimination; providing penalties; and further providing for the use of restraining systems.

Amend Bill, page 1, by inserting after line 17

Section 1. Chapter 17 of Title 75 of the Pennsylvania Consolidated Statutes is repealed.

Section 2. Title 75 is amended by adding a chapter to read:

**CHAPTER 17**

**FINANCIAL RESPONSIBILITY**

Subchapter

- A. Preliminary Provisions
- B. Right to Benefits
- C. Tort Liability
- D. Examination, Treatment and Rehabilitation of Injured Persons
- E. Insurance
- F. Penalties
- G. Miscellaneous Provisions

**SUBCHAPTER A**

**PRELIMINARY PROVISIONS**

Sec.

- 1701. Findings and declarations.
- 1702. Definitions.
- 1703. Required motor vehicle insurance.
- 1704. Availability of insurance.
- 1705. Payment of claims for no-fault benefits.
- 1706. Attorney fees and costs.
- 1707. Assigned claims plan.
- 1708. Rates.
- 1709. Motor vehicles in interstate travel.
- 1710. Rights and duties of obligors.
- § 1701. Findings and declarations.

The General Assembly finds and declares as follows:

(1) Motor vehicles are the primary instrumentality for the transportation of individuals.

(2) The transportation of individuals by motor vehicle over Commonwealth highways and other highways significantly affects intrastate commerce, particularly in metropolitan areas.

(3) The maximum feasible restoration of individuals injured and compensation of the economic losses of the survivors of individuals killed in motor vehicle accidents on Commonwealth highways, in intrastate commerce and in activity affecting intrastate commerce, is essential to the humane and purposeful functioning of commerce.

(4) To avoid any undue burden on commerce during the intrastate transportation of individuals, it is necessary and proper to have a Statewide low-cost, comprehensive and fair system of compensating and restoring motor vehicle accident victims and the survivors of deceased victims.

(5) Exhaustive studies by the United States Department of Transportation, the Congress of the United States and the General Assembly have determined that the present basic

system of motor vehicle accident and insurance law, which makes compensation and restoration contingent upon a victim's showing that someone else was at fault and that the victim was without fault, and upon the person at fault having sufficient liability insurance and other available financial resources to pay for all the losses, is not such a low-cost, comprehensive and fair system.

(6) Careful studies, intensive hearings and some State experiments have demonstrated that a low-cost, comprehensive and fair system would be a basic system of motor vehicle accident and insurance law which does all of the following:

(i) Assures a victim payment of basic medical and rehabilitation costs and recovery of a reasonable amount of work loss, replacement services loss and survivor's loss.

(ii) Eliminates the need to determine fault except when a victim is very seriously injured.

(7) Adoption of the system described in paragraph (6) in place of the system described in paragraph (5) would remove an undue burden on commerce.

(8) Throughout this Commonwealth there should be uniformity as to the essential elements of the system of motor vehicle accident and insurance law to avoid the confusion, complexity, uncertainty and chaos which would be engendered by a multiplicity of noncomplementary systems. The need for a basic system does not require that the Commonwealth itself directly administer, operate or direct the administration or operation of the system.

(9) A Statewide low-cost, comprehensive and fair system of compensating and restoring motor vehicle accident victims can save and restore the lives of countless victims by providing and paying the cost of services so that a victim has the opportunity to receive prompt and comprehensive professional treatment and be rehabilitated to the point where the victim can return as a useful member of society and a self-respecting and self-supporting citizen.

(10) It is necessary to afford required coverages for motor vehicles to economically disadvantaged individuals at rates not so great as to deny these individuals access to insurance which it is necessary for them to have in order to earn income and to be or remain gainfully employed.

(11) It is the policy of the General Assembly to establish at reasonable cost to the purchaser of insurance a Statewide system of prompt and adequate basic loss benefits for motor vehicle accident victims and the survivors of deceased victims.

#### § 1702. 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:

“Added loss benefits.” Benefits provided by added loss insurance under section 1727 (relating to added loss benefits).

“Allowable expense.”

(1) Reasonable charges incurred for or, where no charges are incurred, the reasonable value of reasonably needed and used products, services and accommodations for all of the following:

(i) Professional medical treatment and care.

(ii) Emergency health services.

(iii) Medical and vocational rehabilitation services.

(iv) Expenses directly related to the funeral, burial, cremation or other form of disposition of the remains of a deceased victim, not to exceed \$1,500.

(2) The term does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home or other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations unless more intensive care is medically required nor any amount includable in work loss, replacement services loss or survivor's loss.

“Basic loss benefits.” Benefits under this chapter for the net loss sustained by a victim, subject to applicable limitations, exclusions, deductibles, waiting periods, disqualifications and other terms and conditions. The term does not include benefits for damage to property or benefits for net loss sustained by an operator or passenger of a motorcycle.

“Commissioner.” The Insurance Commissioner of the Commonwealth.

“Deceased victim.” A victim suffering death resulting from injury.

“Department.” The Department of Transportation of the Commonwealth.

“Emergency health services.” Services which are necessary to mitigate injury to a victim during the period immediately and proximately following an accident, including, but not limited to, communications, transportation and treatment by medical and paramedical personnel, and which are supplied or provided by a person accredited or certified by an emergency health services system.

“Emergency health services system.” A system which provides for the arrangement of personnel, facilities and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions arising out of the maintenance or use of a motor vehicle; which is administered by a public or nonprofit private entity that has the authority and the resources to provide effective administration; and which is operating in accordance with applicable requirements, conditions, and regulations.

“Government.” The Federal Government, a state, a political subdivision or an instrumentality of two or more states. The term includes an agency of a government and a corporation or other association organized by a government for the execution of a government program and subject to control by a government or organized under an interstate compact or international treaty.

“Injury.” Accidentally sustained bodily harm to an individual which results in that individual's illness, disease or death.

“Insurance.” A contract, self-insurance or other legally binding obligation to pay or provide no-fault benefits or required tort liability.

“Insured.” One of the following:

(1) An individual identified by name as an insured in a contract of basic loss insurance complying with this chapter.

(2) A spouse or other relative of a named insured, a minor in the custody of a named insured or a minor in the custody of a relative of a named insured if all of the following apply:

(i) The spouse, relative or minor is not identified by name as an insured in any other contract of basic restoration insurance complying with this chapter.

(ii) The spouse, relative or minor is in residence in the same household with a named insured. An individual is in residence in the same household if the individual usually makes his home in the same family unit, even though the individual temporarily lives elsewhere.

“Insurer.” A legally constituted entity, other than a self-insurer or an obligated government, which is authorized under state law to provide security covering a motor vehicle in the state.

“Loss.” Accrued economic detriment resulting from injury arising out of the maintenance or use of a motor vehicle consisting of and limited to allowable expense, work loss, replacement services loss and survivor's loss.

“Loss of income.” Gross income that is actually lost by a victim or that would have been lost but for an income continuation plan, reduced by all of the following:



(1) Eighty percent of income which the individual earns from substitute work.

(2) Income which the individual would have earned in available substitute work the individual was capable of performing but unreasonably failed to undertake.

(3) Income which the individual would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do.

“Maintenance or use of a motor vehicle.” Maintenance or use of a motor vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into or alighting from it. The term does not include the following:

(1) Conduct within the course of a business of repairing, servicing or otherwise maintaining motor vehicles unless the conduct occurs off the business premises.

(2) Conduct in the course of loading or unloading a motor vehicle unless the conduct occurs while occupying, entering into or alighting from it.

“Medical and vocational rehabilitation services.” Services necessary to reduce disability and to restore the physical, psychological, social and vocational functioning of a victim. The term includes, but is not limited to, medical care, diagnostic and evaluation procedures, physical and occupational therapy, other necessary therapies, speech pathology and audiology, optometric services, nursing care under the supervision of a registered nurse, medical social services, vocational rehabilitation and training services, occupational licenses and tools and transportation where necessary to secure medical and vocational rehabilitation services.

“Motor vehicle.” A vehicle of a kind required to be registered under this title.

“Net loss.” Loss less benefits or advantages required to be subtracted from loss in calculating net loss under this chapter.

“Noneconomic detriment.” Pain, suffering, inconvenience, physical impairment and other nonpecuniary damage recoverable under the tort law applicable to injury arising out of the maintenance or use of a motor vehicle. The term does not include punitive or exemplary damages.

“No-fault benefits.” Basic loss benefits, added loss benefits, or both.

“No-fault insurance.” Basic loss insurance, added loss insurance, or both.

“Obligor.” An insurer, self-insurer or obligated government providing no-fault benefits under this chapter.

“Owner.” A person that owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another. The term includes a lessee of a motor vehicle having the right to possession under a lease with option to purchase. The term does not include a lienholder or secured party that owns or has title to a motor vehicle or is entitled to possession of a motor vehicle.

“Replacement services loss.” Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed not for income but for the benefit of the victim or the victim’s family if the victim had not been injured.

“Secretary.” The Secretary of Transportation of the Commonwealth.

“Secured vehicle.” A motor vehicle for which security is provided under section 1703 (relating to required motor vehicle insurance).

“Security.” The security which is provided in under section 1703.

“Self-insurer.” An owner or any person providing security under section 1703(b) or (c).

“State.” A state of the United States, the District of Columbia, Guam or the Virgin Islands.

“State vocational rehabilitation agency.” The agency in the Commonwealth which administers the Commonwealth plan for vocational rehabilitation services under section 5 of the Vocational Rehabilitation Act (41 Stat. 735, 29 U.S.C. § 35).

“Survivor.” A spouse, child, parent, brother, sister or relative dependent upon the deceased for support.

“Survivor’s loss.” The loss of income of a deceased victim which would probably have been contributed to survivors if the victim had not sustained the fatal injury and replacement services loss reduced by expenses which the survivors would probably have incurred but avoided by reason of the victim’s death resulting from injury.

“Victim.” An individual who suffers injury arising out of the maintenance or use of a motor vehicle.

“Without regard to fault.” Irrespective of fault as a cause of injury.

“Work loss.” The loss of gross income of a victim, as calculated under section 1725 (relating to work loss), and reasonable expenses of a victim for hiring a substitute to perform self-employment services, thereby mitigating loss of income, or for hiring special help, thereby enabling a victim to work and mitigate loss of income.

§ 1703. Required motor vehicle insurance.

(a) Security.—An owner of a motor vehicle which is registered or which is operated in this Commonwealth by the owner or with the owner’s permission shall continuously provide security covering the motor vehicle while the vehicle is either present or registered in this Commonwealth. A person may provide security by a contract of insurance with an insurer or by qualifying as a self-insurer or as an obligated government. Security shall be provided for the payment of all of the following:

(1) Basic loss benefits up to a maximum of \$1,000,000 per individual.

(2) Sums, up to a maximum of \$30,000 in total and \$15,000 per individual, which the owner or a person operating the vehicle with the express or implied permission of the owner may become liable to pay as damages because of bodily injury or death arising out of a single accident.

(3) Damages, up to a maximum of \$5,000, for injury to or destruction of property in a single accident.

(b) Self-insurance.—Self-insurance, subject to approval of the commissioner and the department, is effected by filing all of the following with the department in satisfactory form:

(1) A continuing undertaking by the owner or other appropriate person to pay basic restoration benefits and to discharge tort liability in amounts not less than those required by subsection (a), to perform obligations imposed by this chapter and to elect to pay added restoration benefits as specified in the undertaking.

(2) Evidence that appropriate provision exists for prompt and efficient administration of claims, benefits and obligations under this chapter.

(3) Evidence that reliable financial arrangements, deposits, resources or commitments exist providing assurance substantially equivalent to that afforded by a contract of insurance complying with this chapter for payment of no-fault benefits, discharge of tort liability and performance of other obligations imposed by this chapter.

(c) Obligated government.—A government may provide security with respect to a motor vehicle owned or operated by it by lawfully obligating itself to pay basic restoration benefits under this chapter and added restoration benefits as specified in the undertaking.

(d) Obligations upon termination of security.—An owner of a motor vehicle who ceases to maintain the security required by this section shall immediately surrender the registration certificate and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in this Common-

wealth until security has again been furnished as required by this section. A person other than the owner who ceases to maintain security shall immediately notify the owner and the department and the owner may not operate or permit operation of the vehicle until security has again been furnished. An insurer who has issued a contract of insurance and knows or has reason to believe the contract is for the purpose of providing security shall immediately give notice to the department of the termination of the insurance. If a self-insurer knows that the conditions for self-insurance have ceased to exist, the self-insurer shall immediately give notice thereof to the department. The requirements of this subsection may be modified or waived by the department.

§ 1704. Availability of insurance.

(a) General rule.—

(1) The commissioner shall implement a plan assuring that required no-fault benefits and tort liability coverages for motor vehicles will be conveniently and expeditiously available, subject only to payment or provisions for payment of the premium, to individuals who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated individuals under the plan. The plan may provide reasonable means for the transfer of individuals insured under the plan into the ordinary market, at the same or lower rates, under regulations established by the commissioner. The plan may be implemented by assignment of applicants among insurers, pooling, joint insuring or reinsuring arrangement or another method if the implementation results in applicants being conveniently afforded the insurance coverages on reasonable and not unfairly discriminatory terms.

(2) The plan shall make available added loss benefits and tort liability coverage together with other contract provisions which the commissioner determines are reasonably needed by applicants and are commonly afforded in voluntary markets. The plan shall also assure that there is available to applicants adequate premium financing or provision for the installment payment of premiums subject to customary terms and conditions.

(3) Insurers writing no-fault benefits and tort liability coverages in this Commonwealth shall participate in the plan. The plan shall provide for equitable apportionment, among all participating insurers writing insurance coverage required under the plan, of the financial burdens of insurance provided to applicants under the plan and of the costs of operation of the plan.

(4) Subject to the supervision and approval of the commissioner, insurers may consult and agree with each other and with other appropriate persons as to the organization, administration and operation of the plan and as to rates and rate modifications for insurance coverages provided under the plan. Rates and rate modifications adopted or charged for insurance coverages provided under the plan shall be approved by the commissioner and shall be reasonable and not unfairly discriminatory among similarly situated applicants for insurance under regulations promulgated by the commissioner.

(5) To carry out the objectives of this subsection, the commissioner may promulgate regulations, make orders, enter into agreements with other governmental and private entities and individuals and form and operate or authorize the formation and operation of bureaus and other entities.

(b) Cancellation, refusal to renew or other termination of insurance.—Cancellation, refusal to renew and other termination of insurance shall be provided for under the act of June 5, 1968 (P.L.140, No.78), entitled "An act regulating the writing, cancellation of or refusal to renew policies of automobile insurance; and imposing powers and duties on the Insurance Commissioner therefor."

§ 1705. Payment of claims for no-fault benefits.

(a) General rule.—

(1) No-fault benefits are payable monthly as loss accrues. Loss accrues not when injury occurs but as allowable expense, work loss, replacement services loss or survivor's loss is sustained.

(2) No-fault benefits are overdue if not paid within 30 days after the receipt by the obligor of submission of reasonable proof of the fact and amount of loss sustained unless the obligor designates, upon receipt of an initial claim for no-fault benefits, periods not to exceed 31 days each for accumulating claims received within the period. In this case benefits are overdue if not paid within 15 days after the close of each period. If reasonable proof is supplied as to only part of a claim, but the part amounts to \$100 or more, benefits for that part are overdue if not paid within the time mandated by this paragraph. An obligation for basic loss benefits for an item of allowable expense may be discharged by the obligor by reimbursing the victim or by making direct payment to the supplier or provider of products, services or accommodations within the time mandated by this paragraph. Overdue payments bear interest at the rate of 18% annually.

(3) A claim for no-fault benefits shall be paid without deduction for the benefits or advantages which are to be subtracted from loss in calculating net loss if the benefits or advantages have not been paid or provided to the claimant prior to the date the no-fault benefits are overdue or the no-fault benefits claim is paid. The obligor is entitled to recover reimbursement from the person obligated to pay or provide benefits or advantages or from the claimant who actually receives them.

(4) An obligor may bring an action to recover reimbursement for no-fault benefits which are paid upon the basis of an intentional misrepresentation of a material fact by a claimant or a supplier or provider of an item of allowable expense if the obligor reasonably relied upon misrepresentation. The action may be brought only against the supplier or provider unless the claimant has intentionally misrepresented the facts or unless the claimant knew of the misrepresentation. An obligor may offset amounts the obligor is entitled to recover from the claimant under this paragraph against no-fault benefits otherwise due.

(5) An obligor who rejects a claim for basic loss benefits shall give to the claimant written notice of the rejection promptly, but in no event more than 30 days after the receipt of reasonable proof of the loss. Notice shall specify the reason for rejection and inform the claimant of the terms and conditions of the right to obtain an attorney. If a claim is rejected for a reason other than that the person is not entitled to basic loss benefits claimed, the written notice shall inform the claimant that the claim may be held with the assigned claims bureau and shall give the name and address of the bureau.

(b) Release or settlement of claim.—

(1) Except as otherwise provided in this subsection, no-fault benefits may not be denied or terminated because the victim executed a release or other settlement agreement. If the reasonably anticipated net loss does not exceed \$2,500, a claim for no-fault benefits may be discharged by a settlement agreement for an agreed amount payable in installments or in a lump sum. If the reasonably anticipated net loss exceeds \$2,500, a claim may be discharged by a settlement to the extent authorized by law upon a finding by a court of competent jurisdiction that the settlement is in the best interest of the claimant and beneficiaries of the claimant and that the claimant understands and consents to the settlement and upon payment by the obligor of the costs of the proceeding, including a reasonable attorney fee based upon actual time expended. Costs may not be charged to or deducted from the

proceeds of the settlement. Upon approval of the settlement, the court may make appropriate orders concerning the safeguarding and disposing of the proceeds of the settlement and may direct, as a condition of the settlement agreement, that the obligor pay the reasonable cost of appropriate future medical and vocational rehabilitation services.

(2) A settlement agreement for an amount payable in installments shall be modified as to amounts to be paid in the future if it is shown that a material and substantial change of circumstances has occurred or that there is newly-discovered evidence concerning the claimant's physical condition, loss or rehabilitation which could not have been known previously or discovered in the exercise of reasonable diligence.

(3) A settlement agreement may be set aside if it is procured by fraud or if its terms are unconscionable.

(c) Time limitations on actions to recover benefits.—

(1) If no-fault benefits have not been paid for loss arising otherwise than from death, an action for the benefits may be commenced not later than two years after the victim suffers the loss and knows, or, in the exercise of reasonable diligence, should have known, that the loss was caused by the accident, or not later than four years after the accident, whichever is earlier. If no-fault benefits have been paid for loss arising otherwise than from death, an action for further benefits other than survivor's benefits may be commenced not later than two years after the last payment of benefits.

(2) If no-fault benefits have not been paid to the deceased victim or the victim's survivor, an action for survivor's benefits may be commenced not later than one year after the death or four years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to a survivor, an action for further survivor's benefits may be commenced not later than two years after the last payment of benefits. If no-fault benefits have been paid for loss suffered by a deceased victim before death, an action for survivor's benefits may be commenced not later than one year after the death or six years after the last payment of benefits, whichever is earlier.

(3) If timely action for basic restoration benefits is commenced against an obligor and benefits are denied because of a determination that the obligor's coverage is not applicable to the claimant under the provisions of section 1724 (relating to source of basic restoration benefits), an action against the applicable obligor or the obligor to whom a claim is assigned under an assigned claims plan may be commenced not later than 60 days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as paragraph (1), (2) or (3) prescribes a longer period, an action by a claimant on an assigned claim which has been timely presented under section 1707 (relating to assigned claims plan) may not be commenced more than 60 days after the claimant receives written notice of rejection of the claim by the obligor to which it was assigned.

(5) If a person entitled to no-fault benefits is under a legal disability when the right to bring an action for the benefits accrues, the period of the disability shall not be a part of the time limited for commencement of the action.

(d) Assignment of benefits.—An assignment of or an agreement to assign a right under this chapter for loss accruing in the future is unenforceable except as to benefits for one of the following:

(1) Work loss to secure payment of alimony, maintenance or child support.

(2) Allowable expense to the extent the benefits are for the cost of products, services or accommodations provided or to be provided by the assignee.

(e) Deduction and setoff.—Except as otherwise provided in this chapter, basic loss benefits shall be paid without deduction or setoff.

(f) Exemption of benefits.—

(1) No-fault benefits for allowable expense are exempt from garnishment, attachment, execution and other process or claim, except upon the claim of a creditor who has provided products, services or accommodations to the extent benefits are for allowable expense for those products, services or accommodations.

(2) Basic loss benefits other than those for allowable expense are exempt from garnishment, attachment, execution and other process or claim to the extent the benefits are attributable to loss sustained within the first 60 days following the accident resulting in injury. Other basic loss benefits except for items of allowable expense are exempt to the extent that wages or earnings are exempt under applicable law exempting wages or earnings from process or claims.

§ 1706. Attorney fees and costs.

(a) Claimant.—If overdue no-fault benefits are paid by the obligor after receipt by the obligor of notice of representation of a claimant in connection with a claim or action for the payment of no-fault benefits, a reasonable attorney fee based on actual time expended shall be paid by the obligor to the attorney. No part of the attorney fee for representing the claimant in connection with the claim or action for no-fault benefits may be charged or deducted from benefits otherwise due to the claimant, and no part of the benefits may be applied to the fee. If, in an action by a claimant to recover no-fault benefits from an obligor, the court determines that the obligor has denied the claim or a significant part of the claim without reasonable foundation, the court may award the claimant's attorney a reasonable fee based upon actual time expended.

(b) Obligor.—If, in an action by a claimant to recover no-fault benefits from an obligor, the court determines that the claim or a significant part of the claim is fraudulent or so excessive as to have no reasonable foundation, the court may award the obligor's attorney a reasonable fee based upon actual time expended. The court may direct that the fee shall be paid by the claimant or that the fee may be treated in whole or in part as an offset against benefits due the claimant.

§ 1707. Assigned claims plan.

(a) Benefits.—

(1) For an accident resulting in injury that occurs on or after the effective date of this chapter, a victim or the survivor of a deceased victim may obtain basic benefits through the assigned claims plan established under subsection (b), if one of the following applies:

(i) Basic loss incurred is not applicable to the injury for a reason other than those specified in section 1728 (relating to ineligible claimants).

(ii) Basic loss incurred is not applicable to the injury because the victim converted a motor vehicle while the victim was under 15 years of age.

(iii) Basic loss incurred applicable to the injury cannot be identified.

(iv) Basic loss incurred applicable to the injury is inadequate to provide the contracted-for benefits because of financial inability of an obligor to fulfill its obligations.

(v) Basic loss incurred benefits are refused by an obligor for a reason other than that the individual is not entitled in accordance with this chapter to receive the basic loss benefits claimed.

(2) If a claim qualifies for assignment under paragraph (1)(iii), (iv) or (v), the assigned claims bureau or an insurer to whom the claim is assigned is subrogated to the rights of the claimant against the obligor obligated to provide basic benefits to the claimant for the benefits provided by the assignee.

(3) If an individual receives basic loss benefits through the assigned claims plan for a reason other than because of the financial inability of an obligor to fulfill its obligation, the benefits or advantages that the individual receives or is entitled to receive as a result of the injury, other than life insurance benefits or benefits by way of succession at death or in discharge of familial obligations of support, shall be subtracted from loss in calculating net loss.

(4) An assigned claim of an individual who does not comply with the requirement of providing security for the payment of basic restoration benefits or of an individual as to whom the security is invalidated because of the individual's fraud or willful misconduct is subject to all of the following:

(i) The maximum optional deductibles and exclusions required to be offered.

(ii) A deduction in the amount of \$500 for each year or part thereof of the period of the individual's continuous failure to provide security, applicable to benefits otherwise payable except basic benefits for allowable expense.

(b) Establishment.—

(1) Obligors other than self insurers and governments providing basic loss insurance in this Commonwealth shall organize and maintain, subject to approval and regulation by the commissioner, an assigned claims bureau and an assigned claims plan and adopt rules for their operation and for assessment of costs on a fair and equitable basis consistent with this chapter. If a bureau and plan are not organized and maintained in a manner considered by the commissioner to be consistent with this chapter, the commissioner shall organize and maintain an assigned claims bureau and an assigned claims plan. Each obligor insurer providing basic loss insurance in this Commonwealth shall participate in the assigned claims bureau and the assigned claims plan. Costs incurred shall be allocated fairly and equitably among the obligors.

(2) The assigned claims bureau shall promptly do all of the following:

(i) Assign claims for no-fault benefits to an assignee who shall be a participating insurer.

(ii) Notify the claimant of the identity and address of the assignee.

(3) Claims shall be assigned so as to minimize inconvenience to claimants. The assignee has rights and obligations as if the assignee had issued a policy of basic loss insurance complying with this chapter applicable to the injury or, in a case involving the financial inability of an obligor to perform its obligations, as if the assignee had written the applicable basic restoration insurance, undertaken the self-insurance or lawfully obligated itself to pay basic loss benefits.

(c) Time for presenting claims.—

(1) Except as provided in paragraph (2), an individual authorized to obtain basic loss benefits through the assigned claims plan shall notify the assigned claims bureau of a claim within the time that would have been allowed under section 1705(c) (relating to payment of claims for no-fault benefits) for commencing an action for basic loss benefits against an obligor in a case in which identifiable no-fault insurance coverage was in effect and applicable to the claim.

(2) If timely action for basic loss benefits is commenced against an obligor who is unable to fulfill obligations because of financial inability, an individual authorized to obtain basic loss benefits through the assigned claims plan shall notify the bureau of the claim within six months after discovery of financial inability.

§ 1708. Rates.

(a) General rule.—The commissioner shall regulate obligors providing security. The rates charged for security shall be established, determined and modified only in accordance with the provisions of the applicable rating law of this Commonwealth.

(b) Public information.—The commissioner shall provide the means to inform purchasers of insurance, in a manner adequate to permit them to compare prices, about rates being charged by insurers for no-fault benefits and tort liability coverage.

(c) Accountability program.—

(1) The commissioner, through the State vocational rehabilitation agency, shall establish and maintain a program for the regular and periodic evaluation of medical and vocational rehabilitation services for which reimbursement or payment is sought from an obligor as an item of allowable expense to assure all of the following:

(i) Services are medical and vocational rehabilitation services.

(ii) The recipient of the services is making progress toward a greater level of independent functioning, and the services are necessary to such progress and continued progress.

(iii) The charges for the services for which reimbursement or payment is sought are fair and reasonable.

(2) Progress reports shall be made periodically in writing on each case for which reimbursement or payment is sought under security for the payment of basic loss benefits. Reports shall be prepared by the supervising physician or rehabilitation counselor and submitted to the State vocational rehabilitation agency. The State vocational rehabilitation agency shall file reports with the applicable obligor. Pursuant to this program, there shall be provision for determinations to be made in writing of the rehabilitation goals and needs of the victim and for the periodic assessment of progress at reasonable time intervals by the supervising physician or rehabilitation counselor.

(3) The commissioner may establish and maintain a program for the regular and periodic evaluation of this Commonwealth's no-fault plan for motor vehicle insurance.

(d) Availability of services.—The commissioner may coordinate with appropriate government agencies in the creation and maintenance of an emergency health services system and take steps necessary to assure that emergency health services are available for each victim suffering injury in this Commonwealth. The commissioner may take steps necessary to assure that medical and vocational rehabilitation services are available for each victim who is a resident of this Commonwealth. Steps may include, but are not limited to, guarantees of loans or other obligations of suppliers or providers of services and support for training programs for personnel in programs and facilities offering services.

§ 1709. Motor vehicles in interstate travel.

(a) General rule.—An owner who has complied with the requirements of security shall be deemed to have complied with the requirements for security in states in which the vehicle is operating.

(b) Conforming coverage.—

(1) An obligor providing security for the payment of basic loss benefits is obligated to provide, and each contract of insurance for the payment of basic loss benefits shall be construed to contain, coverage sufficient to satisfy the requirements for security covering a motor vehicle in a state where a victim or a survivor of a deceased victim is domiciled or where a victim is injured.

