

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, MAY 7, 1980

Session of 1980

164th of the General Assembly

No. 33

HOUSE OF REPRESENTATIVES

The House convened at 12 m., e.d.t.

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

PRAYER

THE HONORABLE MERLE H. PHILLIPS, member of the House of Representatives and guest chaplain, offered the following prayer:

Let us pray:

Our Heavenly Father, again we ask for Your guidance and directions in the things we do and say this day.

We are grateful that in Your plan You have let us live in this great nation and this great state.

We thank You for who You are and what You do for us each and every day and for Your many blessings. So often we forget to give thanks and we take these things for granted, and we would ask that You would forgive us when we do this.

We thank You for the members of this legislative body who give themselves to make this a better place to live. May we be aware of the needs of all the people that we serve.

Again, we would ask that You would watch over us this day, in Your name, we pray. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal for Tuesday, May 6, 1980, will be postponed until printed.

BILL SIGNED BY SPEAKER

The following bill, having been prepared for presentation to the Governor, was signed by the Speaker:

SB 1233, PN 1635

An Act providing for the regulation of structure setbacks in bluff recession hazard areas throughout the Commonwealth to limit property damage and shoreline erosion recession, imposing duties and conferring powers on the Department of Environmental Resources and municipalities, providing for penalties and enforcement.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2513 By Representative POTT.

An Act amending "The Institutional Assistance Grants Act," approved July 28, 1974 (P. L. 483, No. 174), further defining "eligible institution."

Referred to Committee on APPROPRIATIONS, May 7, 1980.

No. 2514 By Representatives POTT AND KUKOVICH.

An Act amending the "Pennsylvania Election Code," approved June 3, 1937 (P. L. 1333, No. 320), eliminating straight party voting.

Referred to Committee on STATE GOVERNMENT, May 7, 1980.

No. 2515 By Representatives POTT AND KUKOVICH.

An Act amending the "Pennsylvania Election Code," approved June 3, 1937 (P. L. 1333, No. 320), changing official ballot residence requirements.

Referred to Committee on STATE GOVERNMENT, May 7, 1980.

No. 2516 By Representative HALVERSON.

An Act amending the "Public School Code of 1949," approved March 10, 1949 (P. L. 30, No. 14), reducing the number of days schools are required to be kept open.

Referred to Committee on EDUCATION, May 7, 1980.

No. 2517 By Representative DURHAM.

An Act amending the act of September 18, 1961 (P. L. 1389, No. 615), referred to as the County and Municipal State Highway Law, amending a route in Delaware County.

Referred to Committee on TRANSPORTATION, May 7, 1980.

No. 2518 By Representative DURHAM.

An Act amending the act of May 31, 1911 (P. L. 468, No. 193), referred to as the State Highway Department Law, changing a route in Delaware County.

Referred to Committee on TRANSPORTATION, May 7, 1980.

No. 2519 By Representative DURHAM.

An Act amending the act of June 22, 1931 (P. L. 594, No. 203), referred to as the Township State Highway Law, deleting and amending routes in Delaware County.

Referred to Committee on TRANSPORTATION, May 7, 1980.

No. 2520 By Representatives THOMAS, HELFRICK AND DeVERTER.

An Act amending the act of June 22, 1931 (P. L. 594, No. 203), referred to as the Township State Highway Law, deleting routes in Snyder County.

Referred to Committee on TRANSPORTATION, May 7, 1980.

No. 2521 By Representatives THOMAS AND YAHNER.

An Act amending "The Game Law," approved June 3, 1937 (P. L. 1225, No. 316), changing provisions relating to the claim for damage to bees or their hives.

Referred to Committee on GAME AND FISHERIES, May 7, 1980.

No. 2522 By Representatives THOMAS, HELFRICK, DeVERTER AND YAHNER.

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), further providing that the exemption afforded to corporations organized for manufacturing includes fertilizer manufacturers.

Referred to Committee on FINANCE, May 7, 1980.

No. 2523 By Representatives DORR, SCHWEDER, GEIST, MILLER AND BELARDI.

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), adding a definition of "charitable organization."

Referred to Committee on FINANCE, May 7, 1980.

No. 2524 By Representatives THOMAS AND HELFRICK.

An Act amending the "Bureau of Professional and Occupational Affairs Fee Act," approved July 1, 1978 (P. L. 700, No. 124), providing for renewal of licenses by retired licensees.

Referred to Committee on PROFESSIONAL LICENSURE, May 7, 1980.

No. 2525 By Representatives SCHEAFFER, DeMEDIO, CIMINI, GRIECO, W. W. FOSTER, E. G. JOHNSON, MANMILLER, COLE AND MOWERY.

An Act amending "The Administrative Code of 1929," approved April 9, 1929 (P. L. 177, No. 175), providing for the continuation, composition and functions of the State Veterans' Commission.

Referred to Committee on MILITARY AND VETERANS AFFAIRS, May 7, 1980.

No. 2526 By Representatives SHUPNIK, RASCO, WARGO, GRIECO, W. W. FOSTER, MADIGAN, PHILLIPS, GRUPPO, A. C. FOSTER, JR., DUFFY, MRKONIC, FRYER, CESSAR, GAMBLE, GATSKI, LESCOVITZ, COSLETT, HASAY AND SCHMITT.

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for offenses relating to public indecency.

Referred to Committee on JUDICIARY, May 7, 1980.

No. 2527 By Representative RYAN.

An Act amending the "Child Labor Law," approved May 13, 1915 (P. L. 286, No. 177), providing for the issuance of special permits for motion picture filming.

Referred to Committee on LABOR RELATIONS, May 7, 1980.

SENATE MESSAGE

SENATE BILL FOR CONCURRENCE

The clerk of the Senate presented the following bill for concurrence:

SB 1135, PN 1388

Referred to Committee on Insurance, May 7, 1980.

SENATE MESSAGE

AMENDED HOUSE BILL RETURNED FOR CONCURRENCE

The Senate returned the following House bill with amendments in which concurrence of the House is requested:

HB 2335, PN 3229

The SPEAKER. The bill will appear on the calendar.

LEAVES OF ABSENCE GRANTED

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, I request a leave for the gentleman from Philadelphia, Mr. D. M. O'BRIEN, for today, the gentleman from Montgomery, Mr. POLITE, for today, and for the gentleman from Philadelphia, Mr. McKELVEY, for today.

The SPEAKER. Without objection, leaves will be granted. The Chair hears none.

The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, we would like to ask for a leave of absence for the gentleman from Allegheny, Mr. IRVIS, for today's session.

The SPEAKER. Without objection, leave will be granted. The Chair hears none.

WELCOME

The SPEAKER. The Chair welcomes to the balcony a large group of students from the Hanover Middle School, Hanover, York County, Pennsylvania, and their teachers and parents, who are here today as the guests of Mr. Dorr.

MASTER ROLL CALL RECORDED

The SPEAKER. The Chair is about to take the master roll. The members will proceed to record their presence.

The following roll call was recorded:

YEAS—190

Alden	Foster, W. W.	Lewis	Rodgers
Anderson	Foster, Jr., A.	Livengood	Ryan
Armstrong	Freind	Lynch, E. R.	Salvatore
Arty	Fryer	McCall	Scheaffer
Austin	Gallagher	McClatchy	Schmitt
Barber	Gallen	McIntyre	Schweder
Belardi	Gamble	McMonagle	Serafini
Bennett	Gannon	McVerry	Seventy
Berson	Gatski	Mackowski	Shupnik
Bittle	Geesey	Madigan	Sieminski
Borski	Geist	Maiale	Sirianni
Bowser	George, C.	Manderino	Smith, E. H.
Brandt	George, M. H.	Manmiller	Smith, L. E.
Brown	Giammarco	Michlovic	Spencer
Burd	Gladeck	Micozzie	Spitz
Caltagirone	Goebel	Milanovich	Stairs
Cappabianca	Goodman	Miller	Steighner
Cessar	Grabowski	Moehlmann	Stewart
Chess	Gray	Mowery	Street
Cimini	Greenfield	Mrkonic	Stuban
Civera	Grieco	Mullen	Sweet
Clark, B. D.	Gruppo	Murphy	Swift
Clark, M. R.	Hagarty	Nahill	Taddonio
Cochran	Halverson	Novak	Taylor, E. Z.
Cohen	Harper	Noye	Taylor, F.
Cole	Hasay	O'Brien, B. F.	Telek
Cornell	Hayes, Jr., S.	O'Donnell	Thomas
Coslett	Helfrick	Oliver	Trello
Cowell	Hoeffel	Perzel	Vroon
Cunningham	Honaman	Peterson	Wachob
DeMedio	Hutchinson, A.	Petrarca	Wargo
DeVerter	Hutchinson, W.	Phillips	Wass
DeWeese	Itkin	Piccola	Wenger
DiCarlo	Johnson, E. G.	Pievsky	White
Davies	Jones	Pistella	Williams
Dawida	Kanuck	Pitts	Wilson
Dietz	Klingaman	Pott	Wilt
Dininni	Knepper	Pratt	Wright, D. R.
Dombrowski	Knight	Pucciarelli	Wright, Jr., J.
Donatucci, R.	Kolter	Punt	Yahner
Dorr	Kowalshyn	Pyles	Yohn
Duffy	Kukovich	Rappaport	Zeller
Dumas	Laughlin	Rasco	Zitterman
Durham	Lehr	Reed	Zord
Earley	Lescovitz	Richardson	Zwikl
Fee	Letterman	Rieger	
Fischer	Levi	Ritter	Seltzer,
Fisher	Levin	Rocks	Speaker

NAYS—0

NOT VOTING—4

Beloff	Johnson, J. J.	Lashingner	Shadding
--------	----------------	------------	----------

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

The SPEAKER. One hundred ninety members having indicated their presence, a master roll is established.

CALENDAR

SB 881 PASSED OVER

The SPEAKER. Without objection, SB 881 will be passed over.

The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, first, I object to the passing over of SB 881 at the present time until some questions are answered. SB 881 has been on the calendar for 14 legislative days. There are a number of amendments to SB 881. SB 881 was billed, Mr. Speaker, to this House, when it was first introduced and when members of the SEPTA - Southeastern Pennsylvania Transportation Authority - committee met on urban mass transportation, as a very urgent emergency measure that had to take place. If there are valid reasons to continue to hold SB 881, I would like to hear them; otherwise, I think that we ought to begin taking up the amendments and go with SB 881.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I am advised by Mr. Pitts, who chaired that special mass transit committee, that he was requested by Mr. Rappaport to hold it for one more week.

Mr. MANDERINO. Are we going to be in any session, Mr. Speaker, token session, for the rest of this week so that we will hit 15 days before we would come back?

Mr. RYAN. If I thought that would happen, I would put it on and off the table.

Mr. MANDERINO. Mr. Speaker, I do not want the bill and if we have some assurance that we can— Is this your intention to move it next week or the week after?

Mr. RYAN. When the various members who are interested in it, such as Mr. Pitts and Mr. Rappaport from your side, tell me it is ready to go, it will go. Mr. Pitts advises me now that he is basically ready to go.

Mr. MANDERINO. And then if Mr. Rappaport is ready to go, we can go on the bill?

Mr. RYAN. With nothing unforeseen happening.

Mr. MANDERINO. I will check with Mr. Rappaport on why he is delaying the bill.

Mr. RYAN. I am not suggesting that he is delaying the bill. I am suggesting only that maybe there—

Mr. MANDERINO. I am asking the question of why is the bill being delayed, and without sufficient answer to that, I would like to call the bill up. If I get sufficient answer to that, I am willing to wait a reasonable length of time until the persons clear up their problems, but I am not willing to wait forever on HB 881.

Mr. RYAN. Nor are we.

Mr. MANDERINO. Mr. Speaker, can you give me any reason presently why HB 881 is being held up?

Mr. RYAN. Mr. Speaker, I gave you the reason. One of your members, as a matter of courtesy, asked that the bill be held up. That is my reason. I told him it would be done and it will be done.

Mr. MANDERINO. And I agree with that, and I simply added that I will ask Mr. Rappaport what his reason for delay is. And if that can be resolved, I would expect that we would be ready to go. Thank you, Mr. Speaker.

Mr. RYAN. Nothing unforeseen happening.

Mr. MANDERINO. I did not get the last remark, Mr. Speaker.

Mr. RYAN. My last remark was the same as my other one that I said earlier, nothing unforeseen happening. We were going to run it this week. It was asked to be held over; we held it over. We are now starting on the School Code. When I say "nothing unforeseen happening," absent other amendments being prepared which seems to happen on a daily basis, I would expect that this would be run in the near future. It is not being delayed for any ulterior motive, Mr. Speaker.

Mr. MANDERINO. No. I did not expect that it was, Mr. Speaker, but I just wondered why it was not being run. And I take it that the answer to my question of why it is not being run is that Mr. Rappaport has asked for a hold on it. And if I can find from Mr. Rappaport that he can release his hold on the bill, I will so inform the majority leader at the next session. Thank you, Mr. Speaker.

Mr. SPEAKER. Without objection, the bill will be passed over.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2261, PN 2901**, entitled:

An Act providing for official visitations of jails and prisons by certain officials.

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.

YEAS—168

Alden	Fee	Letterman	Ritter
Anderson	Fischer	Levin	Rocks
Armstrong	Fisher	Lewis	Rodgers
Arty	Foster, W. W.	Livengood	Ryan
Austin	Foster, Jr., A.	Lynch, E. R.	Salvatore
Barber	Fryer	McCall	Scheaffer
Belardi	Gallagher	McClatchy	Schmitt
Bennett	Gallen	McIntyre	Seventy
Berson	Gamble	McMonagle	Shupnik
Borski	Gannon	McVerry	Sieminski
Bowser	Gatski	Mackowski	Smith, E. H.
Brandt	Geesey	Madigan	Smith, L. E.
Brown	Geist	Maiale	Spencer
Burd	George, C.	Manderino	Stairs
Caltagirone	George, M. H.	Manmiller	Steighner
Cappabianca	Giammarco	Michlovic	Stewart
Cessar	Gladeck	Micozzie	Stuban
Chess	Goodman	Milanovitch	Sweet
Cimini	Grabowski	Miller	Swift
Civera	Gray	Mowery	Taddonio
Clark, B. D.	Greenfield	Mrkonic	Taylor, E. Z.
Clark, M. R.	Grieco	Mullen	Taylor, F.

Cochran	Gruppo	Murphy	Telek
Cohen	Hagarty	Nahill	Thomas
Cole	Halverson	Novak	Trello
Cornell	Harper	O'Brien, B. F.	Vroon
Coslett	Hasay	O'Donnell	Wachob
Cowell	Hayes, Jr., S.	Oliver	Wargo
Cunningham	Helfrick	Perzel	Wass
DeMedio	Hoeffel	Peterson	Wenger
DeVerter	Honaman	Petrarca	White
DeWeese	Hutchinson, A.	Phillips	Wilson
DiCarlo	Itkin	Pievsky	Wilt
Davies	Johnson, E. G.	Pistella	Wright, D. R.
Dawida	Kanuck	Pitts	Wright, Jr., J.
Dietz	Knepper	Pott	Yahner
Dininni	Knight	Pratt	Yohn
Dombrowski	Kolter	Pucciarelli	Zitterman
Donatucci, R.	Kowalshyn	Pyles	Zwilk
Duffy	Kukovich	Rappaport	
Dumas	Laughlin	Rasco	Seltzer,
Durham	Lehr	Rieger	Speaker
Earley	Lescovitz		

NAYS—13

Dorr	Noye	Schweder	Spitz
Klingaman	Piccola	Serafini	Zeller
Levi	Punt	Sirianni	Zord
Moehlmann			

NOT VOTING—13

Beloff	Hutchinson, W.	Lashingar	Shadding
Bittle	Johnson, J. J.	Reed	Street
Freind	Jones	Richardson	Williams
Goebel			

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

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

REMARKS ON VOTE

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

Mr. FREIND. Mr. Speaker, I was not in my seat on that last vote. I would like to be recorded in the affirmative, please.

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

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 769, PN 835**, entitled:

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), revising the definition of "taxable income" for purposes of the corporate net income tax and limiting the Utilities Gross Receipts Tax.

On the question,

Will the House agree to the bill on third consideration?

The SPEAKER. The Chair recognizes the minority whip who wishes to offer an amendment.

Mr. MANDERINO. Mr. Speaker, I have some confusion with two different amendments that I have as to which does what. The language is technical. Will you take Mr. Sweet's amendment until I straighten this out?

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

Is the gentleman, Mr. Sweet, on the floor of the house?

Mr. MANDERINO. Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Manderino.

Mr. MANDERINO. I am ready to go.

On the question recurring,

Will the House agree to the bill on third consideration:

Mr. MANDERINO offered the following amendments:

Amend Sec. 1 (Sec. 401), page 3, line 7, by striking out the bracket before "In"

Amend Sec. 1 (Sec. 401), page 3, lines 7 and 8, by striking out "] For purposes of this definition, in"

Amend Sec. 1 (Sec. 401), page 3, line 9, by striking out the bracket before "January 1,"

Amend Sec. 1 (Sec. 401), page 3, line 10, by inserting after "1971" and continuing for each taxable year thereafter until the taxable year ending on or before December 31, 1979

Amend Sec. 1 (Sec. 401), page 3, lines 15 and 16, by striking out "] January 1, 1979, no deduction shall be allowed for taxes imposed on or measured by net income." and inserting

In arriving at "taxable income" for Federal tax purposes for any taxable year beginning on or after January 1, 1980, a corporation shall compute its taxable income pursuant to the following two alternative methods: (i) any corporate net income tax due to the Commonwealth pursuant to the provisions of this article shall not be allowed as a deduction and the amount of corporate tax so due and excluded from Federal taxable income under the Internal Revenue Code shall not be apportioned but shall be subject to tax at the rate imposed under this article, or (ii) in case the entire business of any corporation, other than a corporation engaged in doing business as regulated investment company, is not transacted within this Commonwealth, no deduction shall be allowed from taxable income for taxes levied by this or any other state when such taxes are imposed on or measured by net income of a corporation, provided that in order to arrive at "taxable income" such taxes may be apportioned in accordance with the provisions of this article. Whichever of the two foregoing alternative methods utilized by the corporation results in the greater amount of "taxable income" for the corporation, then such method shall be used for computing and reporting "taxable income" upon which the appropriate tax rate for such taxable year shall be applied. The department shall prepare appropriate forms for the alternate methods of calculating "taxable income" and shall examine and verify each return as to the correctness of the alternate calculations prescribed herein.