(2) An obligor providing security for the payment of basic loss benefits shall include, in each contract of insurance for the payment of basic loss benefits, coverage to protect the owner of a motor vehicle from tort liability to which the owner is exposed through application of the law of a state in which the motor vehicle may be operated and which arises out of the ownership, maintenance or use of a motor vehicle.

## (c) Applicable law.—

(1) The basic loss benefits available to a victim or survivor of a deceased victim shall be determined pursuant to the provisions of the state no-fault plan for motor vehicle insurance in effect in the state of domicile of the victim on the date when the motor vehicle accident resulting in injury occurs. If there is no state no-fault plan in effect or if the victim is not domiciled in a state, then basic loss benefits available to the victim shall be determined pursuant to the provisions of the state no-fault plan for motor vehicle insurance in effect in the state in which the accident resulting in injury occurs.

(2) The right of a victim or of a survivor of a deceased victim to sue in tort shall be determined by the law of the state of domicile of the victim. If a victim is not domiciled in a state, the right to sue shall be determined by the law of the state in which the accident resulting in injury or damage to property occurs.

## § 1710. Rights and duties of obligors.

## (a) Reimbursement and subrogation.—

(1) Except as provided in paragraphs (2) and (3), all of the following apply:

(i) An obligor does not have, and may not contract for, a right of reimbursement from or subrogation to the proceeds of a victim's claim for relief or a right of subrogation to a victim's cause of action for noneconomic detriment.

(ii) An obligor may not contract for any right of reimbursement based upon a determination of fault from another obligor not acting as a reinsurer for no-fault benefits which it has paid or is obligated to pay as a result of injury to a victim.

(2) If an individual who receives or is entitled to receive no-fault benefits for an injury has a claim or cause of action against another person who caused the injury, based upon a determination of fault, and if the obligor has paid or become obligated to pay accrued or future no-fault benefits in excess of the minimum basic loss benefits required under this chapter, the obligor shall be subrogated to the rights of the claimant only for elements of damage compensated for by security for the payment of no-fault benefits in excess of the minimum basic loss benefits required under this chapter.

(3) Nothing in this subsection precludes a person supplying or providing products, services or accommodations from contracting or otherwise providing for a right of reimbursement to basic restoration benefits for allowable expense.

(4) An entity providing benefits other than no-fault benefits to an individual as described in section 1723 (relating to collateral benefits) does not have a right of subrogation with respect to the benefits.

(b) Duty to pay basic loss benefits.—An obligor providing security for the payment of basic loss benefits shall pay or provide benefits without regard to fault to each individual entitled to the benefits under this chapter.

(c) Indemnity.—An obligor has a right of indemnity against an individual who has converted a motor vehicle involved in an accident, or against an individual who has intentionally injured himself or another individual, for no-fault benefits paid for all of the following:

- (1) The loss caused by the conduct of that individual.
- (2) The cost of processing the claims for the benefits.
- (3) The cost of enforcing this right of indemnity, including reasonable attorney fees.

(d) Referral for rehabilitation services.—The obligor shall promptly refer a victim to whom basic benefits are expected to be payable for more than two months to the State vocational rehabilitation agency.

SUBCHAPTER B  
RIGHT TO BENEFITS

## Sec.

- 1721. Right to basic loss benefits.
- 1722. Basic loss benefits.
- 1723. Collateral benefits.
- 1724. Source of basic restoration benefits.
- 1725. Work loss.
- 1726. Net loss.
- 1727. Added loss benefits.
- 1728. Ineligible claimants.
- 1729. Other provisions.

## § 1721. Right to basic loss benefits.

(a) Accident within this Commonwealth.—If the accident resulting in injury occurs in this Commonwealth, a victim or a survivor of a deceased victim is entitled to receive basic loss benefits under this chapter.

(b) Accident outside this Commonwealth.—If the accident resulting in injury occurs outside of this Commonwealth, a victim or a survivor of a deceased victim is entitled to receive basic loss benefits if the victim was one of the following:

- (1) An insured.
- (2) The driver or other occupant of a secured vehicle.

## § 1722. Basic loss benefits.

(a) Allowable expense limits.—Allowable expense shall be provided, or the equivalent of allowable expenses shall be provided, in the form of a contract to provide required services.

(b) Work loss limits.—Work loss shall be provided for amounts, selected by the insured, not to exceed after-tax earnings as reported to the Internal Revenue Service for Federal income tax purposes.

(c) Deductibles and waiting period.—Allowable expense and work loss may include provisions to provide a deductible not to exceed \$1,000 for each individual or, with respect to work loss services only, to provide a waiting period not to exceed 30 days. The deductible or waiting period shall be elected, in writing, upon a form approved by the commissioner. If elected, the deductible or waiting period shall be effective only against the named insured and the named insured's family.

(d) Exclusion.—A basic loss obligor is not obligated to provide basic loss benefits for allowable expense for medical and vocational rehabilitation services unless the facility in which or through which the services are provided has been accredited by the Department of Health, or the equivalent governmental agency responsible for health programs in the state in which the services are provided, as being in accordance with applicable requirements and regulations.

## § 1723. Collateral benefits.

(a) General rule.—If benefits, other than no-fault benefits, for a victim or the survivor of a deceased victim are provided to an individual through a program, group, contract or other arrangement for which some other person pays, in whole or in part, then a reduction or savings, resulting from the existence of no-fault benefits, in the direct or indirect cost of the provided benefits shall be returned to the individual.

(b) Security.—The owner may elect to provide for security for the payment of basic loss benefits through a program, group, contract or other arrangement that would pay, to or on behalf of the victim, members of the victim's family residing in the same household or the survivor of a deceased victim, allowable expense, loss of income, work loss, replacement services loss and survivor's loss. A contract of insurance issued by an insurer shall be construed to contain a provision that basic loss benefits provided in the contract shall be in excess of valid and collectible benefits otherwise provided through a program, group, contract or other arrangement, as designated at the election of the owner to be primary.

(c) Cost reduction.—An insurer providing basic loss benefits and tort liability coverage under subsection (b) shall reduce the cost of the contract of insurance to reflect the anticipated reduction in basic loss benefits payable by the insurer by reason of the election of the owner to provide substitute security.

§ 1724. Source of basic restoration benefits.

(a) Applicable security.—

(1) The security for the payment of basic loss benefits applicable to an employee or to the spouse or other relative of the employee residing in the same household as the employee, if the accident resulting in injury occurs while the victim or deceased victim is driving or occupying a motor vehicle furnished by the employer, is the security for the payment of basic loss benefits covering the motor vehicle or, if there is none, other security applicable to the victim.

(2) The security for the payment of basic loss benefits applicable to an individual who is not an insured or the driver or other occupant of a motor vehicle involved in an accident resulting in injury is the security covering the motor vehicle involved in the accident. For purposes of this paragraph, a parked and unoccupied motor vehicle is not a motor vehicle involved in an accident unless it was parked so as to cause unreasonable risk of injury.

(3) The security for the payment of basic loss benefits applicable to the driver or other occupant of a motor vehicle who is involved in an accident resulting in injury but who is not an insured is the security covering the vehicle.

(4) The security for the payment of basic loss benefits applicable to an insured is the security under which the victim or deceased victim is insured.

(5) The applicable assigned claims plan is the security for the payment of basic loss benefits applicable to individuals not covered by paragraphs (1) through (4).

(b) Multiple sources of equal property.—If two or more obligations to pay basic loss benefits apply equally to an injury under the priorities set forth in subsection (a), the obligor against whom a claim is asserted first shall process and pay the claim as if wholly responsible. That obligor shall be entitled to recover contribution pro rata from another obligor for the basic loss benefits paid and for the costs of processing the claim. If contribution is sought among obligors responsible under subsection (a)(2), proration shall be based on the number of involved motor vehicles.

§ 1725. Work loss.

(a) Regularly employed.—The work loss of a victim whose income prior to the injury was realized in regular increments is calculated as follows:

(1) Divide probable annual income by 52.

(2) Multiply the quotient in paragraph (1) by the number of work weeks the victim sustains loss of income during the accrual period.

(b) Seasonally employed.—The work loss of a victim whose income is realized in irregular increments is calculated as follows:

(1) Divide probable annual income by the number of weeks the victim normally works.

(2) Multiply the quotient in paragraph (1) by the number of work weeks the victim was unable to perform and would have performed work but for the injury during the accrual period.

(c) Not employed.—The work loss of a victim who is not employed when the accident resulting in injury occurs is calculated as follows:

(1) Divide probable annual income by 52.

(2) Multiply the quotient in paragraph (1) by the number of work weeks, if any, the victim would reasonably have been expected to realize income during the accrual period.

(d) Definitions.—As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Probable annual income.” Absent a showing that it is or would be some other amount, the following:

(1) For a victim regularly employed at the time of the accident, the greater of the following:

(i) Twelve times the monthly gross income earned by the victim from work in the month preceding the month in which the accident resulting in injury occurs.

(ii) The average annual income earned by the victim from work during the years, not to exceed three, preceding the year in which the accident resulting in injury occurs.

(2) For a victim seasonally employed or unemployed at the time of the accident, the average annual gross income earned by the victim from work during the years in which the victim was employed, not to exceed three, preceding the year in which the accident resulting in injury occurs.

(3) For a victim who has not previously earned income from work, the average annual gross income of a production or nonsupervisory worker in the private nonfarm economy in the state in which the victim is domiciled for the year in which the accident resulting in injury occurs.

“Weekly income.” Income earned during a work week.

“Work week.” The number of days an individual normally works in a seven-day period.

§ 1726. Net loss.

(a) General rule.—Except as provided in section 1707(a)(3) (relating to assigned claims plan), all of the following shall be subtracted from loss in calculating net loss:

(1) Benefits or advantages, less reasonably incurred collection costs, that an individual receives or is entitled to receive from all of the following:

(i) Social Security. This subparagraph does not apply to benefits provided under Title XIX of the Social Security Act (Public Law 74-271, 42 U.S.C. § 1396 et seq.) or Medicare benefits to which an individual's entitlement depends upon use of “life-time reserve” of benefit days.

(ii) Worker's compensation.

(iii) State-required temporary, nonoccupational disability insurance.

(2) Benefits from a government received by or available to an individual because of an injury. This paragraph does not apply to proceeds of life insurance.

(b) Tax deduction.—If a benefit or advantage received to compensate for loss of income because of injury, whether from no-fault benefits or from a source of benefits or advantages subtracted under subsection (a), is not taxable income, the income tax saving that is attributable to that loss of income because of injury shall be subtracted in calculating net loss for work loss. Subtraction may not exceed 20% of the loss of income and shall be in a lesser amount as the insurer reasonably determines is appropriate based on a lower value of the income tax advantage.

§ 1727. Added loss benefits.

(a) Mandatory offering.—Obligors providing security for the payment of basic loss benefits shall offer or obligate themselves to provide added loss benefits for injury or damage arising out of the ownership, maintenance or use of a motor vehicle, including:

(1) Loss excluded from basic loss benefits by limits on allowable expense, work loss, replacement services loss and survivor's loss.

(2) Benefits for damage to property.

(3) Benefits for loss of use of a motor vehicle.

(4) Benefits for expense for remedial religious treatment and care.

(5) For physical damage to a motor vehicle, a coverage for collision and upset damage, subject to an optional deductible.

(6) For economic detriment, a coverage for work loss sustained by a victim in excess of limitations on basic loss benefits for work loss.

(b) Additional loss coverage.—Subject to the approval of terms and forms by the commissioner, obligors may offer or obligate themselves to provide other added loss coverages. The commissioner may adopt regulations requiring that insurers providing basic loss insurance offer, under this chapter, other specified added loss coverages.

§ 1728. Ineligible claimants.

(a) Converter.—

(1) Except as provided for assigned claims, a converter of a motor vehicle is ineligible to receive no-fault benefits, including benefits otherwise due as a survivor, from a source other than a contract of insurance under which the converter is an insured for an injury arising out of the maintenance or use of the converted vehicle. If a converter dies from injuries, the survivor is not entitled to no-fault benefits for survivor's loss from a source other than a contract of insurance under which the converter is an insured.

(2) For purposes of this subsection and section 1710 (relating to rights and duties of obligors), an individual is not a converter of a motor vehicle if the individual used it in the good faith belief that the individual was legally entitled to do so.

(b) Intentional injuries.—

(1) An individual who intentionally injures himself or another individual is ineligible to receive no-fault benefits for injury arising out of the act, including benefits otherwise due as a survivor. If an individual dies as a result of intentionally injuring himself, the survivor is not entitled to no-fault benefits for survivor's loss. An individual intentionally injures himself or another individual if he acts or fails to act for the purpose of causing injury or with knowledge that the injury is substantially certain to follow. An individual does not intentionally injure himself or another individual merely because the act or failure to act is intentional or done with the realization that it creates a grave risk of causing injury or if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another individual.

(2) For the purposes of sections 1710(c) and 1726 (relating to net loss), an individual does not intentionally injure himself or another individual merely because the act or failure to act is intentional or done with the realization that it creates a grave risk of harm.

§ 1729. Other provisions.

(a) Included coverage.—A contract of insurance covering liability arising out of the ownership, maintenance or use of a motor vehicle registered in this Commonwealth shall include basic loss benefits and other benefit coverages required by the plan under section 1704 (relating to availability of insurance) unless the contract provides tort liability coverages only in excess of those required by the no-fault plan.

(b) Approval of terms and forms.—Terms and conditions, including forms used by insurers, of a contract, certificate or other evidence of insurance sold or issued pursuant to the plan under section 1704 providing no-fault benefits or required tort liability are subject to approval and regulation by the commissioner. The commissioner shall approve only terms and conditions which are consistent with the purposes of this chapter and which are and fair and equitable to persons whose interests may be affected. The commissioner may reasonably limit by regulation the variety of coverage available in order to give purchasers of insurance a reasonable opportunity to compare the cost of insuring with various insurers.

## SUBCHAPTER C TORT LIABILITY

Sec.

1731. Tort liability.

§ 1731. Tort liability.

(a) Partial abolition.—Tort liability is abolished with respect to an injury that takes place in this Commonwealth if the injury arises out of the maintenance or use of a motor vehicle. Tort liability is not abolished in the following circumstances:

(1) An owner of a motor vehicle involved in an accident remains liable if, at the time of the accident, the vehicle was not a secured vehicle.

(2) A person in the business of designing, manufacturing, repairing, servicing or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in a motor vehicle which is caused or not corrected by an act or omission in the course of the business. This paragraph does not apply to a defect in a motor vehicle which is operated by such business.

(3) An individual remains liable for intentionally injuring himself or another individual.

(4) A person remains liable for loss which is not compensated because of a limitation under section 1722 (relating to basic loss benefits).

(5) A person remains liable for damages for non-economic detriment if the accident results in one of the following:

(i) Death or serious and permanent injury.

(ii) The reasonable value of reasonable and necessary medical and dental services, including prosthetic devices and necessary ambulance, hospital and professional nursing expenses incurred in the diagnosis, care and recovery of the victim, exclusive of diagnostic X-ray costs and rehabilitation costs in excess of \$100, in excess of \$3,000. For the purposes of this paragraph, the reasonable value of hospital room and board shall be the amount determined by the Department of Health to be the average daily rate charged for a semiprivate hospital room and board, computed from charges by all hospitals in this Commonwealth.

(iii) Medically determinable physical or mental impairment which prevents the victim from performing all or substantially all of the material acts and duties which constitute the victim's usual and customary daily activities and which continues for more than 60 consecutive days.

(iv) Injury which consists of cosmetic disfigurement which is permanent, irreparable and severe.

(6) A person remains liable for injury arising out of a motorcycle accident to the extent that the injury is not covered by basic loss benefits payable under this chapter.

(b) Nonreimbursable tort fine.—Nothing in this section shall be construed to immunize an individual from liability to pay a fine on the basis of fault in a proceeding based upon an act or omission arising out of the maintenance or use of a motor vehicle. A fine under this subsection may not be paid or reimbursed by an insurer or other obligor.

## SUBCHAPTER D EXAMINATION, TREATMENT AND REHABILITATION OF INJURED PERSONS

Sec.

1741. Examination.

1742. Report of examination.

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1748. Earnings statement.

## § 1741. Examination.

If the mental or physical condition of a victim is material to a claim that has been or may be made for past or future basic loss benefits, a court of competent jurisdiction may order the victim to submit to mental or physical examination by a physician. The order may be made only upon motion for good cause shown and upon notice to the victim to be examined and to other persons having an interest. The order shall specify the time, place, manner, conditions and scope of the examination and the individual by whom it is to be made.

## § 1742. Report of examination.

If requested by the victim, a party causing an examination to be made shall deliver to the victim a copy of every written report concerning the examination rendered by an examining physician. At least one of these reports must set out the findings and conclusions in detail. After request and delivery, the party causing the examination to be made may, upon request, receive from the victim every written report available to the victim or a representative concerning an examination of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the victim waives the privilege, in relation to the claim for basic loss benefits, regarding the testimony of examiner of the victim in respect to the same mental or physical condition.

## § 1743. Refusal to comply.

If a person refuses to comply with an order entered under section 1741 (relating to examination) or 1742 (relating to report of examination), the court may make orders in regard to the refusal as are just. No order shall be entered directing the arrest of a person for disobeying an order to submit to a physical or mental examination. The orders that may be made in regard to a refusal include, but are not limited to, the following:

(1) An order that the mental or physical condition of the victim shall be taken to be established for the purposes of the claim in accordance with the contention of the party obtaining the order.

(2) An order refusing to allow the disobedient person to support or oppose designated claims or defenses or prohibiting the disobedient person from introducing evidence of mental or physical condition.

(3) An order rendering judgment by default against the disobedient person as to the person's entire claim or a designated part of it.

(4) An order requiring the disobedient person to reimburse the obligor for reasonable attorney fees and expenses incurred in defense against the claim.

(5) An order requiring delivery of a report under section 1742 on just terms. If a physician fails or refuses to make a report, a court may exclude the physician's testimony.

## § 1744. Court order for obligor responsibility.

(a) General rule.—Upon application by an interested person, upon reasonable notice to other interested persons and upon findings supported by evidence, a court of competent jurisdiction may, after a hearing, enter an order determining that an obligor is responsible, subject to the limits and other terms and conditions of the coverage, for the cost of a specified procedure or treatment for rehabilitation to which the victim submits.

(b) Findings.—All of the following findings are required to support an order under subsection (a):

(1) The specified course of procedure or treatment, whether or not involving surgery, is recognized and acceptable medically or is acceptable nonmedical remedial Christian Science treatment and care.

(2) The specified course of procedure or treatment has contributed or will contribute substantially to rehabilitation.

(3) The cost of the procedure or treatment is reasonable in relation to its probable rehabilitative effects.

## § 1745. Court order for rehabilitative training.

(a) General rule.—Upon application by an interested person, upon reasonable notice to other interested persons and upon findings supported by evidence, a court of competent jurisdiction may, after a hearing, enter an order determining that an obligor is responsible, subject to the limits and other terms and conditions of the coverage, for the cost of a specified course of rehabilitative occupational training that the injured victim takes.

(b) Findings.—All of the following findings are required to support an order under subsection (a):

(1) The specified course of occupational training is a recognized form of training and is reasonable and appropriate for the particular case.

(2) The training has contributed or will contribute substantially to rehabilitation.

(3) The cost of the training is reasonable in relation to its probable rehabilitative effects.

## § 1746. Compliance with court order.

(a) Order of compliance.—Upon application by an interested person, upon reasonable notice to other interested persons and upon findings supported by evidence, a court of competent jurisdiction may, after a hearing, enter an order invoking reasonable sanctions against the victim and survivors. All of the following findings are required to support an order under this subsection:

(1) The victim has refused or has caused the obligor reasonably to believe that the victim may refuse to submit to procedure, treatment or training.

(2) The victim does not have reasonable grounds to continue refusal.

(b) Refusal to comply.—In determining whether a victim has reasonable grounds for continuing refusal to submit to the specified procedure, treatment or training, the court shall take into account the extent of the probable benefit; the attendant risks; the extent to which the procedure, treatment or training is or is not recognized as standard and customary; and whether the imposition of sanctions because of the victim's refusal would abridge the victim's constitutional rights.

(c) Sanctions.—The sanctions that may be invoked under subsection (a) include, but are not limited to, the following:

(1) An order that benefits be reduced or terminated as necessary to limit recovery of benefits to an amount equal to the benefits that, in reasonable probability, would have been due had the victim submitted to rehabilitative procedure, treatment or training.

(2) An order that the physical or mental condition of the victim shall be taken to be established for the purposes of the claim in accordance with the contention of the obligor.

(3) An order that, if the obligor elects to pay a specified lump sum, found to be fair and reasonable compensation, in lieu of benefits that, in reasonable probability, would be due if the victim submitted to the specified procedure, treatment or training, it shall be discharged from liability arising from the injury.

## § 1747. Customary charges for treatment.

A physician, hospital, clinic or other person or institution lawfully rendering treatment to an injured individual for an injury covered by basic loss benefits and a person or institution providing rehabilitative occupational training following such an injury may charge a reasonable amount for the products, services and accommodations rendered. A charge may not be in excess of the amount the person or institution customarily charges for like products, services and accommodations in cases involving no insurance.

## § 1748. Earnings statement.

(a) Statement from employer.—An employer of a victim shall, if a request is made by an obligor against whom a claim has been made, furnish, in a form approved by the commissioner, a



sworn statement of earnings, since injury and for a reasonable period before injury, of the victim.

(b) Medical records.—A physician, hospital, clinic or other person or institution providing products, services or accommodations shall, if requested to do so by the obligor, subject to conditions approved by the commissioner, do the following:

(1) Furnish a written report of the history, condition, treatment and dates and costs of treatment of the victim that are in connection with the injury for which claim is being made.

(2) Produce and permit the inspection and copying of records regarding the history, condition, treatment and dates and costs of treatment that are in connection with the injury for which claim is being made.

(c) Cost of reports.—An employer, physician, hospital, clinic or other person or institution providing information in response to a request under the terms of this section may charge a reasonable amount in reimbursement for the time and cost of providing the information.

(d) Discovery.—In the event of a dispute regarding an insurer's right to discovery of facts about a victim's earnings or about a victim's history, condition, treatment and dates and costs of treatment, a court of competent jurisdiction may enter an order for discovery. The order may be made only upon motion, for good cause shown, and upon notice to persons having an interest. The order shall specify the time, place, manner, conditions and scope of discovery. A court, as justice requires, may, in order to protect against annoyance, embarrassment or oppression, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings.

#### SUBCHAPTER E INSURANCE

Sec.

1751. Uninsured motorists.

1752. Antidiscrimination.

1753. Policy requirements and premium charges.

1754. Add-on benefits.

§ 1751. Uninsured motorists.

If the owner of a motor vehicle is insured under this chapter, the obligor obligated to pay basic loss benefits for accidental bodily injury to an individual occupying the motor vehicle or to the spouse or relative resident in the household of the owner shall be entitled to recover the benefits paid and appropriate loss adjustments costs incurred from the owner or from the owner's estate. The failure of the individual to make payment within 30 days shall be grounds for suspension or revocation of the motor vehicle registration and operator's license.

§ 1752. Antidiscrimination.

There may be no unfair discrimination by insurers in eligibility rules and underwriting practices by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The terms "eligibility rules and underwriting practices" do not include the making or promulgation of rates in accordance with law.

§ 1753. Policy requirements and premium charges.

(a) Requirements for writing insurance.—Insurers licensed in this Commonwealth and desiring to qualify to write insurance applicable to motor vehicle accidents subsequent to the effective date of this chapter must, as a condition of qualification, prepare and file policy forms and insurance rates for coverages affected by this chapter. Policy forms and rates must be filed with the office of the commissioner of this Commonwealth within three months from the effective date of this chapter.

(b) Initial premium charges.—The premiums charged by an insurer during the first 12-month period following the effective date of this chapter for basic loss insurance benefits, together

with security required for the payment of tort judgments, may not exceed 85% of the combined premiums for:

(1) Bodily injury liability insurance for the same limits required in this chapter.

(2) Medical payments insurance in the amount of \$1,000, approved by the commissioner for an insurer and in effect on the date this chapter becomes effective.

(c) Limitation on premium increases.—No insurer may increase the premium rate of an owner of a policy solely because a named insured under the policy made a claim under the policy and was paid the claim unless it is determined that the named insured was at fault in contributing to the accident giving rise to the claim. The commissioner shall promulgate regulations for determining fault of an insured for the purposes of this subsection.

§ 1754. Add-on benefits.

No obligor may, in effecting the renewal of an automobile insurance policy or in amending an automobile insurance policy to conform to the provisions of this chapter, add on no-fault benefits in excess of the minimum benefits required or increase the limits of tort liability insurance required under this chapter without the prior written consent of the insured.

#### SUBCHAPTER F PENALTIES

Sec.

1761. Operation of a vehicle without security.

1762. Violations by obligor.

§ 1761. Operation of a vehicle without security.

An owner of a passenger vehicle for which the existence of security for basic loss benefits and tort liability insurance is a requirement for its legal operation upon the highways of this Commonwealth who operates the motor vehicle or permits it to be operated upon a highway in this Commonwealth without security under section 1703 (relating to required motor vehicle insurance) commits a misdemeanor of the third degree. An individual who operates a motor vehicle upon a public highway in this Commonwealth with the knowledge that the owner does not have security under section 1703 commits a misdemeanor of the third degree. Upon conviction of a misdemeanor under this section, a person shall be sentenced to pay a fine of not less than \$100 and not more than \$500 or to imprisonment for not more than six months, or both.

§ 1762. Violations by obligor.

An obligor who advertises, offers or contracts for or provides for no-fault benefits or tort liability insurance coverages required by this chapter and who, by a pattern of business transactions, violates this chapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000.

#### SUBCHAPTER G MISCELLANEOUS PROVISIONS

Sec.

1771. Insurance premium rates.

1772. Severability.

§ 1771. Insurance premium rates.

(a) Reasonable difference in losses and expenses.—No rate made under the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, shall be held to be unfairly discriminatory unless, allowing for practical limitations, it clearly fails to reflect with reasonable accuracy the differences in expected losses and expenses. A rate is not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors so long as the rate reflects the differences with reasonable accuracy. A rate is not unfairly discriminatory if it is averaged broadly among persons insured under a group, franchise or blanket policy.

(b) Factors supported by actuarial principles.—This section shall not be construed to prohibit rates for automobile insurance which are based on factors whose use is supported by sound actu-

arial principles or is related to actual or reasonably anticipated experience. Factors under this section include sex but exclude race, religion or national origin.

§ 1772. Severability.

The provisions of this chapter are severable. The provisions of section 1731 (relating to tort liability) are expressly made nonseverable.

Amend Sec. 1, page 2, line 1, by striking out "1" and inserting

3

Amend Sec. 1, page 2, lines 1 and 2, by striking out "OF THE PENNSYLVANIA CONSOLIDATED STATUTES"

Amend Sec. 2, page 5, line 25, by striking out "2" and inserting

4

Amend Sec. 3, page 6, line 2, by striking out "3" and inserting

5

Amend Sec. 4, page 6, line 11, by striking out all of said line and inserting

Section 6. This act shall take effect as follows:

- (1) Sections 1 and 2 of this act shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

First of all, I would like to caution my colleagues not to be disturbed by the size of the amendment itself. The number of changes contained therein are not that numerous. They do have great impact, however. I want to give everyone the opportunity to correct the grave mistake that this body made in last session by imposing on us the horrendous system of auto insurance that we have in this Commonwealth today, not the least problem of which is the infamous Cat (Catastrophic) Fund.

What I seek to do in this amendment is to appeal the miserable—

The SPEAKER. Why does the gentleman from Berks, Mr. Gallen, rise?

Mr. GALLEN. Mr. Speaker, I think the gentleman deserves attention. This may be the most significant amendment you will vote on this year. I urge you to pay attention.

The SPEAKER. Mr. Gallen, you may not interrupt the debate to give your opinion on it. You may interrupt it to call for order or a point of personal privilege. The Chair appreciates your call for order and we will try to get that order.

The gentleman, Mr. Gallen, is correct. There are some of you who, after the excitement of the last few debates, have not quieted down. Please quiet down so we may proceed.

The Chair apologizes for the long interruption, Mr. Foster. You may now proceed.

Mr. FOSTER. Thank you, Mr. Speaker.