Amend Sec. 2, page 3, lines 19 and 20, by striking out "calendar or fiscal year of the corporation" and inserting taxable year

Amend Sec. 2, page 3, line 20, by striking out "1979." and inserting 1980.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, HB 769 is a bill dealing with the method in which multi-state corporations pay their corporate net income tax in Pennsylvania. Now

this bill has been around for 7 or more years in one form or another, and it has been billed always in the past as a bill that would change the method in which the tax is computed so as to make it easier for the corporations who operate in more than one state to do their accounting for the purpose of paying the corporate net income tax in Pennsylvania. It was never billed, Mr. Speaker, and I take it it is not being billed now as a revenue loss to the Commonwealth in the manner in which it is written.

There are many technicians who have looked at the present status of HB 769 and have determined that there well may be a large revenue loss to the State of Pennsylvania from the corporate net income tax. Mr. Speaker, my amendment addresses that particular issue. My amendment in technical language says what I can best express in layman's language. My amendment says—

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair has recognized the gentleman from Westmoreland, Mr. Manderino. For what purpose does the gentleman, Mr. Pott, rise?

Mr. POTT. I rise to a point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman is out of order. When the gentleman, Mr. Manderino, has completed his remarks, the Chair will then recognize Mr. Pott.

The gentleman, Mr. Manderino, may proceed.

Mr. MANDERINO. Mr. Speaker, my amendment addresses—and I will explain it as best I can in layman's terms—the problem of revenue loss in that it indicates that the corporations may, as they have indicated it is their desire to do, change their accounting practices and simplify their accounting in paying the corporate net income tax due to Pennsylvania. My amendment says that the Department of Revenue, however, will calculate the more difficult way, that the corporations are insisting is too difficult for them to calculate. Our Department of Revenue will do that calculation, and if a higher tax results from the present law and its application, that is the tax that will be paid.

Mr. Speaker, this will accomplish for the corporations what they want accomplished, that their corporate accounting procedures will be uniform and less complicated, and it will accomplish for the citizens of Pennsylvania in fact that there will be no loss of revenue from the corporate net income tax from the enactment of this law. Thank you, Mr. Speaker.

The SPEAKER. The Chair has just been informed that the amendment offered by Mr. Manderino has not been circulated.

Mr. MANDERINO. Mr. Speaker, it has been circulated.

The SPEAKER. Will the gentleman, Mr. Yohn, come to the desk? The members of the Democratic aisle have indicated they have copies of the amendment. Will the amendment clerk come to the desk, please?

The Chair is speaking primarily to the Democratic members of the House who have held up the Manderino amendment. Do they have in their possession amendment

No. 6236? That is the amendment that has been offered by Mr. Manderino but has not been circulated at this time.

Will the gentleman, Mr. Manderino, recall that amendment temporarily and offer his other amendment, which I have been informed has been circulated?

Mr. MANDERINO. Mr. Speaker, the amendment that has been circulated does exactly the same thing as the amendment that I am offering now, and maybe it has not been distributed. My technicians tell me, however, that the amendment first circulated spoke in terms of the bill and talked about the taxable year 1979, which ends, in my understanding, December 30, 1979. And the second amendment, which I have drafted and which should be circulated to the members, makes that correction and changes the taxable year to the 1980 taxable year when this would become applicable. But it is the same concept and the same manner of attacking the problem. I do have an amendment. If we want to delay and withdraw and recirculate, we can do that.

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

Mr. POTT. Mr. Speaker, I do not believe this amendment has been circulated and I do not see how any responsible debate can occur on the amendment until it is circulated to all the members.

AMENDMENT WITHDRAWN TEMPORARILY

The SPEAKER. The Chair asks the minority whip, Mr. Manderino, to withdraw his amendment temporarily until the amendment has been reproduced.

Mr. MANDERINO. Mr. Speaker, I withdraw my amendment temporarily until the amendment has been reproduced.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. LAUGHLIN offered the following amendments:

Amend Title, page 1, line 11, by removing the period after "tax" and inserting , and creating a special fund for the elimination of certain toxic and hazardous wastes.

Amend Bill, page 3, by inserting between lines 17 and 18 Section 2. The difference between what is presently being paid and what will be paid under this amendatory act shall be deposited in a special fund earmarked for the Department of Environmental Resources to be used to clean up toxic and hazardous waste sites that have been abandoned and prosecution cannot be adequately conducted to a successful conclusion.

Amend Sec. 2, page 3, line 18, by striking out "2." and inserting 3.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Speaker, earlier this year we passed HB 1840, dealing with the toxic and hazardous waste problem in the State of Pennsylvania. Within that legislation, Mr. Speaker, was funding that would be turned in on the basis of fines, and to the extent of almost

\$500,000 per day for violations. This has put our industries in the State of Pennsylvania under a very trying circumstance. And recently, as late as this week, the Federal Government has imposed rules and regulations dealing with toxic and hazardous waste that has resulted in a very severe penalty that will be applied to industries within this state. The Department of Environmental Resources is without funds to help in the cleanup of this problem statewide. We now have a committee studying that particular proposal to help them.

Mr. Speaker, what this amendment does is that it sets aside the money, the difference, that would be accrued from the savings of filing the corporate net income without the amendatory language that Mr. Manderino had offered earlier. What it does specifically is that the difference between what is presently being paid and that which will be paid shall be deposited in a separate account for the Environmental Resources Department to utilize and to be used to clean up the hazardous waste sites that have been abandoned and where prosecution cannot be adequately conducted to a successful conclusion.

I ask, Mr. Speaker, that the membership support this amendment. I believe it is very beneficial to the industries of this state, and, in effect, it will not cost the people of Pennsylvania their tax dollars to provide this cleanup.

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

Mr. POTT. Mr. Speaker, the purpose of HB 769 is to simplify Pennsylvania's corporate tax structure. It is designed to provide conformity with many other states in the way corporate net income taxes are calculated. Mr. Laughlin's amendment does not help us simplify the tax structure; it complicates the tax structure. Each multistate corporation in Pennsylvania will be required to go through two calculations: one, to determine how much they would have to pay under the old way; another, how much they will have to pay under the new way. There are corporations, according to the Department of Revenue's estimates of the larger multistate corporate taxpayers in Pennsylvania, who will actually be paying more under the current provisions of HB 769. There are those who will be paying less.

HB 769 was estimated by the Department of Revenue to have less than a \$100,000 fiscal impact on the Commonwealth, and that fiscal impact is in the positive. It is estimated that this bill will generate approximately \$100,000 more in revenues for the Commonwealth. So it just seems to me that Mr. Laughlin's amendment is not solving the problem that he attempts to solve. We are not going to have a massive windfall of monetary revenues under this bill.

Secondly, we are complicating our tax structure even further by the adoption of this amendment. I would encourage those members who want to encourage employment in Pennsylvania, to help make Pennsylvania a better business climate and to have more jobs here, to oppose the Laughlin amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I could not concur more with Mr. Pott on what he has said. First, I was going to make similar comments in regard to the minority leader's amendment. But dealing with Mr. Laughlin's amendment—and I respect Mr. Laughlin—I do not believe that the amendment is going to do anything for the simple reason there is not going to be any difference in the revenue.

What you are doing is not even affecting the consumer, because all you are doing is taking the industries in categories from A, B, C, to X, Y, Z in letters, replacing names of companies, and where A may be paying \$300,000 now, it would pay \$200,000; and C, who is not paying anything, would maybe pay \$500,000. You are reallocating the responsibility of these various industries because of the add-back on the state and local taxes in the position you are placing it in the formula. That is why I say, according to the Revenue Department, there is not going to be a change in the revenue, only a very minor change. So with all respect to Mr. Laughlin, whose intentions are well—and I would be with him in helping these industries if I could see where it could be done—I just feel, as I said before, it is a good-tasting frosting on a bad-tasting cake. It just does not work. It is not there. And I know Mr. Laughlin has not intended it to be that way, but I do not see it unless you can prove to us where there would be that revenue. According to the Revenue Department, it is not going to make any changes. I could not agree more with Mr. Pott that we should go with the bill without amendments, as it is.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Speaker, in response to the earlier comments of Mr. Pott, the Revenue Department will handle the present existing formula that is to be utilized in this particular appropriation. It is not going to be the responsibility of the corporations to develop a second set of figures with regard to their corporate filings. That will be handled by the Department of Revenue. So there will be no additional confusion over the handling of the corporate net income by any company within this state.

Mr. Speaker, with regard to the comments regarding the amount of money that will be saved, let me read you one letter that I have received among a number of other inquiries that I have made of corporations, and this is a reasonably large-sized corporation, Mr. Speaker. It says, "In the case of our company for recent year in which we estimated our corporate state income tax to be approximately \$582,000, the provisions of HB 769 will reduce it to about \$557,000 or a savings to our company of about \$25,000."

Mr. Speaker, that represents a 5-percent approximate difference in the amount of money they are paying as opposed to what they will pay. So, in effect, Mr. Speaker, we are talking about \$25,000 from just one company, but over the last 10 years that has amounted to \$250,000 that

they have paid. So, Mr. Speaker, I do think there is a significant sum of money that will be available and will be appropriated, and I can think of no better place for it to go than to help clean up industry's problems of toxic and hazardous wastes. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I could not agree with Mr. Laughlin more than what this one company said to him—he has not heard from all the others—for the simple reason is, the Revenue Department, who happens to know what the formula is, will tell you there is not going to be any change. By the time you get through juggling them all around among the companies, you are going to have a very small chain. So, true, you can take one company and say we are going to have \$25,000. Now that is dreaming, because what is going to happen to the ones who are not paying that amount is that it is going to increase because of the position of the add-backs. This is what, with all respect to the gentleman, he is not telling you.