I think if you were to stop a constituent in his automobile in your district and ask him what his primary concern was in the operation of that automobile, far ahead of the subject matter of seatbelts you would get quite an earful on the subject of auto insurance.

Now, last session we made a grave mistake by listening to the various pressure groups that gave us a siren song about how they were going to reduce costs and give us an auto insurance system that we would love. What did they do? They gave us a system that gave us fewer benefits and cost more dollars. They repealed a perfectly good system, a good system of no-fault auto insurance that needed a few basic modifications.

I have done that in this amendment today. It does two overriding things - it raises the threshold under the old no-fault law from \$750 to \$3,000, and it sets a cap on benefits of \$1 million. Those were the principal criticisms of the old law, and if we would have addressed those two points in this House, we would still have the system. But no, we listened to the siren song, and the results: I do not have to tell you about the Cat Fund. I do not have to tell you about the mishmash with stickers, and probably now many of you are getting phone calls from your constituents saying, I paid the Cat Fund and now they are sending me back a notice that I did not pay it. The idea that the computers are going to talk to each other and solve all the problems simply is not working.

To be brief, Mr. Speaker, I am giving you an opportunity to cast another vote on that other than the vote that you cast last session. And we are not only going to repeal the Cat Fund. That is like cutting the bloom off the thistle. We are going to dig it out by the roots in this amendment, and we are going to go to a decent system of auto insurance.

I can remember back from the days when my grandmother had various patent medicine bottles in the closet, and there were some of them that tasted good and did not do anything. They simply tasted good. There were others that tasted bad, and they did something. We did not like those, but we took them because they did something. There were very few such bottles that both tasted bad and did nothing, but not very many, because the patent medicine people were not dumb. Those types do not sell. And I will tell you, Mr. Speaker, there were not any that tasted utterly foul and still did you harm, as the current auto insurance system in this Commonwealth does.

So I am going to ask you to adopt this amendment on the basis that I think our constituents are going to say to us, fool me once, shame on you, but fool me twice, shame on me. For those of us who voted in error the last time, here is the opportunity to correct it, and I would ask an affirmative vote on the amendment.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Piccola, on the amendment.

Mr. PICCOLA. Thank you, Mr. Speaker.

I enjoyed the gentleman's analogy to his grandmother's patent medicines. The problem, however, with this particular bottle of medicine is that it has no label on it. Also, I might suspect that there might be some tampering that might have been done, and that may cause us some displeasure if we sample this particular bottle.

I agree with the gentleman that people are upset about automobile insurance. They were upset about automobile insurance under the no-fault law, and I think they were probably

upset about automobile insurance before we had no-fault, and that is one of the reasons we adopted no-fault. I just do not think that the struggle that this legislature had to go through 3 years ago to enact the current system of financial responsibility should be just totally thrown out the window to go back to a system that we acknowledged at that time was a failure.

I think there is some evidence that the current system is working. I cite, for example, the Nationwide Insurance Company here in Pennsylvania which has been writing automobile insurance policies. They have seen over the last 3 years an increase in premiums for automobile insurance of only 8 percent, which is below the rate of inflation for the types of things that automobile insurance pays for.

I think it is not appropriate that today, in the midst of a debate on seatbelts for automobile drivers, that we take what is in essence a bill, an amendment, of some 25 pages and go back, in essence, retrogress to an era that we know was not working, a no-fault system that was not working, and I would urge that the House reject the Foster amendment. Perhaps at some future time when we have had a little bit more experience with the current Financial Responsibility Law, some modification to that law will be appropriate, but I do not think we can throw the entire baby out with the bath water at this stage of the game.

I urge that the amendment be defeated. Thank you, Mr. Speaker.

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

Mr. MURPHY. Mr. Speaker, I rise in support of Representative Foster's amendment. I believe that what we did 3 years ago has proven to be a failure both in regard to what has happened to the rates— The previous Representative mentioned that one company's rates have only increased 8 percent over the last 3 years. There is any number of other companies that have seen increases as high as 25 and 30 percent in the Commonwealth, far exceeding inflation. I think what we did 3 years ago was a travesty to the driving public in Pennsylvania. We took away benefits from them, substantially reduced their benefits on automobile insurance, reducing from unlimited coverage to \$10,000 the medical coverage, and yet we have not seen reductions in premiums that should match those reductions in benefits that people did have.

I think what happened was a travesty. I think Representative Foster, in introducing this amendment, rightly recognizes that, and I hope that today the House of Representatives will recognize that what we did was a failure. It only helped the insurance industry reap more profits and did not bring lower premium reductions to our constituents, and therefore, we should go back to a system that provides decent coverage to individuals for medical costs and at the same time gives some leeway to them to control the cost if they have other coverage.

I urge your support for the amendment. Thank you.

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

Mr. KOSINSKI. Thank you, Mr. Speaker.

I rise against the Foster amendment. For different reasons I agree with both Mr. Murphy and Mr. Foster that something has to be done to change the present system. I will not vote for a change in the system that does not explicitly say the rates are going to come down. I have only seen one such proposal in the House so far, and that is HB 2585, introduced by Representative Acosta. I would wish that Mr. Foster and Mr. Murphy would get on that bill and push for a State-run auto insurance plan.

Thank you, Mr. Speaker.

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

Mr. CAWLEY. Thank you, Mr. Speaker.

I would like to interrogate Mr. Foster, please.

The SPEAKER. Mr. Foster indicates he will stand for interrogation. You are in order, and you may proceed, Mr. Cawley.

Mr. CAWLEY. Thank you.

Mr. Speaker, as the previous speaker just mentioned about rates, does this amendment do away with the Cat Fund?

Mr. FOSTER. This amendment very definitely does away with the Cat Fund. As I said earlier, it does not just snip off the bloom of the thistle; it grubs it out by the roots.

Mr. CAWLEY. What I am afraid of is the roots are going to turn into higher costs to the people taking insurance, because they think the insurance companies may say, now that we do not have the Cat Fund, your premiums have to go up. Is that what they are going to do?

Mr. FOSTER. Mr. Speaker, that was addressed in the amendment. The medical benefits are at the same cap level, at the cap level of \$1 million. That protects against the undetermined costs by the insurance carriers. And second, it protects the driver and the consumer against the insurance gap that exists there now between \$15,000 and \$30,000 and the \$100,000, at which time the Cat Fund kicks in.

Mr. CAWLEY. Okay.

One last question, Mr. Speaker. Most of the people that I represent do not bring up the fact about caps on benefits or thresholds; their biggest complaint is the cost of their automobile insurance. Do you have any analysis as to what this amendment will do to the cost of automobile insurance?

Mr. FOSTER. It is designed to stabilize those costs so that your premium dollars do not get paid out to help fight lawsuits. That is the basis of it. I will not stand here and sell snake oil and say that premiums will be reduced, because any system of auto insurance that promises that can only do so by reducing benefits. That was the fallacy of what we adopted here in the last session where we were supposed to get better benefits and reduced premiums, and you see where that has led. So this amendment will help stabilize costs.

Mr. CAWLEY. In other words, if this amendment is passed, our costs should remain about what they are now? Is that the same as stabilizing the costs?

Mr. FOSTER. That is the objective, to stabilize the costs and keep them from increasing.

I will not stand here and tell you that I can get you a premium decrease. That type of thing has been done too often. It is the type of oversell that causes cynicism on the part of our constituents. But we have in this amendment a system that will quickly deliver benefits to your constituents when they are injured. There will be no delays; it is automatic up to \$1 million in benefits.

Mr. CAWLEY. When I hear costs of insurance stabilizing, they are so high now it reminds me of the James brothers coming in town, robbing all the banks, and saying they are not going to rob them tomorrow. We need lower rates in Pennsylvania, and hopefully this would be a step in the right direction.

Mr. FOSTER. The only thing I could say to that, Mr. Speaker, if you are happy with the present system and if you think that is doing such a great job, you can keep it, but you see what is happening to the rates - up, up, and up, and for fewer benefits than we had under the system that I have in this amendment.

Mr. CAWLEY. Okay.

Thank you, Mr. Speaker, and thank you for your comments.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Gannon, on the amendment.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, this amendment just came across our desks. It is dated September 29, which was yesterday, and just by a quick perusal of the amendment, I think it is pretty evident that it is fairly complex and a radical departure from present law so far as automobile insurance is concerned.

I think, Mr. Speaker, that the drafter of the amendment is well intentioned, and if the amendment only addressed repealing the Catastrophic Loss Fund, I would probably be up here supporting him. However, this amendment goes well beyond that, Mr. Speaker. Legislation which we passed some time back reforming the automobile law was as a result of intensive work by the House Insurance Committee as well as negotiations and compromises between the parties of interest. I have no idea where this amendment came from, Mr. Speaker. As was pointed out in interrogation, there is no guarantee of any rate reduction if we agree to this amendment today. And as was pointed out earlier by Representative Piccola, the present law is showing signs of working. It is beginning to work; it has been working.

In addition to that, Mr. Speaker, the Insurance Committee of the House issued a report just last week dealing with the tort problem. It is 300 pages long, and I am not presuming that anyone here has completed reading that entire document nor that anyone would agree with its entire contents after reading it. But it does give some evidence of the complexity of this situation, and I do not think that this is the time or the place to consider an amendment of this nature. I would recommend to the drafter that if he feels that strongly about it, that he submit it as a bill and give the House Insurance Committee an opportunity to take a look at it, to examine its contents, to hold hearings, if necessary, on it, to do whatever the

committee feels would be proper in addressing the issues raised in this amendment.

For all those reasons, Mr. Speaker, I would urge the members to vote "no" on this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Wogan.

Mr. WOGAN. Thank you, Mr. Speaker.

Mr. Speaker, there are perhaps 20, 25 of us who were not here 3 years ago when the major changes in the automobile insurance laws were made in the Commonwealth. Especially for those members, but for all of us, we have to understand completely what is being proposed here. As Representative Piccola so aptly stated, we would be throwing the baby out with the bath water if we throw the best component of that law out, and I am talking about the Catastrophic Loss Trust Fund.

Remember what that fund is doing. It is picking up medical bills for Pennsylvanians who have suffered catastrophic injuries, and that is defined by that act as injuries which incur bills in excess of \$100,000. The bill meets those obligations up to \$1 million. If the insurance companies of the Commonwealth of Pennsylvania, the insurance companies which are operating in the Commonwealth of Pennsylvania, were unable to meet the demand, were unable to meet the requirements from \$100,000 to \$1 million, and the Cat Fund is ably meeting those requirements, I think it would be dangerous and foolish to abolish the Cat Fund at this point.

The board of the Catastrophic Loss Trust Fund met this morning - its third meeting this year. I wish I had brought the records from that meeting with me, because we covered numerous letters from individuals in the Commonwealth who have suffered catastrophic losses in automobile injuries since the effective date of the act. Every single one of those persons is satisfied. Every single one of those persons has had his or her bills met by the Cat Fund.

Sure, there are changes that could be made, making the Cat Fund operate in a smoother fashion, but I say to you, let us not throw out what has proven to be the best component of the legislation that we passed several years ago. This problem will be addressed in a broad-based fashion, let us not kid ourselves, next session. But to abolish the Cat Fund at this point would be a hasty and ill-advised action. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Acosta.

Mr. ACOSTA. Thank you, Mr. Speaker.

I would like to ask a question of Representative Foster.

The SPEAKER. Mr. Foster indicates he will stand for interrogation. You are in order, and you may proceed, sir.

Mr. ACOSTA. On what basis do you say that the insurance companies do not bring in enough money to pay out claims?

Mr. FOSTER. I do not think I said that, Mr. Speaker.

Mr. ACOSTA. If I understood you clearly, you said that the insurance rates will have to go up because the moneys paid out from insurance through claims are higher than the money that is coming in.

Mr. FOSTER. Mr. Speaker, if I said anything like that, it was on the Cat Fund, which do not anyone be under the illusion that the Cat Fund is going to stay at \$5. And for the gentleman, Mr. Cawley, and others who are concerned about keeping rates down, you can be sure in the next few years that you are going to see rates of \$10, \$14, \$15, maybe \$20 in that Cat Fund. Now, that is possibly what I was alluding to, Mr. Speaker, and that is going to happen under this system, and that is why I am asking you, do not go back to your constituents this fall without addressing that problem.

Mr. ACOSTA. Thank you, Mr. Speaker.

Mr. Speaker, can I make a comment?

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

Mr. ACOSTA. Right now, the State of Pennsylvania is paying out as much as \$1 million in claims for \$5. I am sure that most of us would not mind paying \$20 and getting \$200,000, \$500,000, or \$2 million to pay our claims. If we got the exact figures of how many cars are registered in the State of Pennsylvania, we are up to a million automobiles that are registered in the State of Pennsylvania. So if for \$5 we could get up to \$1 million, I do not see why the insurance company has to be charging us as much as \$2,000 per premium. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, I do not know why anyone would even want to mention doing away with the Cat Fund when they take into consideration that you pay \$5 for that Cat Fund and it takes care of you up to and above a certain amount of money which you cannot afford to buy. If you were to buy coverage for what that Cat Fund is covering, I guarantee you that bill would be a lot more than \$5. What they complain about is the administration of the Cat Fund, and that is pretty well taken care of now, so we do not hear that either. But I can say that right now, Mr. Foster just made a statement that we will see the Cat Fund go up maybe \$5, \$10, \$15 in the near future. I would like to know what else, Mr. Speaker, in this country you will not see go up \$5, \$10, or \$15 in the near future. Your wages are going to go up, and certainly the product is going to go up at the same time.

I think that people in Pennsylvania, once you explain what the Cat Fund does for them, have come to the conclusion that probably this is the best thing that we have going for us today. I do not have any more complaints in my legislative district about it, and the only ones I did have were about the way it was administered, not to what it did. And this man does not guarantee us anything in his amendment that shows up in a very short span here where we have to make a decision, and I would certainly recommend that we defeat this piece of legislation, this amendment of Mr. Foster's, and that we keep the Cat Fund, and we hope that the insurance companies can keep our rates down by using that Cat Fund. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, in response to Mr. Acosta and Mr. Letterman, first of all, the Cat Fund has a \$100,000 deductible. You are paying \$5 for medical insurance over \$100,000. That is not cheap. It is by no means cheap. The first \$10,000 of your medical expense is the expensive part of that process.

This amendment does three things: It reinstates no-fault, which means everybody gets paid without suing. It puts a cap on suits, which should have— They put the threshold in there. It raises the threshold, which should have the effect of keeping things out of court and a consequent rate stabilization or reduction.

Now, Mr. Foster nor Jim Gallen nor anybody else can stand here and tell you that there is going to be a reduction in rates, unless you can tell me that there is going to be a reduction in the amount that doctors charge and hospitals charge and body shops charge. There cannot be a reduction in insurance rates if the things that the insurance policy is paying for continue to increase.

But I do feel that Mr. Foster is right; there will be an important stabilization. I think that we should go back to the no-fault system, and if you think that 1 million dollars' worth of medical insurance with a \$100,000 deductible is cheap, you are crazy. Thank you, Mr. Speaker.

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

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, we came here yesterday and came back today to debate seatbelt legislation, and now we are talking about no-fault insurance. I would wish, and maybe it is just wishful thinking, but I would wish that we had enough discipline to not embrace every politically attractive issue that might be found somewhere in the Motor Vehicle Code as we try to resolve, once and for all, the seatbelt legislation issue. Now, perhaps we cannot and perhaps that is too much to wish for, but we really ought to because the danger is, as complex issues like this insurance issue are thrown up to us, we are asked to make a decision again about a very difficult, a very controversial, a very complex issue totally unrelated to seatbelt legislation.

We have 26 pages of amendment here. The people are standing on the floor now advocating this amendment, saying what they think are the right things and saying things that certainly appeal to a lot of members on this floor. They cite a problem with the Cat Fund or they cite some gripe with the system and they say embrace these 26 pages. We could probably have 5 pages or we could have 100 pages of amendment and they would say the same kinds of things, and all of us would still have no better idea what was really in the 5 pages or the 26 pages or the 100 pages of amendment. We really do ourselves a disservice to try to take up this kind of issue in this kind of atmosphere and in this forum.

I would urge that we defeat this amendment. If we have issues to deal with in terms of no-fault or the more narrow issue of the Cat Fund, let us do that on another day when that really is the focus of our attention. But for today let us get

back to the bill that really we came to address, the issue that we came to address, the issue of seatbelt legislation, and to do that we first need to defeat this amendment.

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. This is another attempt to put back into being the old no-fault insurance bill. We have been down this road many times before. This General Assembly has spoken on that issue. Over, roughly, a year ago we went through a great deal of pain to debate the issue. At that time we decided that what we have now is what we should adopt and see how well it does for the Commonwealth, and we have not given that bill or that law a chance to work. So far there is not any evidence that it has not worked and so far there is no evidence that premiums have gone up any more than they would have gone up, if as much, if we had saved the old law. I do not see any merit in going over this again and again and again.

Then finally I want to say this: We are here to pass a seatbelt law. Mr. Cowell said it very vividly. We think this is the thing to do.

Mr. Speaker, I appeal to the members to confine themselves to the subject at hand. Let us deal with this subject, regardless of how you feel about it, yes or no. Let us deal with this subject and let us get it out of the way. Let us not try to go through this subterfuge of amending it with a grandiose amendment which is old, stale stuff.

I appeal for your "no" vote on this amendment.

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Flick.

Mr. FLICK. Thank you, Mr. Speaker.

I just, if I could for 1 minute, want to share with the members the experience that I have had with the Cat Fund.

Within 2 weeks after the Cat Fund was signed in or went into law October 1, 1985, one of my best friend's sons was involved in an automobile accident and he was paralyzed from the neck down. He is one of the first few individuals who sought relief and help and financial assistance from the Cat Fund. One year now after the accident I want you all to know that this young man has been taking courses, that he will become a stockbroker. He intends to gain employment in the field and provide financial security for himself, and he still remains a quadriplegic.

The Cat Fund and its administrators are working well. I do not think we need to reform our automobile insurance every year, and I would suggest that we all wait and see. It appears to me and I share with you the fact that the Cat Fund does work properly. The family is very happy and very satisfied. Thank you.

The SPEAKER. The Chair recognizes for the second time the gentleman from York, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

In addressing this issue of just what a wonderful institution the Cat Fund is, let me share one experience from a few months back. One of my constituents erroneously sent them in \$50 instead of \$5. I told her I would clear it up promptly. I called them and told them the problem. I said, send the lady

10 stickers instead of 1; I will take the nine stickers off her hands and pay her the money; she will have her money immediately. No, we cannot do that, Representative, and as a result, 6 months later she got her money. So much for the administration of the Cat Fund.

Now, secondly, just what does \$1 million do? Mr. Speaker, we had \$1 million of medical benefits under no-fault previously; we have it now in my amendment and without all of the bureaucracy entailed in the Cat Fund.

Now, let me say this, Mr. Speaker: The last time when you voted on this issue 2 years ago, you listened to the siren songs of the insurance industry and the Trial Lawyers Association, and you were not sure. You knew that there were problems that had to be addressed in the no-fault issue, but you were not given the chance to address them, only through the Murphy amendment, which almost succeeded, but at that point you did not know for sure the impact of what this present auto insurance would do to your constituents. But, Mr. Speaker, you know it now, and you cannot go home and use the same excuse this year.

From my youth there is a little limerick that went something like this: "There was a young lady from Trent, who said that she knew what it meant, when men asked her to dine, bought her liquor and wine. She knew what it meant, but she went." Now, the only thing I can say this time, if you reject this amendment and want to stand pat with the type of auto insurance that the Cat Fund represents, just go back to your constituents and say, I knew what it meant, but I went.

I ask for an affirmative vote.

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

The following roll call was recorded:

YEAS—63

Argall	Distler	Honaman	Raymond
Barley	Dorr	Itkin	Rudy
Belfanti	Fargo	Johnson	Saloom
Birmelin	Fattah	Kennedy	Saurman
Book	Foster	Kenney	Schuler
Bowser	Freeman	Levdansky	Seventy
Burd	Freind	McHale	Smith, B.
Caltagirone	Fryer	Mackowski	Smith, L. E.
Cessar	Gallen	Michlovic	Snyder, G.
Civera	Gamble	Miller	Stairs
Coslett	Geist	Mowery	Steighner
Coy	Godshall	Murphy	Stewart
Deluca	Haluska	Noye	Swift
DeVerter	Hasay	Phillips	Taylor, J.
Dawida	Hayes	Pitts	Wilson
Dietz	Herman	Punt	

NAYS—134

Acosta	Davies	Letterman	Robbins
Afflerbach	Deal	Linton	Roebuck
Angstadt	Dininni	Livengood	Ryan
Arty	Dombrowski	Lloyd	Rybak
Baldwin	Donatucci	Lucyk	Scheetz
Barber	Duffy	McCall	Semmel
Battisto	Durham	McClatchy	Serafini
Belardi	Evans	McVerry	Showers
Black	Fee	Maiale	Sirianni
Blaum	Fischer	Manderino	Snyder, D. W.
Bortner	Flick	Manmiller	Staback
Bowley	Fox	Markosek	Stevens

Boyes	Gallagher	Mayernik	Stuban
Brandt	Gannon	Merry	Sweet
Broujos	George	Micozzie	Taylor, E. Z.
Bunt	Gladeck	Moehlmann	Tigue
Burns	Greenwood	Morris	Trello
Bush	Gruitza	Mrkonic	Truman
Cappabianca	Gruppo	Nahill	Van Horne
Carlson	Hagarty	O'Brien	Veon
Carn	Harper	O'Donnell	Vroon
Cawley	Hershey	Olasz	Wambach
Chadwick	Howlett	Oliver	Wass
Cimini	Hutchinson	Petrarca	Weston
Clark	Jackson	Petrone	Wiggins
Clymer	Jarolin	Piccola	Wogan
Cohen	Josephs	Pistella	Wozniak
Colafella	Kasunic	Pott	Wright, D. R.
Cole	Kosinski	Pressmann	Wright, J. L.
Cordisco	Kukovich	Preston	Wright, R. C.
Cornell	Langtry	Reber	Yandrisevits
Cowell	Lashingier	Reinard	
DeWeese	Laughlin	Richardson	Irvis,
Daley	Lescovitz	Rieger	Speaker

NOT VOTING—2

Perzel           Telek

EXCUSED—2

Pievsy           Taylor, F.

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?

**MOTION TO REVERT TO PRIOR PRINTER'S NUMBER**

The SPEAKER. Why does the gentleman from Erie, Mr. Dombrowski, rise?

Mr. DOMBROWSKI. Mr. Speaker, we were on this bill for 3 hours yesterday discussing amendments. I know it is an important piece of legislation. We have been on the bill for a couple of hours today discussing one or two amendments, and they both failed rather badly. I think we are at the point now that everybody knows that we have to have some form of safety belt law. I think we are for the best law that we can get.

At this time I would like to move that we revert to the prior printer's number that came over from the Senate, SB 483, PN 1510.

The SPEAKER. Was the majority leader aware of this motion?

It has been moved by the gentleman, Mr. Dombrowski, that SB 483, PN 2291, revert to prior PN 1510.

On the question,

Will the House agree to the motion?

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

Mr. GLADECK. Mr. Speaker, may I ask Mr. Dombrowski for a clarification, please?

The SPEAKER. Mr. Dombrowski will stand for interrogation. You may proceed, Mr. Gladeck.

Mr. GLADECK. Mr. Speaker, could you tell me, this printer's number allows for a \$20 fine and a secondary offense. Is that correct?

Mr. DOMBROWSKI. Yes, sir.

Mr. GLADECK. Yes?

Mr. DOMBROWSKI. It calls for a \$20 fine.

Mr. GLADECK. I am sorry. I cannot hear you.

Mr. DOMBROWSKI. Yes, sir. It calls for a \$20 fine.

I do not know the second part of your question.

Mr. GLADECK. This is a primary offense?

Mr. DOMBROWSKI. No, sir. All right; yes, sir. I guess the answer is yes to both of your questions. It is a \$20 fine, and it is a primary offense.

Mr. GLADECK. All right. Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, if the members so desire, this would be a very fast solution to our current problem. We could pass this bill and we need not even send it back to the Senate. It would be an accomplished fact. Then we would do away with all further debate, and we would have our problem solved. That bill came over from the Senate in very good shape. It had been gone over thoroughly by the Senate. We have had plenty of opportunity to look at it. This bill would accomplish the best possible solution, I believe, to our seatbelt problem.

We were talking about the Cat Fund a while ago. I just want to mention this in passing why I think this is a good idea and why I want to get ahead with this and get this bill passed. The Cat Fund, Mr. Speaker, handled claims, 87 percent of which were catastrophic claims involving people who did not use their seatbelts in their car. Now, I think that is very significant.

I think this is a good deal. I think we ought to do this, and if you see fit to join me in voting "yes," we will solve this problem in a hurry.

**WELCOME**

The SPEAKER. The Chair welcomes to the hall of the House the chairman of the Republican Party in Allegheny County, Larry Dunn. Welcome to the hall of the House, Larry. He is the guest of the Allegheny County delegation. Specifically Representative Book brought him here to the floor of the House.

They behave a little better than this most of the time. They are getting close to vacation and election, and they get a little bit jumpy and jittery. Sometimes Mr. Foster even offers amendments on which he talks only for 2 minutes, but not today.

**CONSIDERATION OF SB 483 CONTINUED**

The SPEAKER. We are now debating whether or not to revert to the prior printer's number.

**PARLIAMENTARY INQUIRY**

The SPEAKER. The Chair recognizes the gentleman from Mifflin, Mr. DeVerter.

Mr. DeVERTER. Mr. Speaker, I have a point of parliamentary inquiry.

Mr. Speaker, if the members revert to a prior printer's number, we will effectively negate all of the amendments that are currently on our desks as they are drafted to the current printer's number. Is that correct, sir?

The SPEAKER. That is correct.

Mr. DeVERTER. Which means we will then be sitting here for hours again waiting for those amendments to be redrafted. Would that be a correct assumption?

The SPEAKER. That is a possibility, and the answer is that is a possibility, but the members may decide, after these hours of debate, that they have reached the best conclusion they can and they may not offer amendments. Therefore, you could pass that immediately.

Mr. DeVERTER. Well, I seriously doubt, sir, that that is going to occur, and if it does not occur, then I would request to be recognized at a later date for another motion, sir.

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

Mr. FOX. Thank you, Mr. Speaker.

Speaking to the motion, Mr. Speaker, we have passed some significant amendments, I believe, yesterday which dealt with the exceptions to the rule for mail deliveries and also those with psychological problems. We also had an amendment dealing importantly with the second offense, and I believe that our committee structure under Consumer Affairs had discussed at length the importance of the second-offense feature of the bill.

I believe that because it is an important feature and because there are other important amendments yet to be heard in this House, I would move that the other members of the House vote in the negative for this particular motion. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

**PARLIAMENTARY INQUIRY**

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Gannon.

Mr. GANNON. Mr. Speaker, if this motion were approved, would it then be proper for members to draw up amendments to the prior printer's number?

The SPEAKER. That is correct.

Mr. GANNON. Would it be proper for a member to ask that the bill be delayed or held over while amendments were being drafted?

The SPEAKER. That is correct.

Mr. GANNON. Mr. Speaker, may I speak to the question then?

The SPEAKER. To the motion?

Mr. GANNON. Yes.

The SPEAKER. You may indeed.

Mr. GANNON. Mr. Speaker, I oppose the motion. As Representative Fox has said, a number of important amendments have been put into this bill by the House which the members feel to be important. I feel that we would end up in a situation that members would have to go up to Legislative Reference and request redrafting of amendments to the prior printer's number, and we would end up, as we were yesterday, considering a number of amendments which had been previously offered and probably other ones which we have already debated and approved or disapproved.

I would suggest that the members vote in the negative on this motion so we can get on with this business of debating this bill and deliberating the amendments and finish our business today. Thank you, Mr. Speaker.

**MOTION FOR PREVIOUS QUESTION**

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Vroon, to make a motion.

Mr. VROON. Mr. Speaker, at this particular time I would like to move the previous question.

The SPEAKER. Moved by the gentleman, Mr. Vroon, that the House return to the previous question. This requires seconding by, I believe, 20 people. Under rule 61 it must be seconded by 20 members and sustained by a majority of the members present.