So, on one hand, you are going to be taking it and, on the other hand, you are going to be placing it in, and, therefore, you are going to equal out.

The only thing we are doing in HB 769 is getting in line with all the other states in the United States, and Pennsylvania is the only one who is not in line. It is a burden on these companies now, getting them all in line and setting up the computer operations to be able to meet it.

Finally, what he is asking is for the Department of Revenue to do it now. In effect, we are going to get in there and do the accounting services for these people, and you are asking the bureaucrats to put on more help in stepping it up. This is what you are going to do, create some more jobs. Is this what you want? Then vote for the amendment.

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

The following roll call was recorded:

YEAS—24

Clark, B. D.	Harper	Milanovich	Richardson
Cohen	Kukovich	O'Donnell	Stewart
DeWeese	Laughlin	Oliver	Stuban
Dawida	Letterman	Petrarca	Trello
Dombrowski	Maiale	Rappaport	Zitterman
Donatucci, R.	Michlovic	Reed	Zwikl

NAYS—158

Alden	Foster, W. W.	Lescovitz	Ryan
Anderson	Foster, Jr., A.	Levi	Salvatore
Armstrong	Freind	Levin	Scheaffer
Arty	Fryer	Lewis	Schmitt
Austin	Gallagher	Livengood	Schweder
Belardi	Gallen	Lynch, E. R.	Serafini
Bennett	Gamble	McCall	Seventy
Berson	Gannon	McClatchy	Shupnik
Bittle	Gatski	McIntyre	Sieminski
Borski	Geesey	McMonagle	Sirianni
Bowser	Geist	McVerry	Smith, E. H.
Brandt	George, C.	Madigan	Smith, L. E.
Brown	George, M. H.	Manderino	Spencer
Burd	Gladeck	Manmiller	Spitz
Caltagirone	Goebel	Micozzie	Stairs
Cappabianca	Goodman	Miller	Steighner

Cessar	Grabowski	Moehlmann	Sweet
Chess	Gray	Mowery	Swift
Cimini	Greenfield	Mrkonic	Taddonio
Civera	Grieco	Mullen	Taylor, E. Z.
Clark, M. R.	Gruppo	Murphy	Taylor, F.
Cochran	Hagarty	Nahill	Telek
Cole	Halverson	Novak	Thomas
Cornell	Hasay	Noye	Vroon
Coslett	Hayes, Jr., S.	O'Brien, B. F.	Wachob
Cowell	Helfrick	Perzel	Wargo
Cunningham	Hoeffel	Peterson	Wass
DeMedio	Honaman	Phillips	Wenger
DeVerter	Hutchinson, A.	Piccola	White
DiCarlo	Hutchinson, W.	Pievsky	Wilson
Davies	Itkin	Pistella	Wilt
Dietz	Johnson, E. G.	Pitts	Wright, D. R.
Dininni	Johnson, J. J.	Pott	Wright, Jr., J.
Dorr	Kanuck	Pratt	Yahner
Duffy	Klingaman	Punt	Yohn
Durham	Knepper	Pyles	Zeller
Earley	Knight	Rasco	Zord
Fee	Kolter	Rieger	
Fischer	Kowalyszyn	Ritter	Seltzer,
Fisher	Lehr	Rocks	Speaker

NOT VOTING—12

Barber	Giammarco	Mackowski	Shadding
Beloff	Jones	Pucciarelli	Street
Dumas	Lashingier	Rodgers	Williams

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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?

Mr. SWEET offered the following amendments:

Amend Title, page 1, line 11, by removing the period after "tax" and inserting and limiting the Utilities Gross Receipts Tax.

Amend Bill, page 3, by inserting between lines 17 and 18 Section 2. Section 1101 of the act is amended by adding a subsection to read: Section 1101. Imposition of Tax.—* * * (g) Annual Adjustment.—The rate of the tax imposed by this section shall be adjusted annually by the Pennsylvania Public Utility Commission to produce the revenue equal to the amount of revenue due and payable during the 1979-1980 fiscal year of the Commonwealth.

Amend Sec. 2, page 3, line 18, by striking out "2. This" and inserting 3. (a) Section 1 of this

Amend Sec. 2, page 3, by inserting after line 20 (b) Section 2 of this act shall take effect July 1, 1980 or, if this act is enacted after July 1, 1980, section 2 shall take effect immediately and shall be retroactive to July 1, 1980. (c) 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 Washington, Mr. Sweet.

Mr. SWEET. Mr. Speaker, this amendment is somewhat similar, although not identical, in content to an amendment I offered some months ago to a bill sponsored, I believe, by Mr. Levi. What this amendment does is cap a very unfair tax, perhaps the most unfair tax that we have in this Commonwealth, and that is the gross receipts tax.

This amendment—the substance of which is somewhat similar to the earlier amendment—was approved by members of the House, but unfortunately that bill was recommitted to the Appropriations Committee and has not had life breathed into it for quite some time. So I bring it up again in what I think is an improved fashion for the members to consider.

As most of you know, the gross receipts tax is a tax which each and every consumer of energy and each and every corporation in this state pays. It is 4.5 percent of the cost of their energy. It is a sales tax on heat. Make no doubt about it.

While we exempt drugs, we exempt food, we exempt expensive suits—that some of us can afford to wear—from the sales tax, the gross receipts tax is, in a sense, a sales tax on heat.

If we want to have true tax reform in Pennsylvania and we want to give out a number of tax credits and tax breaks to corporations and other groups in this state, then I would suggest that we consider capping this tax and giving something of a break to the consumers and the corporations of this state that pay this most, most unfair tax.

This tax has escalated dramatically in the last 5 or 6 years. In 1973-74, this tax generated \$171 million for the coffers of the State of Pennsylvania. In 1978-79, it was up to \$343 million. By 1982-83, this tax will generate over half a billion dollars. It is a hidden tax; it rises with inflation; it rises with an increase in the cost of fuel; it rises every time the Arab sheiks increase the price of oil, and the consumers of this state should not be confronted with that kind of hidden tax increase.

This House of Representatives has passed tax credits for railroads in this session. We repealed the gross receipts tax for people from out of state who are receiving power generated within the State of Pennsylvania. That tax was repealed completely. I think we had a sales tax repealer on taxes for horses, and I think that the consumers and the businesses of this state deserve a cap on the gross receipts tax. My amendment would cap it at whatever it brings in for fiscal year 1979-80. That was a major change I made because Mr. McClatchy and others from the other side of the aisle cried crocodile tears the last time this amendment was offered, suggesting that it was going to create a dramatic hole in this year's budget. This will not go into effect until July 1, 1980, and, therefore, will not begin to have impact until then. It will have no fiscal impact for this year, and the argument that it does is a spurious one.

Mr. Speaker, I would suggest that we begin today the business of real tax reform in the Commonwealth of Pennsylvania by approving this amendment and adding it to the other provisions of HB 769. I ask for an affirmative vote.

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

Mr. McCLATCHY. Mr. Speaker, this amendment certainly calls for a fiscal note. I believe we did have one. I cannot seem to find it right now, unless Mr. Sweet has it or is aware of it. There is a substantial loss in revenue from

the gross receipts tax, and, with that in mind, I would certainly have to oppose the amendment, Mr. Speaker.

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

Mr. SWEET. Mr. Speaker, on the narrow issue of the fiscal note, I did request one from Mr. McClatchy; handed him the amendment with a note asking for one.

The fiscal impact is not the same as the other fiscal note which your staff generated because this amendment will not begin to have impact until July 1. So it is only fiscal impact for future years and not in this year's budget.

By the way, I have no fiscal note.

Mr. McCLATCHY. You do have it?

Mr. SWEET. No, Mr. Speaker. I requested one but have not received it from your staff.

Mr. McCLATCHY. I thought we had given it out and prepared it.

Mr. Speaker, again, it does have a fiscal impact. If we are going to change our laws and we are going to take away a gross receipts tax or give some kind of relief, even though it might be in the future, I think the time to do it is when we are going to either cut a budget or increase our income tax to take care of the revenue loss or increase the sales tax, but to willy-nilly cause a problem today this way, I think, is not the way to go and I would appreciate a "no" vote.

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

Mr. SWEET. Mr. Speaker, I can understand the position of the chairman of the Appropriations Committee. However, it seems to me, Mr. Speaker, that we have passed several tax relief kinds of bills during this session, including the ones I enumerated - the railroad credit, the gross receipts tax repealer, the repeal of the sales tax on horses bred in Pennsylvania. This bill which we are considering today has fiscal impact, and yet I have not heard that argument from the other side of the aisle in regard to those bills. All of them have fiscal impact. I would suggest that at least with this cap on a receipts tax, we are better off doing it now prospectively, and that would allow the Appropriations Committee staff, the Governor, the Budget Office and everyone else to factor it into their thinking while we consider next year's general fund budget. I think this is an important amendment. It really does provide something that has been done in a number of other areas of, what, in effect, are sales taxes, and that is, exempt things that are of critical need to people, and certainly heat is one that does so.