Those who second the previous question will rise in place so they may be counted. The rest of you be seated. Those who second the previous question will rise in place. There are not 20. The Chair counts one, two, three. The motion fails for lack of a second.

The Chair recognizes the gentleman, Mr. Vroon.

Mr. VROON. Mr. Speaker, I was going to ask for permission to explain what the effects would be of the motion.

The SPEAKER. You did not have the opportunity because you had to be seconded first, and you did not get the seconding vote.

Therefore, we return to the debate on the Dombrowski motion to revert.

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

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

Mr. STEVENS. Thank you, Mr. Speaker.

May I interrogate the maker of this motion?

The SPEAKER. Mr. Dombrowski, the gentleman, Mr. Stevens, wishes to interrogate you. Will you stand for interrogation?

The gentleman indicates he will.

Mr. STEVENS. Mr. Speaker, if your motion passes, will newspaper delivery trucks continue to be exempt from this particular law?

Mr. DOMBROWSKI. I am sorry. I cannot hear you. Can I allow you to question Mr. Laughlin?

The SPEAKER. Mr. Laughlin will stand for interrogation. You may proceed, Mr. Stevens.



Mr. STEVENS. Mr. Speaker, if this motion passes, will newspaper delivery trucks be exempted from the seatbelt law?

Mr. LAUGHLIN. The answer is, they will not be exempted.

Mr. STEVENS. Mr. Speaker, if this motion passes, will the mandatory insurance reduction that we passed yesterday be part of the seatbelt law?

Mr. LAUGHLIN. It will not be part of the seatbelt law.

Mr. STEVENS. Mr. Speaker, if this motion passes, will police officers in this State be allowed to stop people and cite them just because they do not have a seatbelt on, even if there is no other violation of the Motor Vehicle Code?

Mr. LAUGHLIN. I did not hear what you said there, sir.

Mr. STEVENS. Mr. Speaker, if this motion passes, will law enforcement officials in this State be able to, if they think someone does not have their seatbelt on, for that reason alone, pull over a motorist and issue a citation?

Mr. LAUGHLIN. Primary offense would be in effect. Yes.

Mr. STEVENS. Thank you.

May I speak on this, Mr. Speaker?

The SPEAKER. The gentleman may continue to speak on the motion.

Mr. STEVENS. I just would like to put in the record—

The SPEAKER. Incidentally, Mr. Stevens, for the record, you were in error. Interrogation on the floor is interrogation the answers to questions you do not know. If you knew full well what the answers were, then what you should have done is made statements of fact.

Mr. STEVENS. Well, I was not sure about the answers.

The SPEAKER. You were sure, and I am sure, and I heard it. You go ahead now.

Mr. STEVENS. Mr. Gallen said I am from Luzerne County. I do not know what that means.

Mr. Speaker, this would undo all the work that we did yesterday. It will leave everything open for members to make all the amendments again. It is a back-door attempt to get around the committee, what the committee decided.

It is a bad motion, and I urge this House to let us finish this bill the way we were doing it; let us just finish the amendment process. That is what the process is about. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman, on the motion.

Mr. LETTERMAN. Mr. Speaker, I guess we have heard enough. Mr. Vroon got hit with the insurance express, and I got hit with the people's express, and we ask for a "no" vote. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Franklin, Mr. Punt, on the motion to revert.

Mr. PUNT. Thank you, Mr. Speaker.

Under this motion, if we revert to a prior printer's number, it is a primary offense. For example, if you are sitting at a stoplight in town and the police officer is walking by, sees you are not wearing a seatbelt or your passenger is not wearing a seatbelt, they will pull you over, arrest you, and fine you there on the spot. Period. Now, if that is what you want, so be it. That is exactly what will happen if we move to the prior printer's number.

The fine, it does not make any difference if it is 50 cents or \$20; I am opposed to any kind of a fine. I think it is appalling when government is going to be arresting and fining its citizens if they choose not to wear a seatbelt. I believe a government has a right protecting people from other people but does not have a right in protecting people from themselves. We are interfering; we are going too far. Going back to a prior printer's number is making a very serious situation even worse.

I would ask for a "no" vote. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Laughlin, on the motion.

Mr. LAUGHLIN. Very briefly, Mr. Speaker, I oppose the motion.

Mr. Speaker, I have been reviewing for some time the amount of fines that are collected for speeding and for other violations in the State. When we get a person who is in excess of the speed limit on the turnpike, 10 miles over the speed limit, and that person happens to be stopped by a State trooper, if this law is in effect and we do in fact have a person not using a seatbelt, at the present time that person will be fined \$35, \$17.50 for costs, an additional \$20 for being 10 miles over the limit, for a total of \$72.

Mr. Speaker, I do not think a \$20 fine and adding it up to \$92 is a very appropriate way of handling this legislation. There are other States that have \$15, \$10, \$5 fines. Some have no fine at all. Some have education programs, and I do not think our program should be more punitive than our two neighbors, which are Ohio and New Jersey, on each side of the State.

So for that reason, Mr. Speaker, I would ask for a negative vote.

The SPEAKER. The question is on the motion placed by the gentleman, Mr. Dombrowski, to revert to prior PN 1510. Those in favor of such reversion will vote "aye"; those opposed will vote "no."

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

The following roll call was recorded:

YEAS—55

Afflerbach	Deluca	Kenney	Pressmann
Argall	Dawida	Kosinski	Preston
Arty	Dombrowski	Levdansky	Roebuck
Battisto	Duffy	McClatchy	Rybak
Belardi	Evans	McHale	Sweet
Bortner	Fattah	Manderino	Taylor, J.
Burns	Gallagher	Markosek	Tigue
Caltagirone	Gallen	Merry	Vroon
Cappabianca	Gamble	Murphy	Wass
Cessar	Greenwood	Nahill	Wilson
Chadwick	Hagarty	Oliver	Yandrisevits
Civera	Hershey	Petrone	
Cordisco	Itkin	Pistella	Irvis,
Cornell	Jarolin	Pott	Speaker
Cowell			

NAYS—141

Acosta	Donatucci	Laughlin	Rudy
Angstadt	Dorr	Lescovitz	Ryan
Baldwin	Durham	Letterman	Saloom
Barber	Fargo	Linton	Saurman

Barley	Fee	Livengood	Scheetz
Belfanti	Fischer	Lloyd	Schuler
Birmelin	Flick	Lucyk	Semmel
Black	Foster	McCall	Serafini
Blaum	Fox	McVerry	Seventy
Book	Freeman	Mackowski	Showers
Bowley	Freind	Maiale	Sirianni
Bowser	Fryer	Manmiller	Smith, B.
Boyes	Gannon	Mayernik	Smith, L. E.
Brandt	Geist	Michlovic	Snyder, D. W.
Broujos	George	Micozzie	Snyder, G.
Bunt	Gladeck	Miller	Stairs
Burd	Godshall	Moehlmann	Steighner
Bush	Gruitza	Morris	Stevens
Carlson	Gruppo	Mowery	Stewart
Carn	Haluska	Mrkonic	Stuban
Cawley	Harper	Noye	Swift
Cimini	Hasay	O'Brien	Taylor, E. Z.
Clark	Hayes	O'Donnell	Telek
Clymer	Herman	Olasz	Trello
Cohen	Honaman	Perzel	Truman
Colafella	Howlett	Petrarca	Van Horne
Cole	Hutchinson	Phillips	Veon
Coslett	Jackson	Piccola	Wambach
Coy	Johnson	Pitts	Weston
DeWeese	Josephs	Punt	Wiggins
Daley	Kasunic	Raymond	Wogan
Davies	Kennedy	Reber	Wozniak
Deal	Kukovich	Reinard	Wright, D. R.
Dietz	Langtry	Rieger	Wright, J. L.
Dininni	Lashingier	Robbins	Wright, R. C.
Distler			

NOT VOTING—3

DeVerter Richardson Staback

EXCUSED—2

Pievsy Taylor, F.

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

On the question recurring,

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

REMARKS ON VOTES

The SPEAKER. Why does the gentleman from Allegheny, Mr. Cessar, rise?

Mr. CESSAR. I would like to change my vote on the previous Foster amendment A4444 to SB 483. I was voted in the affirmative; I want it to be in the negative.

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

The Chair recognizes the gentleman from Mifflin, Mr. DeVerter.

Mr. DeVERTER. I am informed that my light did not go on on the board. Can you tell me whether or not I voted on the motion to revert to the prior printer's number on SB 483?

The SPEAKER. Not voting.

Mr. DeVERTER. I would like to be shown in the negative, sir.

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

The Chair recognizes the gentleman from Philadelphia, Mr. Perzel.

Mr. PERZEL. Mr. Speaker, on amendment A4444 to SB 483, my switch was inoperative. I would like to be recorded in the affirmative.

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

CONSIDERATION OF SB 483 CONTINUED

On the question recurring,

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

Mr. FOSTER offered the following amendments No. A4012:

Amend Sec. 1 (Sec. 4581), page 2, line 18, by striking out "children under four" and inserting individuals who are 65

Amend Sec. 1 (Sec. 4581), page 2, line 18, by inserting after "age"

or older

Amend Sec. 1 (Sec. 4581), page 2, line 19, by inserting after "except"

for children under four years of age

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

This amendment is much more concise and brief than the previous. It basically exempts from the mandatory seatbelt provisions of the law senior citizens, those over the age 65. I do that because of any group of people who have more fears of seatbelts, more concerns about them, it would be our senior citizens. They would also be the body that has the most physical impairments that make the use of seatbelts difficult for them.

I would say to my colleagues that our senior citizens have lived to this age without the advice and the nursemaid service of government. Let us continue to give them that privilege.

I urge a "yes" vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—87

Angstadt	Dombrowski	Kosinski	Ryan
Barley	Donatucci	Lashingier	Saloom
Belfanti	Duffy	Lescovitz	Saurman
Birmelin	Durham	Lloyd	Schuler
Black	Fargo	Lucyk	Serafini
Book	Fischer	Manmiller	Sirianni
Bowser	Flick	Michlovic	Smith, L. E.
Boyes	Foster	Moehlmann	Snyder, D. W.
Burd	Fox	Mowery	Snyder, G.
Cappabianca	Freind	Mrkonic	Stairs
Carlson	Gallen	Murphy	Stevens
Cawley	Gamble	Noye	Stewart
Cessar	Geist	O'Donnell	Swift
Civera	Gruitza	Oliver	Taylor, E. Z.
Cohen	Haluska	Perzel	Taylor, J.
Coslett	Harper	Petrarca	Telek
Coy	Hasay	Phillips	Van Horne
DeVerter	Hayes	Piccola	Wambach

Dawida	Honaman	Punt	Weston
Dietz	Jackson	Reber	Wilson
Dininni	Johnson	Robbins	Wogan
Distler	Kenney	Rudy	

NAYS—107

Acosta	Daley	Langtry	Raymond
Afflerbach	Davies	Laughlin	Reinard
Argall	Deal	Letterman	Richardson
Arty	Dorr	Levdansky	Rieger
Baldwin	Evans	Linton	Rybak
Barber	Fattah	Livengood	Scheetz
Battisto	Fee	McCall	Semmel
Belardi	Freeman	McClatchy	Seventy
Blaum	Fryer	McHale	Showers
Bortner	Gallagher	McVerry	Smith, B.
Bowley	Gannon	Mackowski	Steighner
Brandt	George	Maiale	Stuban
Broujos	Gladeck	Manderino	Sweet
Bunt	Godshall	Markosek	Tigue
Burns	Greenwood	Mayernik	Trello
Bush	Gruppo	Merry	Truman
Caltagirone	Hagarty	Micozzie	Veon
Carn	Herman	Miller	Vroon
Chadwick	Hershey	Nahill	Wass
Cimini	Howlett	O'Brien	Wiggins
Clark	Hutchinson	Olasz	Wozniak
Clymer	Itkin	Petrone	Wright, D. R.
Colafella	Jarolin	Pistella	Wright, R. C.
Cole	Josephs	Pitts	Yandrisevits
Cornell	Kasunic	Pott	
Cowell	Kennedy	Pressmann	Irvis,
DeLuca	Kukovich	Preston	Speaker
DeWeese			

NOT VOTING—5

Cordisco	Roebuck	Staback	Wright, J. L.
Morris			

EXCUSED—2

Pievsky Taylor, F.

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. FOSTER offered the following amendment No. A4014:

Amend Sec. 1 (Sec. 4581), page 3, by inserting between lines 13 and 14

(v) An individual who has paid an additional annual assessment of \$10 to the Catastrophic Loss Trust Fund Board. To be eligible for exemption under this subparagraph, an individual must have proof of payment from the Catastrophic Loss Trust Fund Board.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from York, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

This amendment deals with a problem that has been brought to me by many around the State who listen to the argument that the use of seatbelts need not be mandatory, because we are only seeking to protect the individual from himself, and I adhere to that viewpoint. I see no reason why

the Commonwealth should be in the business of passing laws to keep an individual from harming himself as opposed to harming others.

The point was raised to me, yes, but what about the decision not to wear a seatbelt resulting in severe injuries and greater costs to me, the premium payer? I considered that the one valid argument in favor of mandatory seatbelts. Therefore, I am giving people the opportunity to opt out of the law if they pay an additional \$10 per year into the Catastrophic Loss Fund.

Now, I do not say to you that you must wear your seatbelt. I do not introduce legislation to prohibit them. I am just asking you, on behalf of thousands of others, give us the same option, and we will even pay our way on it.

I would ask for an affirmative vote.

FILMING PERMISSION

The SPEAKER. The Chair announces that Bill Martin of KDKA-TV is given permission to film on the floor of the House at this time.

CONSIDERATION OF SB 483 CONTINUED

The SPEAKER. Let us return to the question before us. The question is the adoption or the rejection of the gentleman, Mr. Foster's last amendment.

The Chair recognizes the gentleman from Chester, Mr. Vroon, on the question.

Mr. VROON. Mr. Speaker, I really do not think this has anything to do with seatbelts. I do not think this is a valid attempt at all to accomplish something worthwhile. I think rather it seems to be another one of those attempts to muddy the waters. I do not see any good reason at all why we should exempt people who paid a 2-percent surcharge on their premium for the insurance required by chapter 17. If we are going to pass the seatbelt, let us pass the seatbelt and make it easier for—

Mr. FOSTER. Mr. Speaker, a point of order.

Mr. VROON. This would only muddy up the waters and make it very difficult to enforce.

The SPEAKER. Will the gentleman yield?

POINT OF ORDER

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster.

Mr. FOSTER. Mr. Speaker, the gentleman, Mr. Vroon, has the wrong amendment. This is amendment A4014.

The SPEAKER. That is correct.

Mr. VROON. Excuse me, Mr. Speaker. If you will hold just for a minute.

The SPEAKER. Mr. Vroon, would you like to withhold your comments until we run the list?

Mr. VROON. Yes.

The SPEAKER. All right.

The Chair recognizes the gentleman from Allegheny, Mr. Cowell, on the question.

Mr. COWELL. Mr. Speaker, we have piles of amendments and people may have trouble keeping track of them. This one says you would be exempt if you paid an extra \$10 to the Cat Fund. That is the equivalent of telling somebody that it would be okay to violate the law by destroying public property if they would pay a little bit more in taxes or that you can go out and assault somebody if you promise to send flowers.

It is absolutely absurd that we would create this kind of exemption when we are talking about basic principles in the law. I would urge that we quickly defeat this amendment.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Acosta.

Mr. ACOSTA. Thank you, Mr. Speaker.

Definitely we have to vote "no" against this amendment, and I am very happy that the two prior amendments were defeated. Now you are saying, I want the Cat Fund; give me \$10 more. It cannot go like that.

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Vroon, on the amendment.

Mr. VROON. Mr. Speaker, I think the point has been made very well by Mr. Cowell and by Mr. Acosta, both. I would urge a "no" vote on this amendment.

The SPEAKER. The Chair recognizes Mr. Foster for the second time on the amendment.

Mr. FOSTER. Mr. Speaker, all I wish to say is that I do not insist that anyone wear their seatbelt. All I ask is that you allow me the freedom not to wear mine. I will pay for the privilege of doing so, and in the process I will kick in a few extra bucks to the Cat Fund to help ease some of the insurance premiums that you will be paying.

I ask for an affirmative vote.

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

The following roll call was recorded:

YEAS—7

Birmelin	Foster	Noye	Swift
Bowser	Lloyd	Piccola	

NAYS—191

Acosta	Dininni	Langtry	Robbins
Afflerbach	Distler	Lashingier	Roebuck
Angstadt	Dombrowski	Laughlin	Rudy
Argall	Donatucci	Lescovitz	Ryan
Arty	Dorr	Letterman	Rybak
Baldwin	Duffy	Levdansky	Saloom
Barber	Durham	Linton	Saurman
Barley	Evans	Livengood	Scheetz
Battisto	Fargo	Lucyk	Schuler
Belardi	Fattah	McCall	Semmel
Belfanti	Fee	McClatchy	Serafini
Black	Fischer	McHale	Seventy
Blaum	Flick	McVerry	Showers
Book	Fox	Mackowski	Sirianni
Bortner	Freeman	Maiale	Smith, B.
Bowley	Freind	Manderino	Smith, L. E.
Boyes	Fryer	Manmiller	Snyder, D. W.
Brandt	Gallagher	Markosek	Snyder, G.
Broujos	Gallen	Mayernik	Staback
Bunt	Gamble	Merry	Stairs
Burd	Gannon	Michlovic	Steighner

Burns	Geist	Micozzie	Stevens
Bush	George	Miller	Stewart
Caltagirone	Gladeck	Moehlmann	Stuban
Cappabianca	Godshall	Morris	Sweet
Carlson	Greenwood	Mowery	Taylor, E. Z.
Carn	Gruitza	Mrkonic	Taylor, J.
Cawley	Gruppo	Murphy	Telek
Cessar	Hagarty	Nahill	Tigue
Chadwick	Haluska	O'Brien	Trello
Cimini	Harper	O'Donnell	Truman
Civera	Hasay	Olasz	Van Horne
Clymer	Hayes	Oliver	Veon
Cohen	Herman	Perzel	Vroon
Colafella	Hershey	Petrarca	Wambach
Cole	Honaman	Petrone	Wass
Cordisco	Howlett	Phillips	Weston
Cornell	Hutchinson	Pistella	Wiggins
Coslett	Itkin	Pitts	Wilson
Cowell	Jackson	Pott	Wogan
Coy	Jarolin	Pressmann	Wozniak
Deluca	Johnson	Preston	Wright, D. R.
DeVerter	Josephs	Punt	Wright, J. L.
DeWeese	Kasunic	Raymond	Wright, R. C.
Daley	Kennedy	Reber	Yandrisevits
Davies	Kenney	Reinard	
Dawida	Kosinski	Richardson	Irvis,
Deal	Kukovich	Rieger	Speaker
Dietz			

NOT VOTING—1

Clark

EXCUSED—2

Pievsky Taylor, F.

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?

Mrs. DURHAM offered the following amendment No. A4434:

Amend Sec. 1 (Sec. 4581), page 2, line 21, by inserting after "TRUCK"  
, newly purchased school bus

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the lady from Delaware, Mrs. Durham.

Mrs. DURHAM. Thank you, Mr. Speaker.

My amendment mandates that seatbelts be put in newly purchased schoolbuses. Thank you.

PARLIAMENTARY INQUIRY

The SPEAKER. Why does the gentleman from Allegheny, Mr. Cowell, rise?

Mr. COWELL. I guess it would be a point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. What is the point, sir?

Mr. COWELL. Am I correct in understanding that this amendment would require a fiscal note because of probable costs to school districts and other forms of government? And do we have a fiscal note?

The SPEAKER. It would appear to the Chair that the gentleman's point is well taken. It does not, to my knowledge, have a fiscal note. Mrs. Durham, does your amendment have a fiscal note?

Mrs. DURHAM. Mr. Speaker, it does not have a fiscal note mainly because, how would we ascertain when a school district would be buying a new bus, because that is when the cost would occur.

#### AMENDMENT RULED OUT OF ORDER

The SPEAKER. Mrs. Durham, the Chair cannot entertain your amendment. There has been an objection to it. Under the rules it must have a fiscal note, and the question as to whether or not the fiscal note is adequate or can be ascertained is a matter for the Appropriations Committee.

On the question recurring,

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

Mr. STAIRS offered the following amendments No. A3896:

Amend Bill, page 2, lines 1 and 2, by striking out all of said lines and inserting

Section 1. Section 4530(a) of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 4530. Portable emergency warning devices.

(a) General rule.—Every [truck, other than a truck registered as either a Class I or Class II having a gross weight of 7,000 pounds or less, truck tractor and bus and any motor vehicle towing a trailer] vehicle shall carry at least three portable emergency warning devices of a type specified by regulations promulgated by the department. The regulations shall be consistent with Motor Carrier Safety Regulations, Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, section 393.95.

Section 2. Section 4581 of Title 75 is amended to read:

Amend Sec. 2, page 5, line 25, by striking out "2" and inserting

3

Amend Sec. 3, page 6, line 2, by striking out "3" and inserting

4

Amend Sec. 4, page 6, line 11, by striking out "4" and inserting

5

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Westmoreland, Mr. Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

My amendment pertains to emergency warning devices. To give you a little example: Oftentimes if you are on a road and a truck has broken down or there is a problem, they have devices - flares or a mechanical device that lights up to protect you and also the person who is on the road trying to repair that vehicle. Well, this is required in trucks, and I would hope that when we have cars that break down along the highway, we would have some kind of emergency device that they could have to display to protect the motorist as well as somebody else coming down the road, and that is why I included this safety measure in this bill.

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

Mr. VROON. Mr. Speaker, I would just comment that this is rather a far-reaching amendment and it is something that ought to be handled through the proper committee procedure, because this is certainly not something that we can all of a sudden make up our minds to do or not to do.

I urge a "no" vote.

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

Mr. PISTELLA. I was wondering if Mr. Stairs would stand for brief interrogation.

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

Mr. PISTELLA. Mr. Speaker, your amendment stipulates that the regulations promulgated by the Department of Transportation shall be consistent with the Motor Carrier Safety Regulations, Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, section 393.95. Would you be kind enough to explain to the Assembly what types of emergency warning devices are made reference to by that section of the Federal highway transportation safety code?

Mr. STAIRS. Excuse me just one second, okay?

Mr. Speaker, in answering your question, you have an option of flares, flags, or triangles, and these would be portable devices that you would have to have when you got your car inspected. Of course, any one of these three would be fine.

Mr. PISTELLA. I am sorry. Would you please repeat that again? I could not hear all of what you said, Mr. Speaker.

The SPEAKER. Just a moment, Mr. Pistella; no wonder.

Mr. Pistella could not hear the reply of the gentleman, Mr. Stairs, because there were people intervening with their talk.

Try to answer again, Mr. Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

According to the Federal Highway Administration, the motorist would have a chance to have one of three different devices - either flares, flags, or a triangle device - which would all be portable in nature and which would not be very cumbersome.

Mr. PISTELLA. Thank you, Mr. Speaker.

#### PARLIAMENTARY INQUIRY

Mr. PISTELLA. Mr. Speaker, on that point I would have to ask a parliamentary inquiry.

Since it is mandating that all vehicles carry those types of emergency warning devices, if in fact this amendment also would compel a fiscal note since there is no breakout of particular registration of said vehicles; for example, vehicles or fleet vehicles owned and operated by the State of Pennsylvania, boroughs, townships and municipalities, school districts, legislators, senior citizens—

The SPEAKER. We are checking to see whether there is a de minimis limit on fiscal notes. Theoretically the gentleman, Mr. Pistella, is correct. We want to check the rule.

The gentleman is correct. There is no de minimis; therefore, obviously schoolbuses or State Police cars or any other vehicle owned by any community or any municipality or any political entity would have to come under the purview of the rules, which would require a fiscal note.

**AMENDMENTS RULED OUT OF ORDER**

The SPEAKER. Mr. Pistella, does the gentleman object to this amendment being offered?

Mr. PISTELLA. Yes, Mr. Speaker, I do.

The SPEAKER. Mr. Stairs, the amendment may not be offered.

**MOTION TO SUSPEND RULES**

The SPEAKER. The Chair recognizes the lady from Delaware, Mrs. Durham.

Mrs. DURHAM. Mr. Speaker, I would like to move to suspend the rules to consider my amendment.

The SPEAKER. The question is on the suspension of the rules. If the rules are suspended, then the lady's amendment could be accepted.

On the question,

Will the House agree to the motion?

The SPEAKER. Not debatable, Mr. Cowell.

**PARLIAMENTARY INQUIRY**

Mr. COWELL. Mr. Speaker, I have a parliamentary question.

The SPEAKER. What is the gentleman's parliamentary inquiry?

Mr. COWELL. Mr. Speaker, do I understand that if we vote to suspend the rules, then we will not have to obtain a fiscal note to tell us what the cost to our local governments would be if we consider this amendment?

The SPEAKER. That is correct.

Mr. COWELL. Thank you, Mr. Speaker.

The SPEAKER. Those in favor of suspension of the rules will vote "aye"; those opposed, "no."

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—52**

Acosta	Fox	Moehlimann	Serafini
Barley	Geist	Mowery	Smith, B.
Black	Gladeck	Mtkonic	Snyder, G.
Bowser	Hagarty	Nahill	Stairs
Boyes	Hayes	Noye	Stevens
Brandt	Herman	Petrarca	Taylor, J.
Burd	Honaman	Phillips	Telek
Carn	Johnson	Pitts	Truman
Distler	Josephs	Punt	Weston
Dorr	Kennedy	Raymond	Wright, R. C.
Duffy	Kosinski	Roebuck	
Durham	Lashingier	Ryan	Irvis,
Flick	Lucyk	Saloom	Speaker
Foster	McHale		

**NAYS—140**

Afflerbach	DeWeese	Kenney	Richardson
Angstadt	Daley	Kukovich	Rieger
Argall	Davies	Langtry	Robbins
Arty	Dawida	Laughlin	Rudy
Baldwin	Deal	Lescovitz	Rybak
Barber	Dininni	Letterman	Saurman
Battisto	Dombrowski	Levdansky	Scheetz
Belardi	Donatucci	Linton	Schuler
Belfanti	Evans	Livengood	Semmel
Birmelin	Fargo	Lloyd	Seventy
Blaum	Fattah	McCall	Showers
Book	Fee	McClatchy	Sirianni
Bortner	Fischer	Mackowski	Smith, L. E.
Bowley	Freeman	Maiale	Snyder, D. W.
Broujos	Freind	Manderino	Staback
Bunt	Fryer	Manmiller	Steighner
Burns	Gallagher	Markosek	Stewart
Bush	Gallen	Mayernik	Suban
Caltagirone	Gamble	Merry	Sweet
Cappabianca	Gannon	Michlovic	Swift
Carlson	George	Micozzie	Taylor, E. Z.
Cawley	Godshall	Miller	Tigue
Cessar	Greenwood	Morris	Trello
Chadwick	Gruitza	Murphy	Van Horne
Civera	Gruppo	O'Donnell	Veon
Clark	Haluska	Olasz	Vroon
Clymer	Harper	Oliver	Wambach
Cohen	Hasay	Perzel	Wass
Colafella	Hershey	Petrone	Wiggins
Cole	Howlett	Piccola	Wilson
Cornell	Hutchinson	Pistella	Wogan
Cowell	Itkin	Pressmann	Wozniak
Coy	Jackson	Preston	Wright, D. R.
Deluca	Jarolin	Reber	Wright, J. L.
DeVerter	Kasunic	Reinard	Yandrisevits

**NOT VOTING—7**

Cimini	Coslett	McVerry	Pott
Cordisco	Dietz	O'Brien	

**EXCUSED—2**

Pievsky	Taylor, F.
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Less than a majority of the members elected to the House having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

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

Mr. SAURMAN offered the following amendments No. A3768:

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

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for mandatory motor vehicle liability insurance coverage.

Amend Bill, pages 2 through 5, lines 1 through 30; page 6, lines 1 through 11, by striking out all of said lines on said pages and inserting

Section 1. Title 75 of the Pennsylvania Consolidated Statutes is amended by adding sections to read:

§ 1711.1. Additional mandatory coverage.