I am not calling for abolishing the tax. That would have no fiscal responsibility whatsoever. It generates, as I said, over \$300 million. What I am saying is, let us cap it now; let us not dig ourselves \$200 million further into this hole in the next 3 years so that we become so inevitably reliant upon this tax that we can never get out of it and we can never get away from it no matter how unfair it is. And I, again, would ask for an affirmative vote, Mr. Speaker.

The SPEAKER. The Chair recognizes the chairman of the House Appropriations Committee, Mr. McClatchy.

Mr. McCLATCHY. Mr. Speaker, we do have a preliminary fiscal note, and if the cap is put on for the year 1979-80, in this coming fiscal year, 1980-81, the one for which we are working on the current budget, that is tight already, we will be short in revenues \$37 million. That means we will put a hole in and need to cover what we were proposing to spend in the 1980-81 budget we are about to produce, of \$37 million. Again I ask for a "no" vote on this amendment, Mr. Speaker.

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

Mr. POTT. I applaud the efforts of the gentleman, Mr. Sweet, in his concern for the utility consumers of the Commonwealth. However, I must oppose his amendment, Mr. Speaker, to HB 769. I understand that anytime a bill amending the Tax Reform Act comes to the calendar, it is almost surely destined to be Christmas-treed with very appealing amendments to many of the members. I do believe, Mr. Speaker, that the gentleman would be much more appropriate by introducing separate legislation designed to correct the inequity which he perceives to exist.

I caution the members of the General Assembly of the \$37-million hole in next year's budget that this amendment's insertion into this bill will create. If you want a long, hot summer, if you want to receive the supplications of the various interest groups around this Commonwealth, we certainly do not need at this time to hamstring ourselves coming into the next fiscal year when we are already looking at a revenue deficit. This will give us an additional revenue deficit of \$37 million. If you want to be fiscally irresponsible at this time, support the Sweet amendment. If you want to create embarrassment for yourself, for all the other members of the General Assembly through another long, battled-out budget, the adoption of the Sweet amendment will almost assure that.

I would like to correct one of the gentleman's remarks which he made in support of his amendment. The PURTA - Public Utility Realty Tax Act - tax that he alluded to was not a tax break for the utilities. According to the Department of Revenue, they are actually receiving more money under the reform of the PURTA tax than they were receiving previously.

I ask all the members of the General Assembly to carefully consider their actions on this amendment today. It may sound very good. Let us not create problems for ourselves a month down the line. Let us not support the Sweet amendment. I encourage you to vote "no" and be responsible. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, again I ditto the remarks of my good friend, Mr. Pott, but I would also like to call to your attention that—and I am not saying that Mr. Sweet is being involved in a political thing to try to make it embarrassing for anyone, because I know he is sincere and I know he is concerned about the consumer, and I compliment him for it. The problem we have—I must be a realist

—is that when we get back, with all respect, to sales tax on horses and so forth as a comparison, I want him to know that I voted against that move, and I stated so on the floor of the House as to why. The thing is that being a realist, can you imagine, again, if my good friend, Mr. Laughlin's amendment would have gone in—which I felt would not have changed anything as far as the revenues; it would not have helped him—think what this would have done if that amendment would have gone through. It would have put a real hole in his pocket—not his pocket but those whom he is trying to help sincerely.

This bill as it is would keep the revenue the same, and here is the last punch: By going along with the Sweet amendment, we would in effect be telling people then to relax because there is a cap, and they would not do what we have been asking them to do and the energy department has been asking them to do under the Lieutenant Governor, to hold down on the waste of energy. That is the key, the waste of energy. We cannot have that. Even our own state here, we get around and see these buildings at night lit up like a Christmas tree, and industries have been wasting it along with even many consumers. We have got to implant that seed in our minds, and what this business does at a 4.5 percent is to tell them that if you waste it, you are going to pay. And that is the real trick of the whole thing. You have got to keep this hammer over their head, and if you do not, they are going to waste energy, and that is the trick of the whole thing.

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

Mr. SWEET. Mr. Speaker, I need to respond to a number of the comments that have been made because they have not, I do not think, characterized properly the content of the amendment.

Number one, Mr. Pott mentioned PURTA, which has absolutely nothing to do with this. We are not talking about that tax, we are talking about the gross receipts tax.

Secondly, the gentleman, Mr. Pott, suggested that I should introduce separate legislation. Mr. Itkin and I sponsored such a bill. It has languished in the Finance Committee since February of 1979. The amendment route has been the only route to bring this issue to the floor, and I would remind the members that on a similar amendment of the same philosophic vent, it carried this House 99 to 83.

The argument that this is a \$37-million hole in next year's budget can be made about any proposal that is introduced on the floor of this House and can be made about all the various tax breaks that have been given out this year and can be made about this bill itself. The railroad tax break cost \$10 million. The repealer of the gross receipts tax on out-of-state consumers cost \$25 million. I do not know how much the horse deal cost, but it was a few bucks. All sorts of new programs suggested by both sides of the aisle have cost money. This will put a \$37-million decline in estimated revenues for next year; that is true. But I wonder whether you are going to hear that argument when this bill is debated for final passage, whether or not you are going to

worry about a hole in the budget. I wonder why we did not hear that argument on these other tax bills and tax amendments, and I wonder whether or not we are going to hear that argument when the General Fund budget is actually brought to the floor of this House and we see various new and different spending programs. Sure it is going to put a hole in next year's budget. So are dozens and dozens of other things. We have not yet acted on next year's budget, and I think that this expenditure of \$37 million to help every utility consumer in this state is a far wiser expenditure of funds than many, many of the things that I could enumerate that cost far more than \$37 million.

Finally, Mr. Speaker, as far as energy conservation, this is not going to have a darn thing to do with whether or not we conserve energy. Capping this tax may reduce the rate of tax to 4.2, 4.1, eventually down to 3 or down to 2, but I doubt that anybody is looking at their tax assessment when they are deciding whether or not to shut off their air conditioning or their electricity. They are looking at the total bill which has gone up perhaps 300 percent in the last 4 years. So I really do not think you ought to be thinking about energy conservation when you are voting on this amendment.

I would remind many of you that a couple of months ago you voted for essentially this amendment. Thank you, Mr. Speaker.

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

Mr. VROON. Mr. Speaker, just a brief word on this amendment.

I feel that this has a lot of merit in itself. I can think of many good reasons why other people would benefit from this amendment, whom I would like very much to help. I have some very substantial industries in my area which are being hurt very badly by the gross receipts tax, so I could see many good reasons to vote for a gross receipts tax cap or a reduction in the rate even, and I would like to see something done in this area very badly. However, I must say in good conscience that this is not the way to exercise tax reform. This is a piecemeal approach. We cannot just stand up on the floor and introduce amendments and nibble away at these taxes that we think ought to be capped and ought to be reduced and ought to be shunted aside.

I think there is a lot of effort going on right now towards tax reform. It is a very good cohesive and well-coordinated effort, and that is the way it should be approached. This tax taken by itself cannot be given proper consideration like this. It has to be considered in the context of all of the tax impact that it has on the Commonwealth. If this tax is reduced, some other tax is going to have to be increased, and while we are at it, let us look at all of our tax structure and see how many other improvements we must make, but let us approach tax reform in a very judicious and a very intelligent manner and a systematic manner, and let us not try to float these things as amendments on the floor without having given proper consideration to them. I wonder how many people on the floor of the House can, at

a moment's notice like this, pass good judgment on this kind of amendment. Because of that faulty piecemeal approach, I would strongly urge the defeat of this amendment.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Street.

Mr. STREET. Mr. Speaker, I rise to speak in support of the Sweet amendment. I think it is time that this House of Representatives consider the little people, the little man. I would agree with the gentleman who just spoke that not only will the little people benefit from this amendment but also some of our large conglomerates will benefit from this amendment. Many of you are not familiar with the structure and the way your gas companies, your utility companies in the Philadelphia area are set up, but I would urge your support of this because if we do not eventually put a cap on the amount of taxes that low-income people are confronted with, then we are going to have an equally serious problem in the reverse. We are going to have people who will eventually have to make decisions between whether they will continue to pay their mortgages or whether they will try to meet the burden of the utility bills, and that is a very serious question. You will have people coming out of the winter months 3 and 4 months behind in their mortgage payments because they will be unable to meet the amortization schedule as laid out by the mortgage company, because the decision as to whether they are going to pay the utilities or the mortgage is going to be real because the outgo is going to be so much larger than the income. We need to look at that and we need to consider that in the passing of these different amendments.

In one response to the gentleman who just spoke, I agree—and many of you have heard me say it on the floor of this House before—that we should use an intelligent, a well-researched, a scientific approach to passing legislation. But I do not understand how the gentleman can say that in reference to putting a cap on the gross receipts when he did not say that in reference to HB 2044 when I laid out all types of information and all kinds of studies that show good reason as to why we should not deal with that. I think that the gentleman should be consistent and vote for the cap on the utilities.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I am sorry to hold the House a moment, but I think that there are some remarks that have to be answered.

What the gentleman said who just spoke is absolutely in the reverse of what he really intends, for the simple reason that what he is asking for in this amendment is a waste of energy which is going to create more surcharge on the exact people he is trying to help. He does not understand what the amendment is going to do. It sounds good politically and everything in helping the poor little people, but what he is going to do is really give it to them. So you sound good, but it just does not work, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Street.

Mr. STREET. Mr. Speaker, I resent the statement that if we put a cap on an amendment, people are just going to run out and waste energy. Nobody wastes more energy than government. I mean, we burn lights that do not need to be burned; we have 50-foot ceilings, heating space, where nobody ever walks and we could not walk if we wanted to. So your argument about wasting energy just does not follow. You ride down the expressway in the Philadelphia area and they have lights on the automobiles, but for some reason we feel a need to line the highways with big fluorescent lights. Do not come in and use the argument about wasting energy. You know, we waste energy. People will not waste energy if you try to give them a break and say, look, we have to put a cap on this.

The allegations made by the gentleman are unfounded. I think that they should be dismissed; they should not even be considered, and you should vote for this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—98

Austin	Fischer	Livengood	Rieger
Barber	Fryer	Lynch, E. R.	Ritter
Bennett	Gallagher	McCall	Rodgers
Berson	Gamble	McIntyre	Schmitt
Borski	Gatski	McMonagle	Schweder
Brown	Geesey	Maiale	Seventy
Caltagirone	George, C.	Manderino	Shupnik
Cappabianca	George, M. H.	Michlovic	Stairs
Chess	Giammarco	Milanovich	Steighner
Clark, B. D.	Goodman	Mrkonic	Stewart
Cochran	Grabowski	Mullen	Street
Cohen	Gray	Murphy	Stuban
Cole	Greenfield	Novak	Sweet
Cowell	Harper	O'Brien, B. F.	Taylor, E. Z.
DeMedio	Hoeffel	O'Donnell	Taylor, F.
DeVerter	Hutchinson, A.	Oliver	Trello
DeWeese	Itkin	Petrarca	Wachob
DiCarlo	Knight	Pievsky	Wargo
Dawida	Kolter	Pistella	White
Dombrowski	Kukovich	Pratt	Williams
Donatucci, R.	Laughlin	Pucciarelli	Wright, D. R.
Dorr	Lehr	Rappaport	Yahner
Duffy	Lescovitz	Reed	Zitterman
Dumas	Letterman	Richardson	Zwilk
Fee	Levin		

NAYS—90

Alden	Foster, Jr., A.	McClatchy	Serafini
Anderson	Freind	McVerry	Sieminski
Armstrong	Gallen	Mackowski	Sirianni
Arty	Gannon	Manmiller	Smith, E. H.
Belardi	Geist	Micozzie	Smith, L. E.
Bittle	Gladeck	Miller	Spencer
Bowser	Goebel	Moehlmann	Spitz
Brandt	Grieco	Mowery	Swift
Burd	Gruppo	Nahill	Taddonio
Cessar	Hagarty	Noye	Telek
Cimini	Halverson	Perzel	Thomas
Civera	Hasay	Peterson	Vroon
Clark, M. R.	Hayes, Jr., S.	Phillips	Wass
Cornell	Helfrick	Piccola	Wenger
Coslett	Honaman	Pitts	Wilson
Cunningham	Hutchinson, W.	Pott	Wilt
Davies	Johnson, E. G.	Punt	Wright, Jr., J.
Dietz	Kanuck	Pyles	Yohn

Dininni	Klingaman	Rasco	Zeller
Durham	Knepper	Rocks	Zord
Earley	Kowalshyn	Ryan	
Fisher	Levi	Salvatore	Seltzer,
Foster, W. W.	Lewis	Scheaffer	Speaker

NOT VOTING—6

Beloff	Jones	Madigan	Shadding
Johnson, J. J.	Lashingner		

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

WELCOMES

The SPEAKER. The Chair welcomes to the floor of the House Mr. and Mrs. Robert Mattern, who are here today as the guests of Mr. Geist.

The Chair welcomes to the floor of the House Chuck Welker, who is here today as the guest of Mr. Geist.

LABOR RELATIONS COMMITTEE MEETING

The SPEAKER. The chairman of the Labor Relations Committee, Mr. Wilt, is calling a meeting of the Labor Relations Committee in the room at the rear of the House upon the call of the recess.

REQUEST FOR RECESS

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I would ask that we recess now for a period of 1 hour for the purpose of lunch, return to the floor at 2:35, and hopefully we will be out of here around 5 or 5:30 this evening.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Speaker, earlier this afternoon I was out of my seat when the vote was taken on HB 2261, PN 2901. I would like to be recorded in the affirmative.

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

RECESS

The SPEAKER. Without objection, this House now stands in recess until 2:30 p.m. The Chair hears none.

AFTER RECESS

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

BILL REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

HB 2527, PN 3316 (Amended) (Unanimous)

Rep. WILT

An Act amending the "Child Labor Law," approved May 13, 1915 (P. L. 286, No. 177), providing for the issuance of special permits for motion picture filming.

LABOR RELATIONS.

BILL REMOVED FROM TABLE FOR CALENDAR

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that HB 2527 be removed from the table and placed on the next session's active calendar.

On the question,

Will the House agree to the motion?

Motion was agreed to.

BILL PASSED OVER TEMPORARILY

The SPEAKER. The Chair has been informed that several of the amendments prepared for HB 769 are not in proper form, and, without objection, the Chair will pass over temporarily HB 769, awaiting the redrafting of the amendments. The Chair hears none.

CALENDAR RESUMED RESOLUTIONS ADOPTED

Mr. RYAN called up **HR 208, PN 3257**, entitled:

House urge Nuclear Regulatory Commission review existing facilities and proposals for reprocessing of radioactive waste.

On the question,

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—172

Alden	Foster, W. W.	McCall	Scheaffer
Anderson	Foster, Jr., A.	McClatchy	Schmitt
Armstrong	Freind	McVerry	Schweder
Arty	Fryer	Mackowski	Serafini
Austin	Gallagher	Madigan	Seventy
Belardi	Gallen	Majale	Shupnik
Bennett	Gamble	Manderino	Sieminski
Berson	Gannon	Manmiller	Sirianni
Bittle	Gatski	Michlovic	Smith, E. H.
Bowser	Geesey	Micozzie	Smith, L. E.
Brandt	George, C.	Milanovich	Spencer
Brown	George, M. H.	Miller	Spitz
Burd	Gladeck	Moehlmann	Stairs
Caltagirone	Goodman	Mowery	Steighner
Cappabianca	Grabowski	Mrkonic	Stewart
Cessar	Greenfield	Mullen	Street
Chess	Grieco	Murphy	Stuban
Cimini	Gruppo	Nahill	Sweet
Civera	Hagarty	Novak	Swift
Clark, B. D.	Halverson	Noye	Taylor, E. Z.
Clark, M. R.	Harper	O'Brien, B. F.	Taylor, F.
Cochran	Hasay	O'Donnell	Telek
Cohen	Hayes, Jr., S.	Oliver	Thomas
Cole	Helfrick	Perzel	Trello

Cornell	Hoeffel	Peterson	Vroon
Coslett	Honaman	Petrarca	Wachob
Cowell	Hutchinson, A.	Phillips	Wargo
Cunningham	Hutchinson, W.	Piccola	Wass
DeMedio	Itkin	Pievsky	Wenger
DeVerter	Johnson, E. G.	Pistella	White
DiCarlo	Kanuck	Pitts	Wilson
Davies	Klingaman	Pott	Wilt
Dawida	Knight	Pratt	Wright, D. R.
Dietz	Kolter	Punt	Wright, Jr., J.
Dininni	Kowalyszyn	Pyles	Yahner
Dombrowski	Kukovich	Rappaport	Yohn
Donatucci, R.	Laughlin	Rasco	Zeller
Dorr	Lehr	Rieger	Zitterman
Duffy	Lescovitz	Ritter	Zord
Durham	Letterman	Rocks	Zwinkl
Earley	Levi	Rodgers	
Fee	Lewis	Ryan	Seltzer,
Fischer	Livengood	Salvatore	Speaker
Fisher	Lynch, E. R.		

NAYS—0

NOT VOTING—22

Barber	Giammarco	Lashinger	Reed
Beloff	Goebel	Levin	Richardson
Borski	Gray	McIntyre	Shadding
DeWeese	Johnson, J. J.	McMonagle	Taddonio
Dumas	Jones	Pucciarelli	Williams
Geist	Knepper		

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

* * *

Mr. RYAN called up **HR 209, PN 3258**, entitled:

House urge the implementation of a plan of nuclear plant siting.

On the question,

Will the House adopt the resolution?

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

Mr. HOEFFEL. Mr. Speaker, I am concerned about HR 209. It deals with the siting of nuclear power plants in Pennsylvania. The resolution in its resolve clause calls on the Department of Environmental Resources, the PUC - Public Utility Commission - and the Nuclear Regulatory Commission, and it urges these entities to investigate the implementation of a plan of nuclear plant siting. I have the same objections with this resolution as I had with the earlier ones that we voted on a day or two ago. It seems to me that this House ought to be doing a lot more than urging, and certainly we ought to be urging more than investigations of implementations.

If we are concerned about plant siting, whether it is nuclear or otherwise, we ought to be saying very clearly as a General Assembly what we want to do, and, in fact, bills have been introduced that would indeed set up siting programs not just for nuclear plants but all electrical generating plants in the Commonwealth.

I am disappointed that HR 209, as the other resolutions, failed to deal with the powers that I believe the House and the Senate of Pennsylvania have. I just cannot accept the fact that we are urging other entities, both at the state and Federal levels, to investigate the siting of nuclear power plants when indeed this House of Representatives could say very clearly in statute, not in a resolution, what we think we ought to do.