An insurer issuing or delivering liability policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall include coverage providing for an accidental death benefit in the

amount of \$10,000 to be paid to the personal representative of the insured, should injury resulting from a motor vehicle accident while the insured was wearing an approved seat belt or other approved restraint, including, but not limited to, air bags or child safety restraint devices, cause death within 24 months from the date of the accident. This coverage shall be in addition to any other accidental death benefits or funeral benefits included in the policy. There shall be no additional premium charged for this benefit and the risk factor for this benefit shall not be considered in computing premium rates.

§ 1716.1. Deduction from medical benefits.

(a) General rule.—Payments for all first party medical benefits made available as provided in section 1712(1) (relating to medical benefit) to which the insured would otherwise be entitled shall be subject to an aggregate deductible by the insurer of \$100 if the insured was not wearing a seat belt or protected by another approved safety device at the time of the accident. In such cases, the refusal of payment, if the amount of medical benefits is \$50 or less, or reduced payment, if the amount of medical benefits exceeds \$50, shall be proper.

(b) Publicity by department.—The department shall conduct a publicity campaign to make motorists aware that failure to wear seat belts or to use other approved safety devices may result in a deduction from or loss of insurance benefits as provided in subsection (a).

Section 2. The provisions of this act shall apply to contracts of insurance entered into or renewed after the effective date of this act.

Section 3. This act shall take effect in 60 days.

On the question,

Will the House agree to the amendments?

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

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, I think that this amendment offers an alternative to those of us who feel very strongly that seatbelts should be worn by drivers but also have a very strong feeling that we ought not to be mandating it.

What this amendment does is to offer a carrot-and-stick approach to the use of seatbelts by our drivers while not mandating that anyone wear a seatbelt and, therefore, not making a lawbreaker out of anyone who feels that this is not the direction in which they want to go.

This amendment is a combination of HB 297, which would require a \$10,000 accidental death benefit to be paid to anyone in an accident who is killed while wearing their seatbelt. This is the carrot portion. The other portion would require that there would be a \$100 deductible. That means that the individual would pay the first \$100 of medical expenses if injured in an accident while not wearing a seatbelt.

Mr. Speaker, I would like to indicate that there are two studies. We heard of one earlier today in Massachusetts. I would like to just quote from two others. One in Salt Lake City, a study survey of 159 patients in which there were hospital charges for those not wearing seatbelts of over \$428,000; the average charge per patient not wearing a seatbelt, \$3,105. The hospital charges for those wearing seatbelts was only \$6,000; the average charge was \$298. There is a difference there, Mr. Speaker, of 10 times the extent of injury as far as the hospital charges are concerned. I would like to just

mention that that also means that that is 10 times as many "ouches" in terms of the impact of those injuries.

A Colorado study showed that there is about a 300-percent increase in those not wearing seatbelts insofar as the cost of caring for those people. What this indicates to me, Mr. Speaker, is that the \$100 I am suggesting is a minimal charge for the privilege of not wearing a seatbelt, and yet with the use of this amendment, we would not be making criminals out of people simply because they do not believe that the wearing of seatbelts is appropriate.

I believe that the portion of this whole problem that we do have a part in as far as government is concerned is to distribute the costs, the increased costs of these injuries because people do not wear seatbelts. If we in fact assign that initial charge to those who are injured and not wearing seatbelts, this will reduce the amount that the rest of us will have to pay in making up those differences.

I think it is an equitable solution. I think it is an alternative. I think at least it gives us an option in which we can act responsibly, and I would ask for your support. Thank you, Mr. Speaker.

The SPEAKER. On the question, the Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, I oppose the amendment. In the first place, I hope you are all aware of the fact that this amendment guts the bill completely. It takes everything out of the bill, and it inserts just these two paragraphs that Representative Saurman proposes to institute here.

In the first place, the \$10,000 insurance benefit which he proposes in the first paragraph is a subject covered by HB 297, which is currently on our calendar and which can be dealt with properly in proper consideration of that particular item alone. There is no need to gut our bill on seatbelts in order to achieve that. There is ample opportunity to achieve it otherwise.

In the second place, talk about taking away personal prerogatives and talk about punishing people with a \$20 fine, and I have heard it said that \$20 is too much; \$5 is even too much, one of our Representatives said. Well, how in the wide world could you justify the penalty of \$100 to these poor people who got hurt and they did not happen to have their seatbelt fastened? I think that penalty is a lot more severe, and I just do not see that this makes any sense at all.

I would urgently ask everybody to vote "no" on this amendment. Thank you, Mr. Speaker.

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

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Saurman amendment.

Mr. Speaker, I think that this is the most important amendment that we voted on yet to SB 483. The issue here is, how do we get the people of Pennsylvania to wear seatbelts? Seatbelts save lives, and how do we get them to wear them not only next week and next month immediately after the headlines and the passage of this bill are in all of the newspapers, but how do we get them to keep wearing their seatbelts month after month

and year after year after year? I believe that Mr. Saurman has hit on the answer.

Before the Consumer Affairs Committee we heard that right after New York and New Jersey passed their laws, compliance was at 70 percent; we now hear that compliance is down to 43 percent and dropping. Why? Because it left the headlines. Why? Because people realized that police are not going to enforce this law. It is unenforceable. People are not going to be stopped for it, but if we offer a financial incentive, a \$10,000 death benefit and a penalty if you are injured but not wearing one, not total elimination of your benefits but a penalty of \$100, we are offering from this day forward a financial incentive to wear seatbelts, and for goodness' sake, that is what we are here for.

If we pass this amendment, it guts the bill, but it does not eliminate a seatbelt bill. We now would have, if this amendment passes as I believe it should, a new seatbelt approach in Pennsylvania - one that I believe is better than New York has; one that I believe is better than New Jersey has. There is a lot more sexy, but in the long run it does not work.

I believe that Mr. Saurman's amendment is the right approach; it is the carrot-stick approach, and I believe that for all time—I would like to see some education attached to it—but for all time it would encourage the people of Pennsylvania to wear their seatbelts, and that is what we are here for. I just do not believe that SB 483 in its present form is going to do that in the long run. It will do it for the next few weeks, the next month, but it is not going to keep people wearing their seatbelts once it has left the headlines and the consciousness of the people of Pennsylvania.

I urge the ladies and gentlemen of this House to adopt the Saurman amendment and Pennsylvania to set out on a new course and a better course on how to get people in this Commonwealth to wear their seatbelts to save lives and to protect people from injury. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I share the concerns of Mr. Saurman and Mr. Blaum concerning a mandatory seatbelt law, and I might even be in favor of this approach to the law. However, I would like to point out to the members that I believe this portion of the bill is probably unconstitutional, because what you are putting on the backs of the insurance companies is the carrot that Mr. Saurman speaks about. He is requiring every company to have a \$10,000 death benefit for anyone killed while wearing a seatbelt, yet he forbids the companies from collecting any premium to pay for that death benefit. That to me, Mr. Speaker, is an unconstitutional taking of private property without compensation, and I do not think it is appropriate to force the insurance companies of this State to become part and parcel of an educational program for people to wear seatbelts.

Therefore, Mr. Speaker, I would oppose this amendment. Although I do have some sympathy for the carrot-and-stick approach to the problem, I do not think this amendment is the solution.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Wambach.

Mr. WAMBACH. Thank you, Mr. Speaker.

The \$10,000 death benefit, Mr. Speaker, is on the calendar in HB 297, as it was pointed out by Representative Vroon. That has gone through the committee system; it is on third consideration; it is on page 7 of the calendar, and I would not like to see the waters muddied, if you will, by putting it in an amendment form on the seatbelt law.

What Mr. Saurman does effectively is take out the mandatory aspect of seatbelts and offer the carrot, offer the carrot of the medical death benefit, but we talked about that. It is in another bill. We should consider it on its own merits, and I think it has, on its own merits, a great opportunity for passage in this House of Representatives.

But he also offers as a carrot, if you will, Mr. Speaker, a \$100 penalty for those people who have not in fact put their seatbelts on and are going now for reimbursement of what they lost through medical bills that are being presented to them. For instance, if there is \$5,000 in medical bills, then the insurance company approaches them and says, you know, Mr. Smith, I am very sorry that you went through this accident and I am really sorry that you had such a catastrophic loss in regard to the \$5,000, but we are only going to give you \$4,900 back; we are going to slap you on the wrist because you did not have your seatbelt fastened.

I think that does not put the carrot before the horse; that in fact puts the cart before the horse. What we should be doing is to say to Mr. Smith, buckle up before you turn that ignition key, before you go out on the highways of this Commonwealth, not after the fact when in fact you are injured and you are going for reimbursement on your claim, and then the insurance company has to act like Scrooge and keep \$100 off the top because, shame on you, you were not wearing your seatbelt.

Let us make sure that the people of Pennsylvania wear their seatbelts when they in fact get into the car to begin with. Do not slap them on the hand after the fact. Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the lady from Delaware, Mrs. Durham.

Mrs. DURHAM. Mr. Speaker, I rise to support the Saurman amendment.

The General Assembly makes public policy for this Commonwealth, and we are saying if you wear your seatbelt, you will either save your life or your injuries will be greatly reduced. Now, if we really mean that, then let us vote for the Saurman amendment. When we debated the \$10,000 life insurance bill in the Consumer Affairs Committee, the insurance industry said they had no problem offering this because they did not feel that they would ever have to pay it because there would be, they feel, virtually no deaths by people wearing their seatbelts.

I therefore urge you to vote for the Saurman amendment.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Greenwood.



Mr. GREENWOOD. Very, very briefly. Will the gentleman stand for brief interrogation?

The SPEAKER. Mr. Saurman indicates he will so stand. You may proceed with the interrogation.

Mr. GREENWOOD. Thank you, Mr. Speaker.

What might be the impact, Mr. Speaker, of the Commonwealth in the insurance of its various employees should they have an automobile accident not wearing their seatbelt? Would you see liability for the Commonwealth there in terms of that deductible?

Mr. SAURMAN. No; I would not see that, because at the present time, Mr. Speaker, it is not necessary for anyone to wear a seatbelt. That question could be reworded and asked, what would be the liability of the Commonwealth if in fact we mandate seatbelts and there is an accident which could have been avoided if the person was not wearing a seatbelt? I think that the answer that has been given to me to that question is that it would not be relevant.

Mr. GREENWOOD. It would seem to me, Mr. Speaker, my question is— And let me extend it beyond the Commonwealth to municipalities and other governmental entities that provide insurance, medical insurance and other kinds of insurance, for their employees who operate motor vehicles. It would seem to me—and correct me if I am wrong, if you will—that there would be an expense to both the Commonwealth and to other governmental entities brought about should this amendment succeed and then should the bill succeed.

Mr. SAURMAN. I am sorry, Mr. Speaker. Would you repeat that? I was talking to someone. I thought you had finished.

Mr. GREENWOOD. My question, Mr. Speaker, is, would there not be costs to the Commonwealth and to other governmental entities that provide insurance for their employees that covers them during the operation of a motor vehicle during their business or working hours?

Mr. SAURMAN. I would think not. I would think that if you are concerned that that might be the case, that then there would be a very strong reason for the Commonwealth or for the industry or for the company to put in place mandatory seatbelt usage within its own operation and say, if you are going to use our vehicle, you had better wear that seatbelt because we do not want to cover that cost. I think that would be an added incentive to put into place programs through companies which personally I feel and have seen are far more effective than the mandatory seatbelts in New York State or New Jersey or the other States that have them.

Mr. GREENWOOD. Thank you, Mr. Speaker. I have concluded my interrogation.

**PARLIAMENTARY INQUIRY**

Mr. GREENWOOD. I would like to make a parliamentary inquiry.

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

Mr. GREENWOOD. Thank you, Mr. Speaker.

I think the gentleman's remarks indicate that there is at least some question in his mind as to whether or not there would be a fiscal impact on the Commonwealth from this amendment, and I would then therefore suggest that the House should not consider this amendment without a fiscal note.

The SPEAKER. The Chair does not see, at least in the quick surveillance of this particular amendment, that it would require a fiscal note. The Chair would suggest that the amendment is well taken.

The Chair recognizes the gentleman from Montgomery, Mr. Saurman, for the second time on the amendment.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, I think the point that I would like to make very briefly is that if we are serious about keeping people wearing their seatbelts, encouraging them to wear their seatbelts in an effective way, that we ought not to pass legislation that puts a \$5 fine on and makes it a secondary offense, because what we are then getting into is law enforcement, not safety. My approach goes the other direction and says there are some specific reasons that you ought to wear seatbelts, and the amendment encourages and includes that the department will educate that this is the response and this is your responsibility. Therefore, I think that this is a far stronger approach to getting people to wear seatbelts and to then promote the safety that we are really after.

We want to save lives; we want to reduce the amount and the extent of the injuries. I think this approach will be more effective in doing that, and I would ask for your support. Thank you, Mr. Speaker.

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

The following roll call was recorded:

**YEAS—64**

Barley	Geist	Lloyd	Punt
Birmelin	George	Mackowski	Reber
Blaum	Godshall	Michlovic	Roebuck
Book	Gruitza	Micozzie	Rybak
Bowser	Haluska	Moehlmann	Saloom
Cessar	Hayes	Mowery	Saurman
Civera	Herman	Mrkonic	Scheetz
Cole	Hershey	Nahill	Schuler
Coy	Honaman	Noye	Seventy
DeWeese	Jackson	O'Donnell	Smith, L. E.
Durham	Johnson	Olasz	Snyder, G.
Fee	Josephs	Petrone	Stairs
Flick	Kennedy	Phillips	Taylor, E. Z.
Fox	Langtry	Pistella	Taylor, J.
Freeman	Levdansky	Pitts	Trello
Gallagher	Livengood	Pott	Wright, D. R.

**NAYS—130**

Acosta	Cowell	Kasunic	Robbins
Afflerbach	Deluca	Kenney	Ryan
Angstadt	DeVerter	Kosinski	Semmel
Argall	Daley	Kukovich	Serafini
Arty	Davies	Lashingier	Showers
Baldwin	Dawida	Laughlin	Sirianni
Barber	Deal	Lescovitz	Smith, B.
Battisto	Dininni	Letterman	Snyder, D. W.
Belardi	Distler	Linton	Staback
Belfanti	Dombrowski	Lucyk	Steighner

Black	Donatucci	McCall	Stevens
Bortner	Dorr	McClatchy	Stewart
Bowley	Duffy	McHale	Stuban
Boyes	Evans	McVerry	Sweet
Brandt	Fargo	Maiale	Swift
Broujos	Fattah	Manderino	Telek
Bunt	Fischer	Manmiller	Tigue
Burd	Foster	Markosek	Truman
Burns	Freind	Mayernik	Van Horne
Bush	Fryer	Merry	Veon
Caltagirone	Gallen	Miller	Vroon
Cappabianca	Gamble	Morris	Wambach
Carlson	Gannon	Murphy	Wass
Cawley	Gladeck	O'Brien	Weston
Chadwick	Greenwood	Oliver	Wiggins
Cimini	Gruppo	Petrarca	Wilson
Clark	Hagarty	Piccola	Wogan
Clymer	Harper	Pressmann	Wozniak
Cohen	Hasay	Preston	Wright, J. L.
Colafella	Howlett	Raymond	Yandrisevits
Cordisco	Hutchinson	Reinard	
Cornell	Itkin	Richardson	Irvis,
Coslett	Jarolin	Rieger	Speaker

## NOT VOTING—5

Carn	Perzel	Rudy	Wright, R. C.
Dietz			

## EXCUSED—2

Pievsky Taylor, F.

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. SAURMAN offered the following amendments No. A4566:

Amend Sec. 1 (Sec. 4581), page 3, line 2, by inserting after "age."

This paragraph shall expire November 30, 1988.

Amend Sec. 1 (Sec. 4581), page 5, line 20, by inserting after "section."

The department shall submit to the General Assembly a report on the effects of subsection (a)(2). The report shall be submitted by August 31, 1988.

On the question,

Will the House agree to the amendments?

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

Mr. SAURMAN. Thank you, Mr. Speaker.

In an attempt to once again offer at least some compromise to those of us who do not want to see this as a mandated thing that is opposing the rights of an individual, Mr. Speaker, this amendment, very briefly, puts a deadline or a sunset on the act 2 years away. During that time the seatbelt law would be effective, but at the end of the 2 years it would sunset. During that time, the Department of Transportation would be required to study the effects, the impact upon our traffic highway safety, and report back to us by August of 1988 on the 18 months' experience, and at that time we could then decide whether or not we wanted to continue this thing ad infinitum or to let it die.

Again, you heard the statistics. The initial impact of the seatbelt law is its immediacy, the first couple of months. Beyond that, it begins to fall off. The important thing in this respect would be that we would be requiring someone to wear seatbelts for a 2-year period, during which time they would develop a habit that they would continue if in fact it were an invaluable habit, as we expect that it is.

Mr. Speaker, I would again ask for your support of this amendment.

## PARLIAMENTARY INQUIRY

## AMENDMENTS DIVIDED

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

Mr. VROON. Mr. Speaker, may we divide this amendment? I would suggest that we divide the amendment in half, going through "This paragraph shall expire November 30, 1988," as one amendment, and the other one, "Amend Sec. 1,..." for the report.

The SPEAKER. The amendment may be so divided, in the opinion of the Chair.

Is it the request of the gentleman, Mr. Vroon, that it be divided?

Mr. VROON. Yes. The first part then would be on the sunset provision.

The SPEAKER. The amendment offered by the gentleman, Mr. Saurman, which is immediately before the House is as follows: "Amend Sec. 1 (Sec. 4581), page 3, line 2, by inserting after 'age.' This paragraph shall expire November 30, 1988." That language, and only that language, is currently before the House as an amendment.

On the question,

Will the House agree to part 1 of the amendments?

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

Mr. COWELL. Mr. Speaker, would you clarify? What section are we taking first? The first part of the amendment, expiring November 30?

The SPEAKER. The amendment that we are taking now starts "Amend Sec. 1" and ends with the words "expire November 30, 1988."

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I think it is entirely reasonable; in fact, it would be very helpful, if we would require the department to submit a report to this General Assembly sometime in 1988 analyzing, evaluating, the impact of this legislation, but I think it is entirely inappropriate that we adopt the first half of this amendment. Therefore, I would urge that we defeat this amendment that would automatically put this law out of existence in November of 1988 and guarantee that we will go through this entire process once again, no matter what the report of the department might be.

So at this point I would urge we defeat the first half of the amendment.

The SPEAKER. Mr. Vroon, do you wish to speak on the amendment?

Mr. VROON. Only to say this, Mr. Speaker: I ask for a "no" vote on this part of the amendment.

On the question recurring,

Will the House agree to part 1 of the amendments?

The following roll call was recorded:

YEAS—44

Angstadt	Durham	Kukovich	Piccola
Argall	Fargo	Langtry	Pott
Baldwin	Fox	Lloyd	Punt
Blaum	Gannon	McClatchy	Reber
Book	Gruitza	Mackowski	Saloom
Bowser	Hagarty	Merry	Saurman
Boyes	Hayes	Michlovic	Sirianni
Burd	Herman	Moehlmann	Smith, L. E.
Cessar	Honaman	Mrkonc	Snyder, G.
Coy	Jackson	Noye	Taylor, J.
DeWeese	Johnson	O'Donnell	Weston

NAYS—146

Acosta	Deal	Laughlin	Ryan
Afflerbach	Dietz	Lescovitz	Rybak
Arty	Dininni	Letterman	Scheetz
Barley	Distler	Levdansky	Schuler
Battisto	Dombrowski	Linton	Semmel
Belardi	Donatucci	Livengood	Serafini
Belfanti	Dorr	Lucyk	Seventy
Birmelin	Duffy	McCall	Showers
Black	Fattah	McHale	Smith, B.
Bortner	Fee	McVerry	Snyder, D. W.
Bowley	Fischer	Maiale	Staback
Brandt	Flick	Manderino	Stairs
Bunt	Foster	Manmiller	Steighner
Burns	Freeman	Markosek	Stevens
Bush	Freind	Mayernik	Stewart
Caltagirone	Fryer	Micozzie	Stuban
Cappabianca	Gallagher	Miller	Sweet
Carlson	Gallen	Morris	Swift
Carn	Gamble	Mowery	Taylor, E. Z.
Cawley	Geist	Murphy	Telek
Chadwick	George	Nahlin	Tigue
Cimini	Gladeck	O'Brien	Trello
Civera	Godshall	Olasz	Truman
Clark	Greenwood	Oliver	Van Horne
Clymer	Gruppo	Petrarca	Veon
Cohen	Harper	Petrone	Vroon
Colafella	Hasay	Phillips	Wambach
Cole	Hershey	Pistella	Wass
Cordisco	Howlett	Pitts	Wilson
Cornell	Hutchinson	Pressmann	Wogan
Coslett	Itkin	Preston	Wozniak
Cowell	Jarolin	Raymond	Wright, J. L.
Deluca	Josephs	Reinard	Wright, R. C.
DeVerter	Kasunic	Rieger	Yandrisevits
Daley	Kennedy	Robbins	
Davies	Kenney	Roebuck	Irvis,
Dawida	Kosinski	Rudy	Speaker

NOT VOTING—9

Barber	Haluska	Perzel	Wiggins
Broujos	Lashingner	Richardson	Wright, D. R.
Evans			

EXCUSED—2

Pievsky	Taylor, F.
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The question was determined in the negative, and part 1 of the amendments was not agreed to.

The SPEAKER. The Chair recognizes the gentleman, Mr. Saurman, who offers the following amendment: The amendment begins, "Amend Sec. 1 (Sec. 4581), page 5, line 20, by inserting after 'section.' The department shall submit to the General Assembly a report on the effects of subsection (a)(2). The report shall be submitted by August 31, 1988."

The question before the House now is on the adoption or rejection of that language and that language only.

On the question,

Will the House agree to part 2 of the amendments?

The SPEAKER. On that question, the Chair recognizes the gentleman from Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

I think that this is just a responsible act on the part of the General Assembly, and it should be looked at, I think, more frequently with regard to legislation that we pass. We ought not to just pass it and let it go. We ought to pass it and then track it and find out whether it has been effective or not, and if not, we should take corrective action, and if so, then we know that we did the right thing.

I would ask for your support of this part of the amendment.

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

Mr. VROON. Mr. Speaker, may I interrogate Mr. Saurman briefly?

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

Mr. VROON. Mr. Speaker, to what extent does this have to be reported to the General Assembly? What specifically is to be included in the report?

Mr. SAURMAN. Mr. Speaker, I would presume that the department would know those things that are most important. It certainly would include the number of accidents, the number of violations, the relationship between the accidents where seatbelts had been worn and not, the numbers of people wearing seatbelts, the trend, and those kinds of things - the kinds of information that would enable us to make a decision as to whether anything further needs to be done, and so forth.

Mr. VROON. Mr. Speaker, I have finished my interrogation. May I make a brief statement?

The SPEAKER. The gentleman is in order to make a comment on the Saurman amendment.

Mr. VROON. Mr. Speaker, I think this is a good amendment, and I think it is a good idea. The policy is a proper one. I have no objection whatsoever. If you wish to vote this in, it is perfectly all right.

On the question recurring,

Will the House agree to part 2 of the amendments?

The following roll call was recorded:

YEAS—195

Acosta	Deal	Kosinski	Rieger
Afflerbach	Dietz	Kukovich	Robbins
Angstadt	Dininni	Langtry	Roebuck
Argall	Distler	Lashingner	Rudy
Arty	Dombrowski	Laughlin	Ryan
Baldwin	Donatucci	Letterman	Rybak

Barber	Dorr	Levdansky	Saloom
Barley	Duffy	Linton	Saurman
Battisto	Durham	Livengood	Scheetz
Belardi	Evans	Lloyd	Schuler
Belfanti	Fargo	Lucyk	Semmel
Birmelin	Fattah	McCall	Serafini
Black	Fee	McClatchy	Seventy
Blaum	Fischer	McHale	Showers
Book	Flick	McVerry	Sirianni
Bortner	Foster	Mackowski	Smith, B.
Bowley	Fox	Maiale	Smith, L. E.
Bowser	Freeman	Manderino	Snyder, D. W.
Boyes	Freind	Manmiller	Snyder, G.
Brandt	Fryer	Markosek	Staback
Broujos	Gallagher	Mayernik	Stairs
Bunt	Gallen	Merry	Steighner
Burd	Gamble	Micozzie	Stevens
Burns	Gannon	Miller	Stewart
Bush	Geist	Moehlmann	Stuban
Caltagirone	George	Morris	Sweet
Cappabianca	Gladeck	Mowery	Swift
Carlson	Godshall	Mrkonic	Taylor, E. Z.
Carn	Greenwood	Murphy	Taylor, J.
Cawley	Gruitza	Nahill	Telek
Cessar	Gruppo	Noye	Tigue
Chadwick	Hagarty	O'Brien	Trello
Cimini	Haluska	O'Donnell	Truman
Civera	Harper	Olasz	Van Horne
Clark	Hasay	Oliver	Veon
Clymer	Hayes	Perzel	Vroon
Cohen	Herman	Petrarca	Wambach
Colafella	Hershey	Petrone	Wass
Cole	Honaman	Phillips	Weston
Cordisco	Howlett	Pistella	Wilson
Cornell	Hutchinson	Pitts	Wogan
Coslett	Itkin	Pott	Wozniak
Cowell	Jackson	Pressmann	Wright, D. R.
Coy	Jarolin	Preston	Wright, J. L.
Deluca	Johnson	Punt	Wright, R. C.
DeVerter	Josephs	Raymond	Yandrisevits
DeWeese	Kasunic	Reber	
Daley	Kennedy	Reinard	Irvis,
Davies	Kenney	Richardson	Speaker
Dawida			

**NAYS—3**

Lescovitz	Michlovic	Piccola
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**NOT VOTING—1**

Wiggins

**EXCUSED—2**

Pievsky Taylor, F.

The question was determined in the affirmative, and part 2 of the amendments was agreed to.

**MR. RYAN REQUESTED TO PRESIDE**

The SPEAKER. The Chair asks the gentleman, Mr. Ryan, to preside temporarily.

**THE SPEAKER PRO TEMPORE  
(MATTHEW J. RYAN) IN THE CHAIR  
CONSIDERATION OF SB 483 CONTINUED**

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

Mr. FOX offered the following amendments No. A4513:  
Amend Sec. 3, page 6, line 2, by striking out "90" and inserting  
120

Amend Sec. 3, page 6, line 7, by striking out "90-day" and inserting  
120-day

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

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery County, Mr. Fox.

Mr. FOX. Mr. Speaker, this will change the oral warnings that the bill now has from 90 days to 120 days. I believe this will be a sufficient amount of time for everyone to be warned about the fact that the law is about to be put into operation. I think with a State this large and the lack of incidents that may take place in the short period of 90 days, 120 days would be better for all of our constituents if they now know that once that time has elapsed, that in fact the bill will be in place. Thank you.

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, I really think 90 days is adequate, but if it would help pass this bill in a satisfactory manner, let us expedite it and let us do it. If you want to vote for this amendment, I do not have any serious objection.