I think that this problem is in fact larger than the question of nuclear power. It affects all of the electrical generating facilities that are built and maintained in Pennsylvania. Mr. Goodman has introduced legislation dealing with the siting of power plants that I think is much closer to the mark than this resolution is here today.

I am also, on a very technical point, concerned with the language in this resolution that starts on line 16 of the first page and continues on to lines 1 and 2 of the second page. I am concerned that this resolution might indeed be construed by the people whom we are going to be sending it to, which is the NRC and DER and the PUC, that we are interested in building more nuclear plants in Pennsylvania. Now, the resolution says we want them built in sparsely populated areas, and that may be all well and good, but I am not too sure that this House of Representatives should go on the record as encouraging any more power plants that are nuclear at all. So for those reasons and because I just feel that this is one more resolution that skirts the issue and does not face it head-on, I intend to vote against HR 209. Thank you.

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

Mr. DAVIES. Mr. Speaker, in keeping with the same thing I said yesterday in reference to HR 208 and HR 209, I am not going to attempt to amend either HR 208 or HR 209. I am going to address the matter in either separate resolution form or amendatory language to another bill. I must continue to express my concern about the incident of April 18 in the transportation of hazardous waste from Three Mile Island, something that I feel could have been avoided, that should have never occurred. I think that we are going to have to begin to address ourselves as a body to, if nothing more than the finite points that have been occurring since then, these exact issues, because I do not see any reason why these particular things are not going to be addressed directly by our own legislation, our own concern. It is not just a matter of final siting and the control of that hazardous waste within the confines of this Commonwealth, but the actual transportation and the matter of the handling of that waste. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Geesey.

Mr. GEESSEY. Mr. Speaker, I should also like to point out that the resolution does not address itself to prevailing wind conditions, which I think are extremely important in the siting of any plant. Therefore, I, too, will vote against the resolution.

On the question recurring,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—118

Alden	Geist	Mackowski	Serafini
Arty	George, C.	Madigan	Seventy
Austin	George, M. H.	Manmiller	Shupnik
Belardi	Gladeck	Michlovic	Sieminski
Bittle	Goebel	Micozzie	Sirianni
Bowser	Goodman	Moehlmann	Smith, E. H.
Burd	Grieco	Mowery	Smith, L. E.
Cessar	Gruppo	Mrkonic	Spencer
Cimini	Hagarty	Murphy	Spitz
Civiera	Halverson	Nahill	Stairs
Clark, M. R.	Harper	Novak	Swift
Cole	Hasay	Noye	Taddonio
Cornell	Hayes, Jr., S.	Perzel	Telek
Coslett	Helfrick	Peterson	Thomas
Cunningham	Hutchinson, A.	Phillips	Trello
DeVerter	Hutchinson, W.	Piccola	Vroon
Davies	Itkin	Pistella	Wargo
Dietz	Johnson, E. G.	Pitts	Wass
Dininni	Kanuck	Pott	Wenger
Dorr	Klingaman	Punt	Wilson
Durham	Knepper	Pyles	Wilt
Earley	Lehr	Rasco	Wright, Jr., J.
Fischer	Letterman	Rieger	Yahner
Fisher	Levi	Ritter	Yohn
Foster, W. W.	Lewis	Rocks	Zeller
Foster, Jr., A.	Livengood	Rodgers	Zitterman
Freind	Lynch, E. R.	Ryan	Zord
Gallen	McCall	Salvatore	
Gamble	McClatchy	Scheaffer	Seltzer,
Gannon	McVerry	Schweder	Speaker

NAYS—59

Bennett	Donatucci, R.	Kukovich	Pratt
Berson	Duffy	Laughlin	Pucciarelli
Borski	Fee	Lescovitz	Rappaport
Brown	Fryer	Levin	Richardson
Caltagirone	Gallagher	McIntyre	Schmitt
Cappabianca	Gatski	McMonagle	Steighner
Chess	Geesey	Maiale	Stewart
Clark, B. D.	Giammarco	Manderino	Stuban
Cochran	Grabowski	Milanovich	Sweet
Cowell	Gray	Mullen	Taylor, F.
DeMedio	Greenfield	O'Brien, B. F.	Wachob
DeWeese	Hoeffel	O'Donnell	White
DiCarlo	Knight	Oliver	Wright, D. R.
Dawida	Kolter	Petrarca	Zwinkl
Dombrowski	Kowalyszyn	Pievsky	

NOT VOTING—17

Anderson	Cohen	Jones	Shadding
Armstrong	Dumas	Lashinger	Street
Barber	Honaman	Miller	Taylor, E. Z.
Beloff	Johnson, J. J.	Reed	Williams
Brandt			

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

BILL ON THIRD CONSIDERATION POSTPONED

Agreeable to order,

The bill having been called up from the postponed calendar by Mr. BURNS, the House resumed third consideration of **HB 1671, PN 2209**, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, adding provisions relating to education in public and nonpublic schools and making repeals.

On the question,

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

The SPEAKER. The majority whip, Mr. Hayes, has diligently gone through the amendments and he has given the Chair a suggested order in which amendments should be offered, and that order is by chapter on the recodification. The first amendment will be one to be offered by the gentleman from Centre, Mr. Letterman, numbered A5236.

The Chair recognizes the gentleman, Mr. Letterman, to offer amendment A5236.

Mr. LETTERMAN. Mr. Speaker, I am withdrawing that amendment.

On the question recurring,

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

Mr. CHESS offered the following amendments:

Amend Sec. 1 (Sec. 2343), page 98, line 23, by striking out "and" and inserting a comma

Amend Sec. 1 (Sec. 2343), page 98, line 24, by removing the period after "practicable" and inserting and follow municipal boundaries.

On the question,

Will the House agree to the amendments?

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

Mr. CHESS. Mr. Speaker, my amendment adds the words "and follow municipal boundaries."

Whenever they are setting up districts for election of school directors by districts, the current bill reads that the districts shall be compact, contiguous and as nearly equal in population as practicable. My amendment only says that they should also follow municipal boundaries.

The SPEAKER. Does the majority whip wish to be recognized on the amendment?

Mr. S. E. HAYES. No. I would yield to Mr. Gallagher.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, to Mr. Chess, what would this do, particularly for the members' information—this particularly deals with the city of Pittsburgh, I believe. Is that correct?

Mr. CHESS. No. The intention of the amendment was that in any school district that would go to a district form of representation, where there were several different municipalities involved, such as in Allegheny County where the Montour School District has, I think, five different municipalities involved, as practicable they would follow municipal boundaries and not split up municipalities when they are setting up the districts.

Mr. GALLAGHER. So instead of splitting a municipality, they would continue—

Mr. CHESSE. As practicable they would try to keep the municipality intact.

Mr. GALLAGHER. Stay within the municipality. This amendment in no way allows them to go beyond the county boundary line though. Is that correct?

Mr. CHESSE. I do not think this affects the county boundary line at all.

Mr. GALLAGHER. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

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

The SPEAKER. The gentleman, Mr. Chess, indicates that he will stand for interrogation. Mr. O'Donnell may proceed.

Mr. O'DONNELL. I am not sure I understood your response to the last question about who would be affected. Section 2343(a), which you are amending, deals only with electoral districts in districts of the first class A, right? So the only districts that would be affected by your amendment are first class A, and that is Pittsburgh, is it not?

AMENDMENTS WITHDRAWN

Mr. CHESSE. Well, I withdraw the amendment. It has been misdrafted then if that is the case. The intention of the amendment was to affect all school districts where they are going to district representation, and my understanding from talking to the Reference Bureau is that it did. If it is inaccurate, we will have it redrafted. I withdraw the amendment.

The SPEAKER. The gentleman from Allegheny, Mr. Chess, is withdrawing his amendment. The Chair thanks the gentleman.

On the question recurring,

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

Mr. LETTERMAN offered the following amendment:

Amend Sec. 1 (Sec. 2374), page 110, lines 18 to 21, by striking out all of lines 18 through 20 and "(d)" in line 21 and inserting (c)

On the question,

Will the House agree to the amendment?

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

Mr. LETTERMAN. What my amendment would do is to delete on page 245, lines 26 through 28. This is a solicitation of bids from two or more persons engaged in a business related to the nature of the items to be disposed of. The part that I object to is, coming from a small area like I do—

POINT OF ORDER

Mr. RITTER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman, Mr. Ritter, will state his point of order.

Mr. RITTER. Mr. Speaker, you said amendment 5197. I do not think that is the one Mr. Letterman is referring to.

The SPEAKER. Amendment 5197 is the one on the Speaker's desk.

Mr. LETTERMAN. Okay. It must not be the right one. I think I have too many of them.

This is the one where we strike out where it says whether or not the secretary is member of the board of school directors, he shall not serve simultaneously as earned income tax officer. I do not see where this really has any bearing on the efficiency of the secretary, and I would like to see it so they can run and be both in the school district.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I am sure the gentleman's amendment is well intended, but what the School Code is trying to do is to allow the school board to save some money by having the secretary act as a secretary and simultaneously as an earned income tax officer. That is the main reasoning for it.

I am sorry, I am saying it in reverse. It is to try to save money so that they shall not—

Mr. LETTERMAN. He made a good point for my amendment. We are saving money from them being both, and you were absolutely right, Mr. Speaker, that is exactly what we should continue to do.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, as I understand, the reason for the provision in HB 1671 is so that there is no question as to those who serve in official capacity for a school board and those who are also collecting revenues for that school district, a possible conflict of some sort. I personally do not know of those kinds of conflicts, but those who wrote this language were concerned about that sort of thing. What Mr. Letterman is trying to do is make it possible for a school board secretary to also act as the earned income tax collector, and thereby you do not necessarily need as many people with the Letterman amendment as you would with HB 1671 as it is presently.