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

The following roll call was recorded:

**YEAS—185**

Acosta	Dietz	Langtry	Roebuck
Afflerbach	Dininni	Lashingier	Rudy
Angstadt	Distler	Laughlin	Ryan
Arty	Dombrowski	Lescovitz	Rybak
Baldwin	Donatucci	Levdansky	Saloom
Barber	Dorr	Linton	Saurman
Barley	Duffy	Livengood	Scheetz
Battisto	Durham	Lloyd	Schuler
Belardi	Evans	Lucyk	Semmel
Belfanti	Fargo	McCall	Serafini
Birmelin	Fattah	McClatchy	Seventy
Black	Fee	McVerry	Showers
Blaum	Fischer	Mackowski	Sirianni
Book	Flick	Maiale	Smith, B.
Bortner	Foster	Manderino	Smith, L. E.
Bowley	Fox	Manmiller	Snyder, D. W.
Bowser	Freeman	Markosek	Snyder, G.
Boyes	Freind	Mayernik	Staback
Brandt	Fryer	Merry	Stairs
Broujos	Gallen	Micozzie	Steighner
Bunt	Gamble	Miller	Stevens
Burd	Gannon	Moehlmann	Stewart
Bush	Geist	Morris	Stuban
Caltagirone	George	Mowery	Sweet
Cappabianca	Gladeck	Mrkonic	Swift
Carlson	Godshall	Murphy	Taylor, E. Z.
Carn	Greenwood	Nahill	Taylor, J.
Cawley	Gruitza	Noye	Telek
Cessar	Gruppo	O'Brien	Tigue
Chadwick	Hagarty	O'Donnell	Trello
Cimini	Haluska	Olasz	Truman
Civera	Harper	Perzel	Veon
Clark	Hasay	Petrarca	Vroon
Clymer	Hayes	Petrone	Wambach

Cohen	Herman	Phillips	Weston
Colafella	Honaman	Piccola	Wiggins
Cole	Howlett	Pistella	Wilson
Cordisco	Hutchinson	Pitts	Wogan
Cornell	Jackson	Pott	Wozniak
Coslett	Jarolin	Preston	Wright, D. R.
Coy	Johnson	Punt	Wright, J. L.
Deluca	Josephs	Raymond	Wright, R. C.
DeVerter	Kasunic	Reber	Yandrisevits
DeWeese	Kennedy	Reinard	
Daley	Kenney	Richardson	Irvis,
Davies	Kosinski	Rieger	Speaker
Dawida	Kukovich	Robbins	

NAYS—11

Argall	Hershey	McHale	Van Horne
Cowell	Itkin	Oliver	Wass
Gallagher	Letterman	Pressmann	

NOT VOTING—3

Burns	Deal	Michlovic
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EXCUSED—2

Pievsky Taylor, F.

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. McVERRY offered the following amendment No. A4008:

Amend Sec. 1 (Sec. 4581), page 3, by inserting between lines 16 and 17

(3) In order to comply with paragraph (2) a law enforcement officer shall have the option of wearing either a lap belt or a lap belt with shoulder harness.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

The purpose of this amendment is simply to permit law enforcement officers to either wear solely a lapbelt or a lapbelt with a shoulder harness. It gives them the option. It does not exempt them from the act; it just gives them the option.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, I agree with the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—197

Acosta	Dietz	Langtry	Robbins
Afflerbach	Dininni	Lashinger	Roebuck
Angstadt	Distler	Laughlin	Rudy
Argall	Dombrowski	Lescovitz	Ryan
Arty	Donatucci	Levdansky	Rybak
Baldwin	Dorr	Linton	Saloom
Barber	Duffy	Livengood	Saurman

Barley	Durham	Lloyd	Scheetz
Battisto	Evans	Lucyk	Schuler
Belardi	Fargo	McCall	Semmel
Belfanti	Fattah	McClatchy	Serafini
Birmelin	Fee	McHale	Seventy
Black	Fischer	McVerry	Showers
Blaum	Flick	Mackowski	Sirianni
Book	Foster	Maiale	Smith, B.
Bortner	Fox	Manderino	Smith, L. E.
Bowley	Freeman	Manmiller	Snyder, D. W.
Bowser	Freind	Markosek	Snyder, G.
Boyes	Fryer	Mayernik	Staback
Brandt	Gallagher	Merry	Stairs
Broujos	Gallen	Michlovic	Steighner
Bunt	Gamble	Micozzie	Stevens
Burd	Gannon	Miller	Stewart
Burns	Geist	Moehlmann	Stuban
Bush	George	Morris	Sweet
Caltagirone	Gladeck	Mowery	Sweet
Cappabianca	Godshall	Mrkonjic	Taylor, E. Z.
Carlson	Greenwood	Murphy	Taylor, J.
Carn	Gruitza	Nahill	Telek
Cawley	Gruppo	Noye	Tigue
Cessar	Hagarty	O'Brien	Trello
Chadwick	Haluska	O'Donnell	Truman
Cimini	Harper	Olasz	Van Horne
Civera	Hasay	Oliver	Veon
Clark	Hayes	Perzel	Vroon
Clymer	Herman	Petrarca	Wambach
Cohen	Hershey	Petrone	Wass
Colafella	Honaman	Phillips	Weston
Cole	Howlett	Piccola	Wiggins
Cordisco	Hutchinson	Pistella	Wilson
Cornell	Itkin	Pitts	Wogan
Coslett	Jackson	Pott	Wozniak
Cowell	Jarolin	Pressmann	Wright, D. R.
Coy	Johnson	Preston	Wright, J. L.
Deluca	Josephs	Punt	Wright, R. C.
DeVerter	Kasunic	Raymond	Yandrisevits
DeWeese	Kennedy	Reber	
Daley	Kenney	Reinard	Irvis,
Davies	Kosinski	Richardson	Speaker
Dawida	Kukovich	Rieger	

NAYS—1

Letterman

NOT VOTING—1

Deal

EXCUSED—2

Pievsky Taylor, F.

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. McHALE offered the following amendments No. A4390:

Amend Sec. 1 (Sec. 4581), page 2, line 5, by inserting a bracket before "A"

Amend Sec. 1 (Sec. 4581), page 2, line 6, by inserting a bracket after "age" and inserting immediately thereafter  
Any person

Amend Sec. 1 (Sec. 4581), page 2, line 9, by inserting brackets before and after "such child" and inserting immediately thereafter

a child under four years of age

Amend Sec. 1 (Sec. 4581), page 2, line 12, by inserting brackets before and after "parents or legal guardians" and inserting immediately thereafter

persons

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, amendment 4390 does not pertain to seatbelts. It does pertain to child passenger restraints.

As was mentioned during debate yesterday, Act 53 was passed during the last session, and the requirements of that act pertain only at the present time to parents and legal guardians. At the time the original legislation was being considered, there was some concern that by limiting the bill to parents and legal guardians, the bill would be extremely difficult for law enforcement officers to enforce. That concern, which I had at the time of original consideration, has turned out to be a reality. There is no question that the Child Passenger Protection Act is now working effectively. There is no question that that particular piece of legislation has saved lives. Those of us who worked diligently on that bill are very proud of it. Now, a year and a half later, it is clear that we can make it a better piece of legislation and make it meaningfully effective for our police officers by requiring that the contents of the bill, the contents of the statute, affect not only parents and legal guardians but any driver, and that is the gist of my amendment.

If we accept my amendment and if it becomes law, the Child Passenger Protection Act in the future will require protection of children not only in cases where they are being transported by their parents but also when they are being transported by any other driver. I seek an affirmative vote.

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, I accept this amendment as being a good one. I recommend you vote in the affirmative.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—182

Acosta	Dietz	Lescovitz	Roebuck
Afflerbach	Dininni	Levdansky	Rudy
Angstadt	Distler	Linton	Ryan
Arty	Donatucci	Livengood	Rybak
Baldwin	Dorr	Lucyk	Saloom
Battisto	Duffy	McCall	Saurman
Belardi	Fattah	McClatchy	Schuler
Belfanti	Fee	McHale	Semmel
Black	Fischer	McVerry	Serafini
Blaum	Foster	Mackowski	Seventy
Book	Fox	Maiale	Showers
Bortner	Freeman	Manderino	Sirianni
Bowley	Freind	Manmiller	Smith, B.
Bowser	Gallagher	Markosek	Smith, L. E.
Brandt	Gallen	Mayernik	Snyder, D. W.
Broujos	Gamble	Merry	Snyder, G.
Bunt	Gannon	Michlovic	Staback
Burd	Geist	Micozzie	Stairs

Burns	George	Miller	Steighner
Bush	Gladeck	Moehlmann	Stevens
Caltagirone	Godshall	Morris	Stewart
Cappabianca	Greenwood	Mowery	Stuban
Carlson	Gruitza	Mrkonic	Sweet
Carn	Gruppo	Murphy	Swift
Cawley	Hagarty	Nahill	Taylor, E. Z.
Cessar	Harper	Noye	Taylor, J.
Chadwick	Hasay	O'Brien	Telek
Cimini	Hayes	O'Donnell	Tigue
Civera	Herman	Olasz	Trello
Clark	Hershey	Oliver	Truman
Clymer	Honaman	Perzel	Van Horne
Cohen	Howlett	Petrarca	Veon
Colafella	Hutchinson	Petrone	Vroon
Cole	Itkin	Phillips	Wambach
Cordisco	Jackson	Pistella	Wass
Cornell	Jarolin	Pitts	Weston
Coslett	Johnson	Pott	Wilson
Cowell	Josephs	Pressmann	Wogan
Coy	Kasunic	Preston	Wozniak
Deluca	Kennedy	Punt	Wright, D. R.
DeVerter	Kenney	Raymond	Wright, J. L.
DeWeese	Kosinski	Reber	Wright, R. C.
Daley	Kukovich	Reinard	Yandrisevits
Davies	Langtry	Richardson	
Dawida	Lashinger	Rieger	Irvis,
Deal	Laughlin	Robbins	Speaker

NAYS—13

Argall	Durham	Fryer	Lloyd
Barley	Fargo	Haluska	Piccola
Birmelin	Flick	Letterman	Scheetz
Boyes			

NOT VOTING—4

Barber	Dombrowski	Evans	Wiggins
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EXCUSED—2

Pievsky	Taylor, F.
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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. McHALE offered the following amendments No. A4391:

Amend Title, page 1, line 4, by removing the period after "systems" and inserting and for certain civil immunity.

Amend Bill, page 5, by inserting between lines 24 and 25 Section 2. Title 75 is amended by adding a section to read: § 4586. Civil immunity of loaners of child passenger restraint systems.

Any person or organization who or which loans child passenger restraint systems, as described in section 4581 (relating to restraint systems), shall not be liable for any civil damages as a result of any acts or omissions by such person or organization, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to any person.

Amend Sec. 2, page 5, line 25, by striking out "2" and inserting

3

Amend Sec. 3, page 6, line 2, by striking out "3" and inserting

4

Amend Sec. 4, page 6, line 11, by striking out "4" and inserting

5

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

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Mr. Speaker, again this amendment pertains to the Child Passenger Protection Act, not the seatbelt legislation immediately before us.

It has come to my attention and the attention of other members of the House, since the adoption of the Child Passenger Protection Act, that some child carseat loaner programs are experiencing a very difficult time in obtaining adequate liability insurance.

We have a public policy question that must be settled. I have been able to resolve it in my own mind fairly easily. Is it more important to require liability in the case of negligence on the part of loaner programs, thereby providing a remedy to an injured party, or do we serve a higher purpose by granting civil immunity to those loaner programs so that they may continue in the process of providing loaner seats to low-income families? Those two issues are in conflict. I believe that it makes sense to grant civil liability immunity so that those programs may continue in operation.

The amendment now before you would grant immunity to such loaner programs for negligence. It would not provide immunity in the case of gross negligence or intentional misconduct. I believe that the children of Pennsylvania will be served by the adoption of this amendment, and those organizations currently loaning the seats will be able to carry out that very valuable service.

I seek an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. This is a proper amendment, Mr. Speaker, and I urge an affirmative vote.

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

The following roll call was recorded:

YEAS—196

Table listing names of members who voted YEAS, including Acosta, Afflerbach, Angstadt, Argall, Arty, Baldwin, Barber, Barley, Battisto, Belardi, Belfanti, Birmelin, Black, Blaum, Book, Bortner, Bowley, Dininni, Distler, Dombrowski, Donatucci, Dorr, Duffy, Durham, Evans, Fargo, Fattah, Fee, Fischer, Flick, Foster, Fox, Freeman, Freind, Lashinger, Laughlin, Lescovitz, Letterman, Levdansky, Linton, Livengood, Lloyd, Lucyk, McClatchy, McHale, McVerry, Mackowski, Maiale, Manderino, Manmiller, Rieger, Robbins, Roebuck, Rudy, Ryan, Rybak, Saloom, Saurman, Scheetz, Schuler, Semmel, Serafini, Seventy, Showers, Sirianni, Smith, B., Smith, L. E.

Table listing names of members who voted NAYS, including Bowser, Boyes, Brandt, Broujos, Bunt, Burd, Burns, Bush, Caltagirone, Cappabianca, Carlson, Cawley, Cessar, Chadwick, Cimini, Civera, Clark, Clymer, Cohen, Colafella, Cole, Cordisco, Cornell, Coslett, Cowell, Coy, Deluca, DeVerter, DeWeese, Daley, Davies, Dawida, Dietz, Fryer, Gallagher, Gallen, Gamble, Gannon, Geist, George, Gladeck, Godshall, Greenwood, Gruitza, Gruppo, Hagarty, Haluska, Harper, Hasay, Hayes, Herman, Hershey, Honaman, Howlett, Hutchinson, Itkin, Jackson, Jarolin, Johnson, Josephs, Kasunic, Kennedy, Kenney, Kosinski, Kukovich, Langtry, Markosek, Mayernik, Merry, Michlovic, Micozzie, Miller, Moehlmann, Morris, Mowery, Mrkonic, Murphy, Nahill, Noye, O'Brien, O'Donnell, Olasz, Oliver, Perzel, Petrarca, Petrone, Phillips, Piccola, Pistella, Pitts, Pott, Pressmann, Preston, Punt, Raymond, Reber, Reinard, Richardson, Snyder, D. W., Snyder, G., Staback, Stairs, Steighner, Stevens, Stewart, Stuban, Sweet, Swift, Taylor, E. Z., Taylor, J., Telek, Tighe, Trello, Truman, Van Horne, Veon, Vroon, Wambach, Wass, Weston, Wiggins, Wilson, Wogan, Wozniak, Wright, D. R., Wright, J. L., Yandrisevits, Irvis, Speaker

NAYS—0

NOT VOTING—3

Carn Deal Wright, R. C.

EXCUSED—2

Pievsky Taylor, F.

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. McHALE offered the following amendment No. A4565:

Amend Sec. 1 (Sec. 4581), page 3, line 25, by striking out "\$5" and inserting \$15

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

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, at this point we return once again to seatbelts. Yesterday the gentleman, Mr. Bortner, introduced an amendment which would have provided for a \$20 fine in the event that this particular statute were violated at some point in the future. If my memory serves me correctly, that amendment, sponsored by the gentleman, Mr. Bortner, failed by two votes. I supported it; we were on the losing side.

The amendment which I offer now is a compromise. It is not my first preference, but I believe that it is a reasonable

compromise among competing interests. The amendment now before you, if it is adopted, will provide a \$15 fine in the event that there is a violation of this statute.

I am a member of the Consumer Affairs Committee. I participated during debate at the time that the fine of \$20, which was sent to us by the Senate, was reduced to \$5. I opposed that reduction; I still oppose it. Nevertheless, it is clear, I think, based on a number of votes taken by this chamber, that \$20 is not acceptable. After the Consumer Affairs Committee reduced the fine from \$20 to \$5, most of the major newspapers in this State editorialized that we had severely emasculated the legislation, that we had reduced the fine to the point that it was no longer meaningful. I agree with those editorials.

I would prefer a \$20 fine. It appears that we do not have sufficient votes for that. I therefore propose a compromise of \$15, which I think is sufficient to serve as an adequate deterrent with regard to possible violations of the law while at the same time not being an unreasonable burden to our constituents. I therefore seek an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

Mr. NOYE. Thank you, Mr. Speaker.

Would the maker of the amendment please stand for interrogation?

The SPEAKER pro tempore. The gentleman indicates he will stand for interrogation. The gentleman, Mr. Noye, may proceed.

Mr. NOYE. Mr. Speaker, in a summary offense, regardless of what the fine is, what are the costs before a district justice?

Mr. McHALE. Mr. Speaker, it has been a while since I have represented clients in that court, so I am not really sure.

Mr. NOYE. Is there anyone who can shed some light on that particular inquiry?

Well, I think we got six answers to that question.

The basis of my question is this: \$5, \$20, \$15 - it really does not make a whole lot of difference. The question remains, as in most cases when you talk to constituents, the fine never upsets them; it is the court costs that just drive them wild. I think the amount of the fine is incidental in this whole thing, because it is the arrest and the fact that it is a summary offense and going before a district justice and there are going to be costs involved that is going to upset the driver. So I would oppose the amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Luzerne, Mr. Stevens.

Mr. STEVENS. Thank you, Mr. Speaker.

May I interrogate the maker of this amendment?

The SPEAKER pro tempore. The gentleman indicates he will stand for interrogation. The gentleman, Mr. Stevens, may proceed.

Mr. STEVENS. How does your amendment affect the primary or secondary offense part of the bill?

Mr. McHALE. It does not affect that at all. I do have an amendment that is coming up dealing with that particular concern, but the amendment currently before the House has nothing to do with primary or secondary enforcement. It is simply a matter of whether or not a fine of \$15 will be imposed for a violation of the statute.

Mr. STEVENS. So that at least under the statute as amended, if I understand it correctly, if a law enforcement officer stops someone, under your amendment it does not change the fact that they cannot now stop someone if they are not wearing a seatbelt or if they observe them not wearing a seatbelt.

Mr. McHALE. That is correct. If this amendment is adopted, that portion of the bill, as amended by the Consumer Affairs Committee, will remain the same. The only difference will be that the fine to be imposed upon conviction is \$15.

Mr. STEVENS. Thank you.

Mr. Speaker, may I make a statement?

The SPEAKER pro tempore. The gentleman is in order.

Mr. STEVENS. I urge the defeat of this amendment. A \$15 fine is not going to be a deterrent; it is going to be a further harassment of the working people of Pennsylvania. When they get cited for \$15, as Representative Noye pointed out, they will have to also pay costs. Most people are not going to request a hearing because they would have to take time off work, so they will pay the money, and this will turn into a revenue-generating measure, which it is not supposed to be. It is a harassment of the working people of Pennsylvania, and I urge the defeat of this. It will not deter anybody and force them to wear a seatbelt, the threat of a \$15 fine. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, the fine portion of this bill is something which I have a particular problem with. My automobile does not move an inch unless I have my seatbelt fastened, because I understand the protection that it gives to myself, to my wife, to my family. However, if I was against seatbelts, if I did not want to wear them myself, a \$20 fine or a \$15 fine is not going to convince me to wear my seatbelt.

We have laws in Pennsylvania against speeding, and if you speed, as Representative Laughlin pointed out earlier, if you speed, you turn to the penalties and you find out that in Pennsylvania we are serious; we do not want you to speed. We have laws in Pennsylvania against littering, and if you turn to the penalties, you find out that it is \$300, and you find out Pennsylvania must be serious about littering. Last week this House of Representatives said for the first time, we are going to be serious about underage drinking; we are going to pass penalties and demonstrate that we are serious. I look at SB 483, I turn to the penalties, I see \$20, \$25—regardless of what Secretary Dole says—or \$15, and I find out that Pennsylvania is only kidding. That is why the amendment for \$5.

If we are not going to be serious and have a penalty that is commensurate with the danger involved, if we are not going



to be serious, then I agree with the previous speakers who say that it is a harassment, that we should just make it \$5, and I ask for the members to defeat this amendment.

The SPEAKER pro tempore. On the question, the Chair recognizes, for the second time on the issue, the gentleman, Mr. Noye.

Mr. NOYE. Mr. Speaker, in answer to my questions, I have been supplied some information on this yellow piece of paper. If the fine remains at \$5, there will also be a \$10 EMS (emergency medical services) fine and a cost of \$17.50. So we will be talking about \$32.50 that will be the cost to the taxpayer for not wearing their seatbelt if the fine remains at \$5, and it goes from that point. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Beaver, Mr. Colafella.

Mr. COLAFELLA. Thank you, Mr. Speaker.

I rise in favor of the McHale amendment.

I think we are working on a very responsible bill, and a \$5 fine is totally an irresponsible fine. I think newspapers all over this Commonwealth are calling the \$5 fine laughable, and I think they are exactly right. The purpose of this fine is to remind people before they go out to drive that they ought to be concerned that they may be fined. I think that every agency and every doctor and every other advocating agency for this particular bill want us to remind people that wearing belts saves lives, and I think a \$15 fine is a very responsible fine for this bill. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, I would like to make some very pointed comments about this whole thing and all the objections that people have been raising about the size of the fine.

This is not a positive assessment against anybody. We are serious in this State. The gentleman talked about being serious before. Mr. Speaker, we are serious in this State. Right now we want to save lives. That is a more serious consideration than anything else I know of. We want to save human lives, and it is just that serious.

And for those people who think they cannot afford to pay \$15 plus \$17.50 costs, you can save it all by a mere buckling up. That is not asking too much, believe me. That is such a simple little thing.

I just want to remind you of how little time it takes to buckle up. As soon as you get in the car in the morning before you take off, it takes you 1 second to buckle up and you need not have to pay any fines anywhere. That is an important consideration. I do not see why we have to consider reducing that fine to accommodate people as if they are going to be paying fines. We want to encourage people not to pay any fines by complying with the law for their own good and for saving human lives.

I urge a positive vote on this amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery, Mr. Fox.

Mr. FOX. Thank you, Mr. Speaker.

Just briefly. I believe that the \$15 amount is more in tune with the fact that when we want our police officers to be involved in a case that only involves \$5, there is going to be a psychological factor on their part to really let the whole thing go. I think that with \$15 we are the least of any State, but we will still be a State that has a law worth enforcing. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Pistella, on the question of the amendment.

Mr. PISTELLA. Thank you, Mr. Speaker.

I thought I was going to refrain from discussing this issue, but I figured I took about as much as I could take, I guess, as any other person could on this issue.

I think Representative McHale is raising a very valid and sensitive point. Contrary to those speakers who have spoken before who have said increasing this amount of money from \$5 to \$20 or \$15 would in fact be harassment, it is not; it is a penalty.

If you violate the Motor Vehicle Code in the Commonwealth of Pennsylvania by speeding, you pay a penalty. We saw fit last week, as Representative Blaum has pointed out, to institute one of the toughest underage drinking laws in the United States. We saw fit earlier to interject State Government in the protection of minors, those under 45 pounds and under 4 years of age, to protect themselves because we felt the parents were not capable of protecting them when they were placed in a motor vehicle. What we are asking this General Assembly to do now is to assert itself upon the people we represent because we feel that they in fact cannot protect themselves.

What we are asking to do with the McHale amendment—and I say this and I realize in fact it may be very cruel of me—but we are asking to substitute the amount of money a person will pay on a fine for their own common sense. That is what it boils down to, Mr. Speaker. We have thought that an individual's rights would be infringed upon, but I, as an operator of a motor vehicle that is involved in an accident, have some rights, too. I could be involved in an accident and I can go to sleep that night and know that I caused an accident, and because someone else was not foolish enough or smart enough to use their seatbelt, I could have in fact caused their death.

I think it is time that we woke up. Mr. McHale is in fact right. The editorialists who have written oftentimes on the foolish things we have done in this General Assembly were wise enough to point out our folly by putting in a \$5 fine for not having a seatbelt on. And again I reiterate, it may be very cruel, but at times we are called upon, not for our own sake but for the sake of the constituents we serve, to legislate their own darn common sense, and that is what this issue boils down to. I know we have heard from our attorney colleagues some very extraordinary circumstances that may happen. That, in fact, Mr. Speaker, is the truth. But now we must step in and legislate our own constituents' common sense. It may in fact be very sad, but it would be even sadder to have one

parent come in and say that their son or their daughter died in an accident because they did not have a seatbelt on, or someone lost a husband or a wife because they did not wear a seatbelt.

I am willing to stand up to the pressure that people are willing to put out towards those of us who want a tough law for mandatory seatbelts in this State. I am willing to do it by supporting Mr. McHale's amendment, and I would ask you all to do the same thing. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Clark.

Mr. CLARK. If we may get back to the meat of the amendment, the amount of the fine, I would like to interject into the argument just a couple of scenarios.

Since the offense is now secondary for seatbelts - there must be a first offense - and to get back to what Representative Noye pointed out earlier, it is not the fine that is the problem; it is the costs involved in a citation. Take an offense of 6 miles over the speed limit. Your fine is \$35 for the base speeding, \$12 for the 6 miles over the limit, \$17.50 in court costs, and \$10 EMS costs for \$74.50. Add to that a \$5 fine for the seatbelt, \$17.50 in court costs, and you are up to \$97. I believe the problem is in imposing the costs on both occasions. If we can structure this bill so that we have a \$20 fine and no court costs—since it is a secondary offense, we could tack it onto the initial offense—we would actually be saving people money by raising the fine.

So I would oppose this amendment because it would raise the cost of this scenario to \$112. But if the maker of the amendment would go back and look at the costs, the court costs involved, and try to tack it onto the same traffic citation, he would actually save people money on this offense by raising the fine to \$20 and eliminating the court costs. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

I thank the gentleman, Mr. Pistella, and the gentleman, Mr. Fox, for their comments. With regard to the gentleman, Mr. Clark, I would be willing to look at an amendment that he might want to have prepared that would adjust the costs involved in this kind of situation. But I think my point was made for me a few minutes ago when the gentleman, Mr. Noye, asked me a question as to what the costs were and I did not know them, and then he generally addressed the floor of the House to get an answer to his question and no one here knew. I submit to you the public does not know either.

When we pass an offense, what does become known is the amount of the fine, not the amount of the related court costs. And if we pass a piece of legislation where the fine is \$5, that is going to be the deterrent figure known to the public. Very few people, just as very few people on the floor of the House today knew, will know what the costs are that are involved.

We have to make a decision here today, and I think with the consideration of this amendment and the one following, we face the very heart of the issue involved in seatbelts - what value can you place on a human life?

Last session when I drafted the Child Passenger Protection Act and I stood at this very microphone, I said that there were very few occasions when we could cast a vote that affected human life so directly as this kind of legislation, and I heard responses at that time very similar to what I have heard today, and that is it will not work. The deterrent will not work; it is not the proper role of the government; it will not save lives. Well, here we are a year and a half later and there is no question that the Child Passenger Protection Act has in fact saved lives.

We have to send, I believe, a clear message to the people of Pennsylvania. Wear a seatbelt; there will be no fine. If you do not wear a seatbelt, there will be a reasonable fine, not a frivolous fine, which is what \$5 amounts to.

The day after the Consumer Affairs Committee removed much of the substance of this legislation, there was, I think, an appropriate outcry around this State that we were making a mockery of the seatbelt law. With this amendment and the one following, we have an opportunity, once again, to restore a fair, reasonable deterrent in the legislation. Five dollars makes a mockery of what we are trying to accomplish. For those who believe \$20 is excessive, \$15 is a reasoned compromise.

I seek an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—97

Acosta	Davies	Lashinger	Pressmann
Afflerbach	Dawida	Lescovitz	Preston
Argall	Deal	Levdansky	Raymond
Arty	Distler	Linton	Reinard
Baldwin	Dombrowski	Livengood	Richardson
Barber	Donatucci	Lucyk	Rieger
Battisto	Duffy	McCall	Rudy
Belardi	Evans	McHale	Ryan
Bortner	Fargo	McVerry	Rybak
Bowley	Fattah	Mackowski	Scheetz
Broujos	Fox	Manderino	Showers
Burns	Gamble	Merry	Sweet
Bush	Gannon	Michlovic	Taylor, E. Z.
Caltagirone	Gladeck	Micozzie	Taylor, J.
Cappabianca	Greenwood	Miller	Tigue
Carlson	Gruppo	Morris	Trello
Cessar	Hagarty	Murphy	Van Horne
Chadwick	Harper	Nahill	Vroon
Cimini	Herman	O'Brien	Wass
Civera	Hershey	Oliver	Wilson
Colafella	Itkin	Perzel	Yandrisevits
Cordisco	Kenney	Petrone	
Cornell	Kosinski	Pistella	Irvis,
Cowell	Kukovich	Pitts	Speaker
Deluca	Langtry	Pott	

## NAYS—101

Angstadt	Durham	Kennedy	Semmel
Barley	Fee	Laughlin	Serafini
Belfanti	Fischer	Letterman	Seventy
Birmelin	Flick	Lloyd	Sirianni
Black	Foster	McClatchy	Smith, B.
Blaum	Freeman	Maiale	Snyder, D. W.
Book	Freind	Manmiller	Snyder, G.
Bowser	Fryer	Markosek	Staback
Boyes	Gallagher	Mayernik	Stairs
Brandt	Gallen	Moehlmann	Steighner
Bunt	Geist	Mowery	Stevens
Burd	George	Mrkonic	Stewart
Carn	Godshall	Noye	Stuban
Cawley	Gruitza	O'Donnell	Swift
Clark	Haluska	Olasz	Telek
Clymer	Hasay	Petrarca	Truman
Cohen	Hayes	Phillips	Veon
Cole	Honaman	Piccola	Wambach
Coslett	Howlett	Punt	Weston
Coy	Hutchinson	Reber	Wiggins
DeVerter	Jackson	Robbins	Wogan
DeWeese	Jarolin	Roebuck	Wozniak
Daley	Johnson	Saloom	Wright, D. R.
Dietz	Josephs	Saurman	Wright, J. L.
Dininni	Kasunic	Schuler	Wright, R. C.
Dorr			

## NOT VOTING—1

Smith, L. E.

## EXCUSED—2

Pievsky Taylor, F.

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?

## BILL PASSED OVER TEMPORARILY

The SPEAKER pro tempore. Without objection, at this time the Chair temporarily passes over and removes from the calendar SB 483. The Chair hears no objection.

### SUPPLEMENTAL CALENDAR B

#### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 1346, PN 2465**, entitled:

An Act amending the act of August 7, 1963 (P. L. 549, No. 290), referred to as the "Pennsylvania Higher Education Assistance Agency Act," clarifying the authority of the agency to acquire real property.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

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

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Bucks, Mr. Clymer, on the question of final passage of SB 1346.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I have a question I would like to ask someone on this bill, if I can interrogate a member, someone interested in this piece of legislation.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Clarion, Mr. Wright, for the purpose of responding to the gentleman's interrogation.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, in the bill it has that the Pennsylvania Higher Education Assistance Agency can purchase the Towne House Apartments at 660 Boas Street in Harrisburg. That is a place where many of us live. We would like to know what would happen to those of us who are now residing there.

The SPEAKER pro tempore. Mr. Wright, there is a relevant question.

Mr. D. R. WRIGHT. Nothing.

Mr. CLYMER. Mr. Speaker, can we be assured that the rent will not go up?

Mr. D. R. WRIGHT. The rent would not go up under your present contract, your present lease, and I would not anticipate that it would.

Mr. WILSON. It just depends on how he votes on it.

Mr. D. R. WRIGHT. There would be a management agreement with the present operators of that, and I would not anticipate any increase. I am not saying that there will not be, but there is not anything within this legislation that would mandate or require an increase.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. D. R. WRIGHT. You can still vote, Mr. Speaker. This would not be special legislation, even though you live there.

The SPEAKER pro tempore. It has been called to the attention of the Chair that the House Republicans have not caucused on this. I would appreciate it if the gentleman, Mr. Wright, would explain in detail SB 1346 for the benefit of the members. If there are any further questions, they can be addressed to the gentleman, Mr. Wright, or the House will recess temporarily for caucus.

Mr. D. R. WRIGHT. Let me speak just briefly, and then if there are questions, I will be glad to respond as best I can, Mr. Speaker.

The bill that you have before you is language that has been agreed to in conversations with the Governor's Office, with the agency, and with the Attorney General's Office. This legislation may not have been necessary under normal circumstances, but it turns out to be necessary because of the timing. There is a necessity to be able for us to exercise an option, that is, for the agency to exercise an option, on the Towne House by midnight tonight. All this legislation does is that it empowers, it makes clear—there is some argument whether the agency is now empowered—but this legislation makes clear that the agency has the authority to exercise the option which it already has on the Towne House.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Blair, Mr. Geist.

Mr. GEIST. Thank you, Mr. Speaker.

May I interrogate Representative Wright, please?

The SPEAKER pro tempore. The gentleman indicates he will stand for interrogation. The gentleman, Mr. Geist, may proceed.

Mr. GEIST. How much currently does that building pay in taxes to the city of Harrisburg?

Mr. D. R. WRIGHT. I do not know the answer to that question, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Bucks, Mr. Wilson, to respond to the question of the gentleman, Mr. Geist.

Mr. WILSON. \$175,000.

Mr. GEIST. Thank you.

Mr. Speaker, will that building continue to pay taxes if PHEAA buys it?

Mr. D. R. WRIGHT. That is an interesting question. I am glad that Mr. Wilson answered the question, because he and I have met with some of the officials in Harrisburg with regard to that issue, and the agency was willing and, as a matter of fact, did enter into an agreement with the city of Harrisburg with regard to payment in lieu of taxes. But when this was proposed to the Governor's Office, they informed us that that was not a satisfactory arrangement with them, that they did not want the agency to do that, and that this would be handled, the whatever, in-lieu-of-tax payments, however that was described, named, would be negotiated with the Governor's Office. It would be anticipated that there would be some payments made, but that would be a negotiation process between the Governor's Office and the city of Harrisburg and the other municipalities affected.

Mr. GEIST. Thank you, Mr. Speaker.

Were there any offers made by the private sector for this building before government decided to buy it?

Mr. D. R. WRIGHT. No.

Mr. GEIST. Was it advertised on the market?

Mr. D. R. WRIGHT. Not to my knowledge it was not.

You do understand, of course, that PHEAA already occupies the building.

Mr. GEIST. One of the reasons I am getting at in my interrogation is that I live there also, and I want to make sure that my rent is going to be reduced by the amount of taxes.

Mr. D. R. WRIGHT. Do not count on it.

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

That concludes my interrogation.

### PARLIAMENTARY INQUIRY

Mr. GEIST. I would like to ask for a ruling from the Chair.

The SPEAKER pro tempore. A ruling from the Chair on what question?

Mr. GEIST. Those of us who live at the Towne House and currently have leases there, should we refrain from voting?

The SPEAKER pro tempore. It is a generic question, a class question. It does not put you in a position of conflict requiring you to abstain.

The Chair recognizes the gentleman from York, Mr. Dorr.  
Mr. DORR. Mr. Speaker, would the gentleman, Mr. Wright, or Mr. Wilson, whoever wants to answer questions, respond to further interrogation?

Mr. D. R. WRIGHT. Yes. Either of us, or both perhaps.

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

Mr. DORR. Mr. Speaker, I wonder if the gentleman could explain why it is that this semi-, I guess, independent agency of government, which in my ken has constantly questions being raised about its operation in any event, is required somehow to purchase real estate on its own rather than going through what I would believe to be the usual practice of leasing it from the General Services Department or some General State Authority or some other entity which is constantly in the business, really, of buying and leasing real estate. Is there some reason why PHEAA has to own this building?

Mr. D. R. WRIGHT. Mr. Wilson, do you want to take a crack at that first?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Bucks, Mr. Wilson.

Mr. WILSON. The Pennsylvania Higher Education Assistance Agency, among its other things as a legislative creation, has the proper right to acquire real estate as it sees fit. It has been leasing four floors of the Towne House building for 10 or 15 years. Well, almost its entire existence has been in the Towne House. When it needed additional space, when it needed to expand to take care of some of the space, we were leasing space across the river in the James House. We went around all over the area to try to find space. The Governor suggested we stay downtown. We created an agreement with the current owner of the Towne House to build the additional space in the parking lot to the rear of the Towne House. As part of that agreement, to insure that this commitment for this space was still there and to be there for the agency to operate ad infinitum, part of the agreement was an option to purchase the Towne House at some point in time with a term of years on the end. This is the term of years. Right now it is over. We either do this or they can sell it, and we may lose space or the ability to have additional space if it is needed in the future.

As a fiscal investment, it is my opinion that this is an excellent investment for the Commonwealth of Pennsylvania, not just the agency, which is a part of the Commonwealth of Pennsylvania, but the entire Commonwealth. It is adjacent to all the State property; it is a value that would enhance the Commonwealth's real estate by \$2 million. There is a differential between the value of this property and the price that we are paying of some \$2 million because of favorable financing and so forth that is available only to the agency.

I think that it is nothing that has not been done before. The Department of Environmental Resources has an airport in central Pennsylvania that they have under their titlement and own and operate. They actually let PennDOT operate it. They have parks and things of that nature. I do not see it any different than any other agency having and holding real estate.

### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Has the gentleman concluded his interrogation?

Mr. DORR. Yes, Mr. Speaker.

I would like to make a statement, if I may.

The SPEAKER pro tempore. The gentleman is in order. The gentleman, Mr. Dorr, may proceed.

Mr. DORR. Mr. Speaker, this legislation apparently came out of committee in the Senate today.

Maybe I need further interrogation. I do not know when the bill was reported by what committee. It says "business and commerce bill," but then it says it came out of Education on September 30. Is that the House Education Committee or the Senate Education Committee?

The SPEAKER pro tempore. It is my information, Mr. Dorr, that the bill was committed today to the Education Committee, which met off the floor of the House and rereported it to the floor.

Mr. DORR. What is the prior House history, if I may?

The SPEAKER pro tempore. Reading from the House record, it appears that on April 21 it was referred to the Business and Commerce Committee; on May 28 it was reported by that committee to the floor; on May 28 it had first consideration; on June 3—this is 1986—it had second consideration; on September 30 it was committed to Education; it was rereported out of the Education Committee as amended, and it is before us now.

Mr. DORR. I thank the Speaker. I wanted to make sure it had the 3 days of consideration. It apparently has.

I would comment on the legislation, Mr. Speaker, however, that to my knowledge we have maybe two or three independent agencies that are capable of owning real estate in the Commonwealth; namely, the Game Commission and the Fish Commission. I do not know of any others.

I question the wisdom of allowing a separate agency to own real estate when it seems to me the appropriate method of doing this would be to have the General Services Department buy it in the normal course of its operations or one of the authorities purchase the building and lease it to the agency. I do not know that there is any magic in the independent agency owning the real estate, and I wonder whether the legislature really is going to have sufficient control, once the agency acquires the property, that the legislature might wish to have in the future.

I admit to raising these questions in a position where it is difficult to get answers. I apologize for that, and I am just going to make those comments and let the bill roll, I guess, because it apparently is necessary to move it before tonight. But I think there are some serious questions here that need to be answered by the members with some due consideration.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Dauphin, Mr. Wambach.

Mr. WAMBACH. Thank you, Mr. Speaker.

Mr. Speaker, I would like to interrogate the gentleman from Clarion, Mr. Wright.

The SPEAKER pro tempore. The gentleman, Mr. Wright, indicates he will stand for interrogation. The gentleman may proceed.

Mr. WAMBACH. Mr. Speaker, I am a little confused as to why this bill is being thrown before the membership under a supplemental calendar. Could you please explain—and I may have been in conversation and missed your explanation—as to what is the necessity of time-is-of-the-essence on this bill, please.

Mr. D. R. WRIGHT. What has been what, Mr. Speaker?

Mr. WAMBACH. Why is time of the essence on the bill? What deadline are we up against, et cetera?

Mr. D. R. WRIGHT. Mr. Speaker, I have at my desk, which I would be glad to share with you, a chronology of events with regard to this particular issue that goes back to July of this year. We have attempted to resolve this problem without being in a crisis atmosphere. The problem, of course, is that we have not received the kind of information—"agreement," I suppose, would be a more accurate word, from the administration until just in the last 24 hours. What we have come up against is the deadline of midnight tonight, and it makes it important for us to at least have the legal standing to do this rather than pursuing the matter in court if that should become necessary.

In that regard and also in response to the gentleman, Mr. Dorr, we have the option on the building; that is, the agency has the option. That option was approved by the Attorney General. If we do not get the building, General Services will not get the building. What we have before us is an opportunity for the agency and therefore the Commonwealth to make a prudent financial investment, and if we are not able to do that almost immediately, then it will be lost to the Commonwealth completely; therefore, the urgency of this legislation.

Mr. WAMBACH. Hence then the legislation is before us because of the deadline of an option that expires at midnight this evening?

Mr. D. R. WRIGHT. That is true.

Mr. WAMBACH. The bill as before us is really a containment of what PHEAA can do only in regard to acquiring the Towne House Apartments as real property.

Mr. D. R. WRIGHT. That is true.

Mr. WAMBACH. Does the gentleman infer by the negotiations in regards to in-lieu-of-taxes and the agreement—and the only thing I had seen previously was in the newspapers regarding an in-lieu-of-tax schedule that PHEAA had offered to the city of Harrisburg—are you saying at this point that their negotiations can in fact go on with the administration upon passage of this bill for in-lieu-of-taxes?

Mr. D. R. WRIGHT. I did not imply. I do not think I inferred. I think I did say that the agency has shown itself willing to make in-lieu-of-tax payments. The administration has said we prefer you not to enter into those kinds of agreements because it establishes a precedent that we do not think is a good thing. So the agency's point of view has simply been

then that the Governor's Office will work out the arrangements for in-lieu-of-tax payments or whatever other language may be used to describe the transfer of payments to the municipalities in this area.

Mr. WAMBACH. Thank you, Mr. Speaker, for the interrogation.

I would like to speak on the bill, Mr. Speaker.

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

Mr. WAMBACH. Thank you, Mr. Speaker.

Mr. Speaker, I am very disturbed at the fact that this bill is before us at this late date and time in regards to an agreement on an exercise of an option that is before PHEAA that expires at midnight this evening. I had in fact talked to the mayor of the city of Harrisburg no longer than 10 minutes ago, and in an explanation of the bill to him, he was aware that PHEAA was in fact going for the acquisition option in legislation for that clarifier. He also pointed out that part of what PHEAA is going to do is to consolidate their satellite offices that are currently out there, if you will, and bring more positions into the central office, into the city, to almost, I think, 150 positions that will be coming in, or close to that figure.

Obviously, my greatest concern about the legislation is in fact the in-lieu-of-tax payments that will be made to the city of Harrisburg. We in fact fight because of the special status of Harrisburg as the capital city, and this legislature has in fact been very kind, if you will, to the citizens in lieu of, for instance, the fire protection services that are provided. This year that has increased to \$400,000. It is appreciated, but it is in fact for a service that is provided. What we do not want to see, obviously, is in fact a deduction, if you will, of property taxes that not only affect the city of Harrisburg but the county of Dauphin, as well as the school district of the city. They are important; this is important to us, the money amounts that were in fact invoked in interrogation—and that is the only base I can use—\$175,000.

It is my hope, because of the need of exercising an option, because of PHEAA staying in the city of Harrisburg, because of bringing the consolidation of the satellite positions into the city of Harrisburg, it is my hope that the administration will in fact bargain in good faith and in fact consider the tax loss to the city of Harrisburg by the prudent investment, and I am using the words of Representative Wright, who is representing PHEAA in this discussion regarding their investment policy. It is because of that, Mr. Speaker, that I would obviously wish that we could postpone action on this bill. That is my first desire, and I would like to have seen that, but being the fact that it is an option that is going to be exercised this evening, PHEAA has been a good employer in the city of Harrisburg, and I in fact would not want to do anything to detain that and defer that. But I am very disturbed at the way this action has been brought about - the swift consideration, gutting a bill on an entirely different subject to come before this House. I only say that I have faith in the administration that in fact it will do well for the citizens of Harrisburg. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lancaster, Mr. Miller.

Mr. MILLER. I rise briefly, Mr. Speaker, to encourage your support for this amendment.

For those of you who recall how unique PHEAA is as our legislative education agency for higher education grants and scholarships, bear in mind that this purchase is one more step toward fiscal solvency for an agency that has traditionally lowered its administrative costs to this chamber through a combination of private and public sector partnerships, all geared toward scholarship dollars for the Pennsylvania students in higher education. Each year at the budget you see our success in providing that task at an ever-decreasing amount of dollars to our State's general treasury. In fact, we are generating revenue. By allowing us this interim flexibility and your support for SB 1346, we can continue on that mission, and I would encourage your support for this bill. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

#### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the lady from Delaware, Mrs. Durham.

Mrs. DURHAM. Mr. Speaker, I would like a ruling from the Chair as to whether or not, under rule 19, this bill needs a fiscal note.

The SPEAKER pro tempore. It is the opinion of the Chair, with respect to the question raised by the lady, that no fiscal note is necessary in that funds of the Commonwealth are not being spent but rather funds of the Higher Education Assistance Agency.

The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

Would the gentleman, Mr. Wright, yield to some interrogation, please?

The SPEAKER pro tempore. The gentleman indicates he will stand for interrogation. The gentleman, Mr. Piccola, may proceed.

Will the gentleman yield?

#### WELCOME

The SPEAKER pro tempore. The Chair takes this opportunity to welcome to the hall of the House, as the guest of the gentleman from Philadelphia, Representative Donatucci, Judge Dominic Cermele of the Philadelphia Traffic Court.

#### CONSIDERATION OF SB 1346 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I am in possession of three documents, one of which is entitled "Towne House Purchase Chronology"; one which is entitled "PHEAA should acquire the Towne House for the following reasons"; and the third is a letter from the Harrisburg law firm of Killian & Gephart dated September 23, 1986, addressed to Richard J. Enterline, Esq., Associate Deputy General Counsel. I have attempted to peruse these documents briefly, and I am not clear on a couple of things.

First of all, Mr. Speaker, you said that this option which expires at midnight tonight, could you tell us when that option was entered into by PHEAA?

Mr. D. R. WRIGHT. PHEAA has been in that building for, I guess, 10 or 12 years. I am not sure. Mr. Speaker, the answer to the question, I believe, is 10 years.

Mr. PICCOLA. The answer to the question is that PHEAA has had an option on this building for 10 years, which expires tonight? An option to purchase, Mr. Speaker?

Mr. D. R. WRIGHT. Yes. The agreement needs to be executed tonight. That is, the option needs to be taken tonight.

Mr. PICCOLA. I understand that, Mr. Speaker, but the option is a separate and distinct contract from a sales agreement, which is a definite commitment to purchase, and I am sure is not incorporated in the terms of the lease. I would like to know when PHEAA obtained the option from the current owners of the Towne House.

Mr. D. R. WRIGHT. I am not sure whether you recall, Mr. Speaker, when the agency entered into the agreement to build the building in the back a couple of years ago, and that is when the additional option was taken, which was a part of that agreement. Now, in just recent days—well, actually I could get the date for you, but it has just been in the last few weeks—the agency paid an additional \$100,000 in order to exercise that option. So we have paid to exercise that option, and if we do not take it, we would, of course, lose the \$100,000.

Mr. PICCOLA. Now, Mr. Speaker, what are the terms of the option other than the fact that it expires this evening? For example, what is the sales price agreed upon under the option?

Mr. D. R. WRIGHT. Mr. Speaker, there may be those who wish to go into this kind of minute discussion. The sales agreement itself is still, strangely enough, being worked out. It is in the neighborhood of \$9 million, but I cannot give you and would not presume to give you all of the specifications of that sales agreement. That could be made available to you, but I do not have that information available to you this afternoon.

Mr. PICCOLA. But could you tell us who is preparing this sales agreement?

Mr. D. R. WRIGHT. Killian & Gephart.

Mr. PICCOLA. And they are counsel for PHEAA?

Mr. D. R. WRIGHT. For PHEAA.

Mr. PICCOLA. Now, you made reference earlier that the Department of General Services would acquire this building. That was incorrect, was it not, Mr. Speaker?

Mr. D. R. WRIGHT. I never said General Services would acquire the building.

Mr. PICCOLA. Well, I believe what you said was that if we do not exercise this option, General Services and PHEAA will not be able to acquire this building and the Commonwealth will lose what you termed as a "good investment." It is not accurate that General Services has any control whatsoever over this building.

Mr. D. R. WRIGHT. I have never said that General Services had any control over it. I have never said that General Services would exercise an option. I have said that General Services would not be permitted to exercise the option and that if PHEAA does not exercise the option, then it will be lost to the Commonwealth. That, Mr. Speaker, is what I said.

Mr. PICCOLA. So then it is accurate that the Department of General Services has nothing to do with this option or this sale.

Mr. D. R. WRIGHT. That is correct.

Mr. PICCOLA. Okay.

Mr. D. R. WRIGHT. Except as they have been engaged in discussions about how to arrange this in the most efficacious way for the Commonwealth.

Mr. PICCOLA. Does the option include the agreement which was alluded to for the payment of in-lieu-of-taxes to the city of Harrisburg?

Mr. D. R. WRIGHT. The option does not include that.

Mr. PICCOLA. Does PHEAA own any other real estate in the Commonwealth or anywhere?

Mr. D. R. WRIGHT. Does PHEAA own any real estate? No.

Mr. PICCOLA. Okay.

Now, in the letter that is dated—

Mr. D. R. WRIGHT. We have leases with options to purchase but have not exercised those.

Mr. PICCOLA. And am I accurate in stating, Mr. Speaker, that the reason for this legislation is because there is no power within that agency to acquire real estate?

Mr. D. R. WRIGHT. There is a question about that. The Attorney General has approved the lease agreements that have the option in them, and it would seem unlikely that the Attorney General would approve a contract that had options in it if there was not the authority of the agency to take that option. The Governor's Office, however, has raised a question about it, and so in order to accommodate their concerns, we have presented this legislation for you today.

Mr. PICCOLA. Mr. Speaker, do you know whether it would be possible, if this option expires without this legislation passing today, whether or not PHEAA could negotiate another option on the building?

Mr. D. R. WRIGHT. Who is to say whether or not they could. I think it is perhaps unlikely that they could, for reasons I would be glad to discuss with you at some point. We are getting— The agency, I should say, the Commonwealth through the agency, is getting an exceptionally attractive financing package on this building, and I think that it would be likely that there might be others who would be interested in this building if we do not exercise the option.

Mr. PICCOLA. Mr. Speaker, could PHEAA assign its option to the Department of General Services under the terms and conditions of the option?

Mr. D. R. WRIGHT. No; we could not. The answer is no.

Mr. PICCOLA. Do you have a copy of the option here on the floor today, Mr. Speaker?

Mr. D. R. WRIGHT. No; I do not.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would like to just speak briefly on the bill.

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

#### CONSIDERATION OF SB 1346 CONTINUED

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

Mr. PICCOLA. Like my colleague, Mr. Wambach, from the city of Harrisburg, I am quite concerned about this proposal. I am particularly concerned in the manner in which it was brought up today at apparently the eleventh hour, almost literally the eleventh hour, without any consultation with the Representative from the city of Harrisburg as to what impact it will have on this city's tax base and telling this General Assembly that we have to act today or, theoretically, we are going to lose this investment.

I have a lot of unanswered questions, Mr. Speaker. I am going to vote in the negative. I am not going to urge my colleagues to vote one way or the other, but I think there are a large number of unanswered questions, particularly concerning the fact that this is an agency that has not heretofore acquired property. There is a question as to whether or not they have the power to acquire property. The mere fact of bringing this question here before the House at the eleventh hour does not answer that question and what the impact will be on the city of Harrisburg and the other taxing authorities of Dauphin County.

I would like to urge that the members consider this question very carefully. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair wishes to thank its friend, the gentleman, Mr. Ryan, for presiding temporarily over the floor of the House and giving the Chair a break, which was desperately needed.

The Chair recognizes the gentleman from Allegheny, Mr. Cowell, on the question.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I would urge that we approve this legislation as it is currently before us, and I would like to quickly respond to a couple of points, legitimate questions that have been raised.

One, I would emphasize at the outset there has been no question raised about the financial good sense of this purchase. The issue has been around for a couple of months now, and the Governor has been involved, the Attorney General has been involved. I understand that legislative leaders, House and Senate, have been consulted, have been informed of the

general parameters of this opportunity. Nobody has questioned whether it financially makes good sense or not, and the numbers are pretty simple. The details are still being worked out, but you have property that is generally appraised at about \$11 million and we have an option to buy it at about \$9 million. Nobody else has that kind of opportunity - General Services; nobody else.

We have a situation where PHEAA pays rent there right now, and if we do not become the owner, the likelihood is that our rents will go up substantially. Because PHEAA traditionally has remained committed to a downtown Harrisburg location and wants to stay there, the likelihood is that we are going to be stuck paying whatever rents the owner wants to charge there because we do not want to be moving to the suburbs. It is important that jobs stay here in Harrisburg. The rents are likely to very substantially increase in a not too distant future if we do not acquire the building, because it is worth a lot more, and it will have a lot more worth than we are currently paying for in terms of our rents.

I also have to remind you that PHEAA has a track record of not coming back to this General Assembly for very much money for operating expenses. We debate about money for grants, but that is a separate issue in no way touched by this. PHEAA currently gets \$50,000 from State Government, from this General Assembly, for an operating budget that is in excess of \$30 million. We are able to do that because it has been well managed, because there have been income-producing opportunities. But we have basically been selling services around this country so that taxpayers in Pennsylvania do not have to pay the bill. Somebody in some other State, in fact, is subsidizing the operation.

This deal, if you will, this opportunity, is very consistent with that philosophy. PHEAA is not going to have to come back to this legislature to finance this purchase. The likelihood of PHEAA having to come back to this General Assembly for additional rental costs is more likely though if in fact we do not own the building in the very near future. So it makes good sense for us to own it. It will help save money on rents, and in terms of the real worth of the building, it is a good deal again.

I also have to emphasize that the reason we are here at the last minute is because there already is language in the law that says that PHEAA has the power to acquire property. However, some lawyers are debating what that really means. To a lot of us it is pretty explicit; it says you can acquire property and you can own it. But to satisfy some of the lawyers, this legislation has been drafted at the last minute to make sure that there are no kinks in exercising this option. That is why folks are here at the very last minute.

And finally, I would have to remind you that we are not talking about giving authority to some other agency out there over which we have no control. Sixteen of the 20 members of the PHEAA board of directors are legislators, 8 of them from this House - 4 Republicans and 4 Democrats. If there is any question about accountability, if there is any question about continuing control, I think that accountability and that con-



tinuing control on the part of this legislature is guaranteed by the very makeup of the PHEAA board of directors. It is a good bill, and ultimately the members of that board are accountable to their colleagues in this General Assembly, House and Senate, and so it makes sense that we go ahead and approve this legislation today. Thank you.

The SPEAKER. The Chair thanks the gentleman.

Now, for the second time on the question, the Chair recognizes the gentleman from Dauphin, Mr. Wambach.

Mr. WAMBACH. Thank you, Mr. Speaker.

Mr. Speaker, in listening to the interrogations, I am really at a loss for words, quite frankly, on why this bill is here, until Representative Cowell got up just now and said it is a disagreement among lawyers - a disagreement among lawyers. I do not buy that, Mr. Speaker. I say if in fact the lawyers for PHEAA say it is okay to acquire, then go ahead and acquire and meet your deadline tonight. If that is not the case, you can go to court. That is why we have the judicial process, but to stand here and say let us vote on something that would affect your district in lieu of taxes to be wiped off the rolls, every one of you, if you had this situation like I have here, would be up at the mike pleading for a "no" vote. I am appalled by the fact that because of a disagreement of lawyers on an explanation to exercise an option that in one case says that PHEAA does have an option to acquire and in another case you said, well, that is okay, but let us make it explicit, I do not buy that, Mr. Speaker - not at the eleventh hour, not under this tactic on a bill that was originally intended for laundry carts and dairy cases and egg baskets for identification. I say I do not think that is the correct way on moving legislation through this General Assembly.

I ask each and every one of you here, members of this Assembly, join with me in voting "no" on this bill. Let us sit down; let us hear the facts on it; let us talk about what we are talking about in regard to what the option is all about. If there is a problem among lawyers, let the lawyers settle it, but if in fact you feel you have the law on your side, PHEAA, you can take the eight members of the PHEAA board who are members of this House and vote for this. But I say, no; let us not do that; let us say that we are not content here as members of the General Assembly to have something thrown at us at the eleventh hour to say vote "yes" so we can in fact do this or do that. This does not negate the fact that you can sit down and negotiate another option. You know, I am really at a loss here as to why this action has come into being because of a disagreement among lawyers.

Mr. Speaker, let us sit down as intelligent men and women and discuss this matter so we know where everything lies before we are asked to swallow it. It is a bitter pill for Harrisburg; it is a bitter pill for the capital city; it would be a bitter pill for your district as well, Mr. Speaker, and I am asking you to join me in voting against this bill at this time. Thank you.

The SPEAKER. The gentleman from Bucks, Mr. Wright, is recognized for the first time.

Mr. J. L. WRIGHT. May I interrogate the younger Representative Wright?

Earlier you discussed taxes to the city of Harrisburg, or payment in lieu of taxes to the city, and I think suggested that the Governor's Office preferred not to have language in this piece of legislation. Now, it is my understanding that PHEAA is a legislative agency; in effect, an agency independent of the executive branch. Can you explain to me the legal niceties of the Governor's Office giving directions to us regarding one of our agencies?

Mr. D. R. WRIGHT. Mr. Speaker, that is a good question, and it is one that causes some tension from time to time within the operations of the board. We are a legislative agency, but we do from time to time need the cooperation of the administration to get some things done for the young people of this Commonwealth, and we also from time to time need his signature. It is incumbent upon us, I think, when it is possible, to be as cooperative with the administration as possible.

Mr. J. L. WRIGHT. As I understand your comments, you are being cooperative as opposed to a legal requirement. Is that correct?

Mr. D. R. WRIGHT. Yes.

Mr. J. L. WRIGHT. Thank you.

Mr. D. R. WRIGHT. Yes. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Piccola, for the second time.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would like to interrogate Mr. Cowell. He seems to be well versed in this matter.

The SPEAKER. Mr. Cowell, do you stand for interrogation? Mr. Cowell indicates that he will stand for interrogation. Mr. Piccola, you may proceed, sir.

Mr. PICCOLA. Thank you, Mr. Speaker.

You, during your portion of the debate, Mr. Speaker, indicated that this building has been appraised at \$11 million. Could you tell us who made that appraisal and when it was made and if you have a copy of that appraisal?

Mr. COWELL. Mr. Speaker, I do not have any of those details with me. I know that it was appraised at \$11 million. That was information which was shared with the PHEAA board of directors. That kind of appraisal was done in a normal, professional manner. Frankly, I have serious reservations about how wise we are to sit around debating each and every one of these numbers. If I were some private entrepreneur sitting out there, I would be hoping that the opponents of this bill would prevail tonight, because someone is going to make a lot of money if we fail to exercise good sense and exercise this option, but that will be up to the members of this House to decide. But I do not think that it is appropriate to get into too many of these details. I do not have the answer to that specific question with me right now.

Mr. PICCOLA. Okay. That is what I thought, Mr. Speaker.

Secondly, I believe it was said by you or another speaker that the agency currently rents three floors in that building. Is that correct?

Mr. COWELL. That is correct.

Mr. PICCOLA. What are the plans for the other floors in that building? I believe that is at least a 10- or 20-story building. I am not sure. How many stories is that building?

Mr. COWELL. I think that is about a 19- or 20-story building. There are no current plans to occupy any additional floors or to in any way disrupt current tenants, and I understand that information has already been shared with tenants there, at least those who have inquired.

Mr. PICCOLA. So what you are telling us then, Mr. Speaker, is that an agency of State Government is about to become the landlord for private residential dwellings. Is that accurate, Mr. Speaker?

Mr. COWELL. It is my understanding that for the time being the agency would intend to employ a professional manager who in fact would be responsible for the residential portions of that building.

The interests of the agency and certainly the interests of those legislators with whom I have spoken, who serve on the board, is in insuring access at a reasonable rate to those floors which we already occupy and which we will have to occupy somewhere, because we need the space.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would like to make a comment.

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

Mr. PICCOLA. I would like to change my earlier remarks and urge a negative vote on this bill, Mr. Speaker.

I am not aware of any other example of a State agency owning real estate and being in the position of being a private landlord, in essence, for a private residential dwelling. They occupy 3 floors, and they are planning to lease out the other 15 or 16 to the current tenants and future tenants. I do not think that is a good precedent for State Government to get into.

Nobody has any information on this project. Mr. Cowell has no information on the details of the option, the appraisal. The contract has not even been negotiated yet, but we are here being told that we have to pass this thing by midnight. Nobody in Harrisburg, apparently, has been told anything about it. We do not know what the impact is on the city of Harrisburg, the school district of Harrisburg, and the county of Dauphin. Mr. Speaker, this is highly irregular, and I urge a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Miller.

Mr. MILLER. Thank you, Mr. Speaker.

I know this has been a long, protracted debate, and I would like to try and soothe what are apparent wounds of my good colleagues from Dauphin County on both sides of the aisle.

PHEAA is a growing agency. It subcontracts outside business so that it can generate dollars to maintain your scholarship program without this General Assembly putting tax dollars in. That growth means space. It means servicing those contracts.

A number of years ago we sat down with these two gentlemen from Dauphin County on the same issues. We were about to not only move outside Harrisburg but indeed leave the county and go to the West Shore. We were able to negotiate space in back of the current building so that we could in turn construct and begin to solve some of our space problem. At that time there was great relief among the Dauphin County delegation, and PHEAA maintained its commitment to build there, but part of that commitment was the recognition that additional space would be in order.

Currently PHEAA has a major facility across the river because our need for additional space is diminished. Mr. Wambach and Mr. Piccola, I offer you this simple challenge: Cost out your wage tax increases that you are losing to Cumberland County now; cost out your nuisance taxes that you are losing to Cumberland County now, and look at the deal you have over here, if PHEAA buys, for your municipal coffer purposes. It is a fair and reasonable arrangement. I encourage you to see the forest without getting blurred by the trees of losing a few dollars when there is a potential to grow. PHEAA now occupies four floors. It is PHEAA's long-range intent to occupy nearly that entire building by bringing people who pay taxes under your nuisance tax structure and wage tax structure across the river back into Harrisburg, and that is a clear commitment of this agency that it has maintained its stewardship since those early days with you gentlemen in regard to remaining in Harrisburg.

I admit, there may be some questions on the details of the agreement, as Mr. Piccola says, but I would encourage you to look at only our James facility across the river and look at the number of employees over there who are ready to come back across the river when we are able to move into our long-range plan. It will more than make up for your loss in nuisance tax, property tax, and wage tax.

I would encourage you to look at the numbers in this plan and be a little more affable with respect to future stewardship on the commitment that we made to you folks to stay in the city of Harrisburg.

I would encourage an affirmative vote on this bill.

The SPEAKER. The Chair recognizes the lady from Chester, Mrs. Taylor, for the first time on the bill.

Mrs. TAYLOR. Mr. Speaker, we seem to be centering on the issue of in-lieu-of-taxes. This, of course, is paramount to those who are serving in this district. However, I urge the rest of the Representatives to remember that PHEAA is the one that is seeing that your students are receiving those grants and those scholarships that enable them to go to the institutions of higher learning in this State and outside this State.

All of you receive from PHEAA on a regular basis a very long list of students who are benefiting from this scholarship grant program, SEA (Scholars in Education Award) Program, and the many other programs that PHEAA offers. I suggest to you that the issue here today is one that must be resolved because of the imminent purchase of this building, but the long-range effect will be to those students in your districts who wish to go to college, who have been served well by this agency.

PHEAA is not only an agency that serves this State but is an agency that has been looked upon as a model nationally. I urge you, when you consider your vote, think of whether or not you are ready to vote in the next budget those moneys that will sustain a program that will effectively permit your students to receive these grants and loans and a continuation of the program.

I urge my colleagues to cast an affirmative vote on this legislation.

The SPEAKER. The Chair recognizes the gentleman from Cambria, Mr. Haluska, for the first time.

Mr. HALUSKA. Mr. Speaker, I would like to ask Mr. Wright a few questions, please.

The SPEAKER. The gentleman, Mr. Wright, indicates he will stand for further interrogation. You may proceed.

Mr. HALUSKA. Mr. Speaker, did you say that this building was appraised at \$11 million?

Mr. D. R. WRIGHT. Mr. Cowell said that, and I concur.

Mr. HALUSKA. And the price is supposed to be \$9 million?

Mr. D. R. WRIGHT. Yes.

Mr. HALUSKA. Has there been any physical inspection made of the building?

Mr. D. R. WRIGHT. Yes.

Mr. HALUSKA. Could you tell me how old the building is currently?

Mr. D. R. WRIGHT. The building is, I believe, about 20 years old.

Mr. HALUSKA. Has there been any appraisal made of what the conditions are in the building as far as the roof? When was the last roof placed on that building? When was the last wiring done? When was the last plumbing done? When was the last air conditioning done? You are talking about getting a buy. When you are buying an old building like this, you certainly can buy a pig in a poke, and I think it is something that should be looked into.

Mr. D. R. WRIGHT. Well, I agree, and I am glad to be able to tell you, Mr. Speaker, that it has been. There has been a thorough investigation made of the mechanicals in the building, and they are pronounced sound. Now, Mr. Wilson has a good deal more experience in that area, and I would like to yield to him for his expertise in response to your question.

Mr. WILSON. Mr. Speaker, in answer to the gentleman's question, this facility was appraised on two occasions by the gentleman, Mr. McGraw, a certified MAI, (Member of Appraisal Institute) an expert in the real estate appraisal field. I personally went over the appraisal. I taught appraisal, for anybody's information. It was an excellent report, and I asked the same questions the gentleman asked, and I think those of us on the board asked the same questions as to what we were purchasing, what was the revenue generated flow and so forth, and where would we be in the financing of this building. I think the report was an excellent one. It is available; I have it in my office, if the gentleman would like to see it later.

Mr. HALUSKA. Mr. Speaker, I would like to make a few remarks, please.

The SPEAKER. The gentleman from Cambria, Mr. Haluska, has the floor and may make his remarks on the issue.

Mr. HALUSKA. It seems very odd that we, as a State institution, require our high schools to have a long-range plan for any building construction, and why do we now turn around and we have agencies that are affiliated with the Commonwealth that have to come before us on situations like this and demand that we have immediate action without any preemption of what is taking place or what the whole problem might be about? I think that this is something that this legislature should not do, because oftentimes we buy a pig in a poke and many of these things turn out to be very poor investments.

I think that this thing should be planned. I think it should be determined whether or not the long-range plans call for better facilities than what are available at that particular point and not take immediate action on the subject matter that we have little knowledge about.

I thank you.

The SPEAKER. For the first time, the Chair recognizes the gentleman from Delaware, Mr. Freind, on the issue.

Mr. FREIND. Thank you, Mr. Speaker.

As a board member of PHEAA and as a legislator, I rise to strongly support the passage of this legislation.

You know, we have talked a lot about dollars and buildings and things like that, but I think it is important to remember what PHEAA's job is. PHEAA's job is to help our constituents, our students, obtain higher education. No agency in the country does it as well as PHEAA. PHEAA is acknowledged as the very best in the United States. Through shrewd business practices, PHEAA makes enough money—it is a State agency that makes money—that virtually all of the overhead for the operation of PHEAA to help our students is paid for by the money they raise, which means that the money we appropriate goes directly to the product; that is, to the students.

You also know, if you have ever dealt with PHEAA, that it is the most responsive agency in the State. Anytime you have a constituent problem, you call that number and you have an answer right away.

Once again, PHEAA has analyzed this to be a good business move. We were briefed on it and we were advised that if in fact we do not do this, the cost down the road in the next 2 or 3 years in increased rent is going to be astronomical, which means that some of the money which we appropriate in the legislature to PHEAA will not be going to the students; it will be going to the plant.

PHEAA, in my opinion, is the best of the best. It helps our students; it is a national leader. This legislation is needed, and I sincerely hope that we support it. Thank you, Mr. Speaker.

The SPEAKER. For the first time, the Chair recognizes the gentleman from Cumberland, Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Speaker.

I can empathize with Mr. Wambach and Mr. Piccola on the issue of lost revenue to the city, but I feel that I have watched the growth of PHEAA, both from outside this legislature and within, over the past 20 years. I think what we are looking at

here is something that probably goes against our grain when we think of an arm of State Government becoming possibly a landlord in the private sector. It goes against mine in every occasion except on this one, and there is one point I would like to make and make as clear as I possibly can: it is management.

The legislation that was derived here many years ago that created PHEAA, some of the members who were here and voted for or against it are still here. Then a little bit later on there was a long and hard debate on who would manage PHEAA, and I was quite privy to that at the time and even more so later on. But that was a long, heated debate, and the person they selected to lead that agency is still leading it, and anyone who would sit in this Assembly and question the mathematics or the purpose or the guidance of that agency, when it has been led by the best in the country and guided by a very strong board, of which eight members sit in this House, has to be just a little bit crazy.

There are two issues here - one is the loss of revenue to the city of Harrisburg; the second is the prudent management of a State agency that is run like a business, turns a profit, and each year comes here for less and less. Do we want to disrupt an agency that is a credit to this Commonwealth of Pennsylvania? I do not, but I can assure you that every realtor on the West Shore where I represent, I am sure, is sharpening their claws tonight hoping that this lease option is not exercised by midnight.

I, for one, am for PHEAA buying this. I, for one, applaud the members of this House who serve on that board, and I am also here to applaud the man and staff who have directed this agency.

I urge a positive vote. Thank you.

The SPEAKER. For the first time, the Chair recognizes the gentleman from Philadelphia, Mr. Fattah.

Mr. FATTAH. Mr. Speaker, I stand in support of this bill, and the reason I do so is that the members of the PHEAA board, 16 of which are legislators, 8 of which sit in this chamber, have unanimously asked us to consider this bill favorably.

This deal that is being offered to this agency, from the information that has been provided to the House Education Committee, seems to be a very good one. I believe that we should support this bill. I believe that we should support our colleagues who serve on this board of PHEAA. PHEAA is, as Representative Kennedy just stated, one of the gems of the State Government in terms of its operation and efficiency, and I think that we should, before we move away from a deal like this, give them a chance to show that they can own and operate this building in an efficient manner.

Thank you very much, Mr. Speaker.

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

Mr. DORR. Mr. Speaker, I just wanted to clear one thing up.

In prior conversation I was somewhat reluctant to criticize the procedure, because I noticed in the History that this bill

came out of the Business and Commerce Committee. Frankly, at the time I did not remember the bill at all. Now I discover the reason for that. This bill came out of Business and Commerce in completely different context last spring; it lay on the calendar, in the Rules Committee or Appropriations or wherever until today, I believe; it was rereferred to Education today; the bill was stripped, this language placed in the bill, and it was reported back to the floor on third consideration.

Now, that happens all the time around here, Mr. Speaker, and in budget season we are used to it. Those of us who have been here awhile understand how that has to happen. Frankly, I do not know why it has to happen on this kind of a bill where it was known, apparently, for some months now that the issue was before us.

To my knowledge, it has never been discussed in caucus, never been discussed in detail in any of the legislative committees, and here we are faced with this issue on the floor. Frankly, I am sorry I asked the question originally, having engendered all this debate, because none of us want to be standing here debating it, but I think the issue deserves some debate, deserves some consideration by the members of the House, and probably deserved it in the last month or so.

Mr. Speaker, another thing bothers me about this bill. We have an investigation currently being conducted under the leadership of Representative Cappabianca concerning how we can get government out of competition with the private sector. We are now in the business today of authorizing the purchase of a private sector building by government under conditions where, frankly, I am not at all sure that we need the space. We have a structure being constructed behind us here which apparently, to my knowledge, would free up two or three floors of the South Office Building within the next, I do not know, 10 or 12 or 20 years, whenever that building is finished in back of the Capitol, and it seems to me that there is a lot of other free space around. I do not know whether anybody has looked at that situation or not, but I wonder whether they have, and I do not want to engender another 2 hours of debate over that. I think we have all probably made up our minds, but I really object to there having been no discussion of this issue and having raised this kind of question on the floor of the House attempting to pass legislation of this nature within a 30-minute time span.

The SPEAKER. For the second time on the issue, the Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, in response to interrogation earlier, I know I said and I think another Representative indicated that we were not able to share specifics about the option agreement this evening. I do not want to leave anybody with the impression that the PHEAA board of directors has not carefully studied the issue or has not been fully apprised of the particulars as they have developed during the past several weeks.

We do not have a copy of the option agreement before us this evening. Frankly, I do not think that we ought to be debating the specifics of the option agreement in this chamber this evening. The real issue is whether this General Assembly

wants to give to the PHEAA board of directors - 16 of your colleagues among those 20 directors - the authority to acquire a piece of property that will primarily be used for the agency and will help insure the financial viability of the agency and help insure that the agency does not have to come back here to the General Assembly seeking larger and larger appropriations to help pay higher and higher rent bills in the future.

If you believe that the board of directors has acted responsibly in the past—and I remind you that that is a \$35-million operation run with a \$50,000 annual State appropriation—then you want to give to that board the authority, the discretion, to make a judgment about this opportunity and to work out the details. That is what this legislation really calls for - general authority to 16 of your colleagues to work on the details if you believe it is proper and fiscally prudent for this agency to own a piece of property in Harrisburg primarily for the purposes of the agency.

Again I urge that we approve the legislation.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Speaker, very briefly, I am going to support the legislation, as I have in the past supported PHEAA's position on a number of issues to come before the House. I would only hope, Mr. Speaker, that the leadership would give the same consideration to school districts that are faced with bankruptcy across the State and need help somewhere before the end of this year, and give it the same kind of priority we have given PHEAA. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Wilson.

Mr. WILSON. Mr. Speaker, just a few words of explanation on this particular proposal.

I can understand, perhaps, the gentleman from York's concern out of the last-minute effort here to pass this legislation. I had that same concern back in June when we had a bunch of votes going through here amounting to \$11 billion and nobody seemed to care. This particular language, I must point out to you, is restrictive language to the agency of PHEAA. It is PHEAA's counsel's belief that they could go out and buy any property that they wished to buy, but perhaps as pacification, perhaps as an agreement, perhaps as trying to appease everybody in the act, this legislation was prepared to pacify the front office so that this is the only property that PHEAA can buy. This is the only property that they can enter into an agreement with, and it is an attempt by the board to satisfy everybody. We believe on the board we could have gone ahead and done it without all of this rigmarole and all these hours tonight.

I would urge you to support this legislation which in fact is restrictive on the agency and will allow them to proceed with the good work that they have been doing. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Clarion, Mr. David Wright, to conclude the argument.

Mr. D. R. WRIGHT. Mr. Speaker, I feel compelled just to say one or two words in addition.

Do you have any idea how much—

Mr. WAMBACH. Mr. Speaker?

The SPEAKER. Why do you rise, Mr. Wambach?

Mr. WAMBACH. Mr. Speaker, is the gentleman permitted to speak one time under Speaker Ryan and one time under Speaker Irvis and another time under Speaker Irvis?

The SPEAKER. No. The gentleman, as far as the Speaker was informed, was standing at the microphone answering questions under interrogation, but he has had no opportunity to make his own statement. Is that inaccurate, Mr. Wright, or accurate?

Mr. D. R. WRIGHT. That is accurate.

The SPEAKER. That is the reason the Speaker has recognized him. The Speaker does not count interrogation, which is a matter of courtesy between two members, against the person being interrogated.

Mr. WAMBACH. I understand that, Mr. Speaker. I had thought that the gentleman had already spoken twice on the issue.

The SPEAKER. No; he has not.

Mr. WAMBACH. Thank you, Mr. Speaker.

The SPEAKER. Mr. David Wright.

Mr. D. R. WRIGHT. I would have hoped that the gentleman would permit me to speak even though I had spoken twice.

I think it is important to note that this Commonwealth spends \$50,000 a year for the entire PHEAA operation. I do not know how much longer we can do that, to tell you the truth, but \$50,000 is what it costs this Commonwealth to operate PHEAA.

I want to say a second thing, that PHEAA has been so sensitive to the concerns of legislators in this area that for a number of years we were paralyzed in finding a suitable house. We are here tonight because we have attempted to accommodate these persons over a period of time.

And thirdly, I would just like to say that if having this facility that accommodates 1,200 employees is so onerous, in Clarion County we will give you the land, help you to locate a building, and not worry a thing about taxes. We would love to have this up in Clarion. I hope you appreciate it in Dauphin.

On the question recurring,

Shall the bill pass finally?

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

YEAS—174

Acosta	Dombrowski	Laughlin	Roebuck
Angstadt	Donatucci	Lescovitz	Rudy
Argall	Duffy	Letterman	Ryan
Arty	Durham	Levdansky	Rybak
Baldwin	Evans	Linton	Saloom
Barber	Fattah	Livengood	Saurman
Barley	Fee	Lucyk	Scheetz
Battisto	Fischer	McCall	Schuler
Belfanti	Flick	McClatchy	Semmel
Birmelin	Foster	McHale	Serafini
Black	Fox	McVerry	Seventy
Book	Freind	Mackowski	Showers
Bowser	Gallagher	Maiale	Smith, B.
Boyes	Gallen	Manderino	Smith, L. E.
Brandt	Gamble	Markosek	Snyder, D. W.

Broujos	Gannon	Mayernik	Snyder, G.
Bunt	Geist	Merry	Staback
Burd	George	Michlovic	Stairs
Burns	Godshall	Micozzie	Steighner
Bush	Greenwood	Miller	Stevens
Caltagirone	Gruitza	Moehlmann	Stewart
Carlson	Gruppo	Morris	Stuban
Cawley	Hagarty	Mowery	Sweet
Cessar	Haluska	Mrkonic	Swift
Chadwick	Harper	Murphy	Taylor, E. Z.
Cimini	Hasay	Nahill	Taylor, J.
Civera	Hayes	O'Brien	Telek
Clark	Herman	O'Donnell	Tigue
Clymer	Hershey	Olasz	Trello
Cohen	Honaman	Oliver	Van Horne
Colafella	Howlett	Perzel	Veon
Cole	Hutchinson	Petrarca	Vroon
Cornell	Itkin	Petrone	Wass
Coslett	Jackson	Phillips	Weston
Cowell	Jarolin	Pistella	Wiggins
Coy	Johnson	Pitts	Wilson
Deluca	Josephs	Pott	Wogan
DeVerter	Kasunic	Preston	Wozniak
DeWeese	Kennedy	Raymond	Wright, D. R.
Daley	Kenney	Reber	Wright, J. L.
Davies	Kosinski	Reinard	Wright, R. C.
Dawida	Kukovich	Richardson	
Deal	Langtry	Rieger	Irvis,
Distler	Lashingner	Robbins	Speaker

**NAYS—23**

Afflerbach	Dietz	Gladeck	Punt
Belardi	Dininni	Lloyd	Sirianni
Blaum	Dorr	Manmiller	Truman
Bortner	Fargo	Noye	Wambach
Bowley	Freeman	Piccola	Yandrisevits
Cappabianca	Fryer	Pressmann	

**NOT VOTING—2**

Carn Cordisco

**EXCUSED—2**

Pievsky Taylor, F.

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

**CONSIDERATION OF SB 483 CONTINUED**

On the question recurring,

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

The SPEAKER. Mr. Ryan, I think the Chair can anticipate your question. The majority leader has promised that Mr. McHale would have a chance to reconsider one amendment, and when we are through with that, we will be through.

Mr. RYAN. It is my understanding we are going to reconsider it and then lay it on the desk until tomorrow, or vote it?

The SPEAKER. I do not know that, whether or not it will be voted.

Mr. LETTERMAN. Mr. Speaker?

The SPEAKER. If we start debating about what we are going to debate about, we will be here longer. If you let us go, we may be able to get you out of here.

On the question recurring,

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

**AMENDMENT A4565 RECONSIDERED**

The SPEAKER. The gentleman, Mr. McHale, has laid upon the desk of the Speaker the following motion of reconsideration: He moves that the vote by which amendment 4565 to SB 483 was defeated on this the 29th day of September be reconsidered.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—180**

Acosta	Distler	Lescovitz	Roebuck
Afflerbach	Dombrowski	Letterman	Rudy
Argall	Donatucci	Levdansky	Ryan
Arty	Dorr	Linton	Rybak
Baldwin	Duffy	Livengood	Saloom
Barber	Durham	Lloyd	Saurman
Battisto	Evans	Lucyk	Scheetz
Belardi	Fargo	McCall	Schuler
Belfanti	Fattah	McClatchy	Semmel
Birmelin	Fee	McHale	Serafini
Black	Fischer	McVerry	Seventy
Blaum	Flick	Mackowski	Showers
Bortner	Foster	Maiale	Sirianni
Bowley	Fox	Manderino	Smith, B.
Bowser	Freeman	Manmiller	Snyder, D. R.
Boyes	Freind	Markosek	Snyder, G.
Brandt	Fryer	Mayernik	Staback
Broujos	Gallagher	Merry	Stairs
Burd	Gamble	Michlovic	Steighner
Burns	Gannon	Micozzie	Stevens
Bush	George	Moehlmann	Stewart
Caltagirone	Godshall	Morris	Stuban
Cappabianca	Greenwood	Mrkonic	Sweet
Carlson	Gruitza	Murphy	Swift
Cawley	Gruppo	Noye	Taylor, E. Z.
Cessar	Haluska	O'Brien	Taylor, J.
Chadwick	Harper	O'Donnell	Telek
Cimini	Hasay	Olasz	Tigue
Civera	Hayes	Oliver	Trello
Clark	Herman	Perzel	Van Horne
Clymer	Hershey	Petrarca	Veon
Cohen	Honaman	Petrone	Wambach
Colafella	Howlett	Phillips	Wass
Cole	Hutchinson	Piccola	Weston
Cordisco	Itkin	Pistella	Wiggins
Coslett	Jarolin	Pitts	Wilson
Cowell	Johnson	Pott	Wogan
Coy	Josephs	Pressmann	Wozniak
Deluca	Kasunic	Preston	Wright, D. R.
DeVerter	Kennedy	Raymond	Wright, J. L.
DeWeese	Kenney	Reber	Wright, R. C.
Daley	Kosinski	Reinard	Yandrisevits
Davies	Kukovich	Richardson	
Dawida	Langtry	Rieger	Irvis,
Deal	Lashingner	Robbins	Speaker
Dininni	Laughlin		

## NAYS—16

Angstadt	Cornell	Hagarty	Nahill
Barley	Dietz	Jackson	Punt
Book	Geist	Miller	Truman
Bunt	Gladeck	Mowery	Vroon

## NOT VOTING—3

Carn	Gallen	Smith, L. E.
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## EXCUSED—2

Pievsky	Taylor, F.
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The question was determined in the affirmative, and the motion was agreed to.

On the question recurring,

Will the House agree to the amendment?

The clerk read the following amendment No. A4565:

Amend Sec. 1 (Sec. 4581), page 3, line 25, by striking out “\$5” and inserting  
\$15

On the question recurring,

Will the House agree to the amendment?

## BILL AND AMENDMENT PASSED OVER

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Lehigh, Mr. McHale, briefly, please.

Mr. McHALE. Mr. Speaker, I believe this could be run very promptly, but as a courtesy to the minority leader, who has indicated strong opposition to running it this evening, I am willing to hold it over until tomorrow.

The SPEAKER. The amendment will be passed over.

Mr. Majority Leader, what is your wish?

Mr. MANDERINO. Mr. Speaker, that is satisfactory.

The SPEAKER. All right.

## CONSUMER AFFAIRS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Speaker, my announcement is for the 6 o'clock meeting of the Consumer Affairs Committee, which is being held now.

The SPEAKER. Consumer Affairs meeting being held at the moment, majority caucus room. Consumer Affairs meeting immediately.

## REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Jarolin. Why do you rise?

Mr. JAROLIN. Mr. Speaker, I missed the vote on SB 1389. I would appreciate it if you would put it in as an affirmative vote.

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

The Chair recognizes the gentleman from Lackawanna, Mr. Staback.

Mr. STABACK. Mr. Speaker, on SB 483, amendment 4012, I was out of my seat when the vote was cast. Had I voted on it, it would have been in the negative.

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

## SENATE MESSAGE

SENATE ADOPTS REPORT OF  
COMMITTEE OF CONFERENCE

The clerk of the Senate, being introduced, informed that the Senate has adopted the Report of the Committee of Conference on the subject of the differences existing between the two Houses on **HB 2515, PN 4013**.

## BILLS SIGNED BY SPEAKER

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

**HB 2515, PN 4013**

An Act making appropriations to the Thomas Jefferson University, Philadelphia, Pennsylvania.

**SB 1649, PN 2424**

An Act appropriating money from the Sunny Day Fund to the Department of Commerce of the fiscal year 1986-1987.

## BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

## ADJOURNMENT

The SPEAKER. The Chair recognizes the gentleman from Elk, Mr. Distler.

Mr. DISTLER. Mr. Speaker, I move that this House do now adjourn until Wednesday, October 1, 1986, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 6:14 p.m., e.d.t., the House adjourned.