I offer those comments in no way other than explanation. There were those who raised the question of whether there is a conflict when a secretary also serves as a collector of taxes. Mr. Letterman is coming to us today with an amendment to make it possible for one person to serve in both roles. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Does the gentleman, Mr. Gallagher, wish to be recognized any further?

Mr. GALLAGHER. Not at this time, until Mr. Letterman is finished.

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

Mr. LETTERMAN. Mr. Speaker, I used to audit the school books in the school districts and I would think that,

in the smaller school districts, approximately 70 percent of the secretaries serve as the income tax officer. Now they have employes who work under them, and it really works out well for small school districts. I would hate to see that destroyed because it would force us to hire or elect new people and extra people and pay out more of our tax dollars. And that is what I am trying to eliminate.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, originally my discussion of the proposed amendment might have seemed a little garbled, but what we are trying to do is to say that the school board is trying to save money. The secretary is prohibited from doing these things. In limitation of other office whether or not the secretary is a member of the board of school directors, he shall not serve simultaneously as an earned income tax officer. The reasoning for that is to save some money by the school board. And because the secretary, he has the authority in this code, in the present code, to authorize and execute on behalf of all deeds, contracts, reports and other instruments that are executed by the board. And it is felt that it might be a conflict of interest on the part of the secretary doing both things; One, acting as a secretary and at, the same time, being simultaneously the earned income tax collector. We feel that it is better that they be precluded from doing that, and then in that manner they can save money by not having any conflict-of-interest problem, even though it might cost a little more dollars to have an earned income tax officer or even their own tax collector in their township can be doing that and in some districts they do it that way by a contract with the regular tax collector for a commission or a fee arrangement. So I feel that the amendment is not necessary at this time.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, Mr. Letterman is absolutely right for the simple reason we do it in our borough. Many boroughs do it with the borough secretary who is the income officer. What is the difference between a municipality or the school district? What they are doing is creating more jobs. And we are talking holding the line on costs and here they are developing more jobs. That is the same reason why we wanted to get some hold with the legislative input rather than the so-called state board of education. But getting back to this point, Mr. Gallagher may be referring to such a case in the past—and I had a case like that back in 1957.—It was a case of a township secretary, and in the School Code it says it is an incompatible office to run as even a school board director. Now those things are conflict of interest. We are talking about a secretary of a school district or a borough or what have you. There is no reason why they could not be the income officer. In this particular case it is the school board; in our case it is a borough. I know townships that do it. There is nothing wrong with it. Here you are talking about saving money by less employes. And Mr. Letterman's amendment is on target and it should be approved.

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

The following roll call was recorded:

YEAS—151

Alden	Gallen	McClatchy	Scheaffer
Anderson	Gamble	McIntyre	Schmitt
Armstrong	Geesey	McMonagle	Schweder
Austin	Geist	McVerry	Serafini
Barber	George, C.	Mackowski	Seventy
Belardi	George, M. H.	Madigan	Shupnik
Bittle	Giammarco	Maiale	Sieminski
Borski	Goebel	Manmiller	Sirianni
Bowser	Goodman	Michlovic	Smith, E. H.
Brandt	Grabowski	Micozzie	Smith, L. E.
Brown	Gray	Moehlmann	Spencer
Burd	Grieco	Mowery	Spitz
Caltagirone	Gruppo	Mrkonic	Stairs
Cessar	Hagarty	Mullen	Steighner
Chess	Halverson	Murphy	Stewart
Cimini	Harper	Novak	Stuban
Civera	Hasay	Noye	Swift
Clark, M. R.	Hayes, Jr., S.	O'Brien, B. F.	Taddonio
Cochran	Honaman	O'Donnell	Taylor, E. Z.
Cohen	Hutchinson, A.	Oliver	Taylor, F.
Cole	Hutchinson, W.	Perzel	Telek
Coslett	Itkin	Peterson	Thomas
Cowell	Johnson, E. G.	Phillips	Trello
DeVerter	Kanuck	Piccola	Wargo
DiCarlo	Klingaman	Pistella	Wass
Dawida	Knepper	Pitts	Wenger
Dietz	Knight	Pott	Williams
Dininni	Kolter	Pratt	Wilson
Dombrowski	Kowalyszyn	Pucciarelli	Wilt
Donatucci, R.	Kukovich	Punt	Wright, D. R.
Dorr	Laughlin	Rappaport	Yohn
Duffy	Lehr	Reed	Zeller
Dumas	Letterman	Rieger	Zitterman
Durham	Levi	Ritter	Zord
Earley	Levin	Rocks	Zwkl
Foster, W. W.	Livengood	Rodgers	
Foster, Jr., A.	Lynch, E. R.	Ryan	Seltzer,
Freind	McCall	Salvatore	Speaker
Fryer			

NAYS—32

Arty	DeWeese	Gladeck	Petrarca
Bennett	Davies	Greenfield	Pievsky
Berson	Fee	Hoeffel	Pyles
Cappabianca	Fischer	Lescovitz	Sweet
Clark, B. D.	Fisher	Lewis	Vroon
Cornell	Gallagher	Manderino	Wachob
Cunningham	Gannon	Milanovich	Wright, Jr., J.
DeMedio	Gatski	Nahill	Yahner

NOT VOTING—11

Beloff	Jones	Rasco	Street
Helfrick	Lashingier	Richardson	White
Johnson, J. J.	Miller	Shadding	

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

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

Miss SIRIANNI offered the following amendment:

Amend Sec. 1 (Sec. 2376), page 111, line 1 by inserting after "administrator" when the board believes it will improve the operation of the district,

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

The SPEAKER. The Chair recognizes the lady from Susquehanna, Miss Sirianni, who offers amendment No. A6442.

MISS SIRIANNI. It is not written right.

AMENDMENT WITHDRAWN TEMPORARILY

Mr. S. E. HAYES. Mr. Speaker, the lady has just informed me that she is not satisfied with the way the amendment has been drawn and she is going to withdraw amendment A6442.

The SPEAKER. The Chair thanks the lady.

MISS SIRIANNI. Temporarily.

Mr. S. E. HAYES. She is going to come back at us.

The SPEAKER. That is a decision for the House to make.

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

Mr. STEWART offered the following amendments:

Amend Sec. 2377, page 112, line 19, by inserting after "board" of a first class or first class A school district

Amend Sec. 2377, page 112, line 21, by inserting after "fix." In school districts of the second class where board members serve as the treasurer, such board member shall receive no compensation except reimbursement for actual and necessary expenses incurred in his activities as treasurer and as board member.

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

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

Mr. STEWART. This amendment A6355 amends the section relating to school board treasurers and says that if a school board member also serves as the treasurer of the school district, they can receive no compensation other than actual expenses incurred in the operation of that duty.

I have had some districts in my legislative district that, depending on the makeup of the board, have appointed one of the board members as treasurer and then paid them a salary even though the business manager was doing all the work. This sets that particular problem straight, and I urge that you pass it.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I can understand Mr. Stewart's amendment. It is a problem in certain areas. I have no personal objections to the amendment at all.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. I concur with the gentleman, Mr. Gallagher, Mr. Speaker. I support the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—185

Alden	Fisher	Lewis	Rodgers
Anderson	Foster, W. W.	Livengood	Ryan
Armstrong	Foster, Jr., A.	Lynch, E. R.	Salvatore
Arty	Freind	McCall	Scheaffer
Austin	Fryer	McIntyre	Schmitt
Barber	Gallagher	McMonagle	Schweder
Belardi	Gallen	McVerry	Serafini
Bennett	Gamble	Mackowski	Seventy
Berson	Gannon	Madigan	Shupnik
Bittle	Gatski	Maiale	Sieminski
Borski	Geesey	Manderino	Sirianni
Bowser	Geist	Manmiller	Smith, E. H.
Brandt	George, C.	Mjchlovic	Smith, L. E.
Brown	George, M. H.	Micozzie	Spencer
Burd	Gladeck	Milanovich	Spitz
Caltagirone	Goebel	Miller	Stairs
Cappabianca	Goodman	Moehlmann	Steighner
Cessar	Grabowski	Mowery	Stewart
Chess	Gray	Mrkonc	Suban
Cimini	Greenfield	Mullen	Sweet
Civera	Grieco	Murphy	Swift
Clark, B. D.	Gruppo	Nahill	Taddonio
Clark, M. R.	Hagarty	Novak	Taylor, E. Z.
Cochran	Halverson	Noye	Taylor, F.
Cohen	Harper	O'Brien, B. F.	Telek
Cole	Hasay	O'Donnell	Thomas
Cornell	Hayes, Jr., S.	Oliver	Trello
Coslett	Helfrick	Perzel	Vroon
Cowell	Hoeffel	Peterson	Wachob
Cunningham	Honaman	Petrarca	Wargo
DeMedio	Hutchinson, A.	Phillips	Wass
DeVerter	Hutchinson, W.	Pjccola	Wenger
DeWeese	Ikin	Pievsky	White
DiCarlo	Johnson, E. G.	Pistella	Wilson
Davies	Kanuck	Pitts	Wilt
Dawida	Klingaman	Pott	Wright, D. R.
Dietz	Knepper	Pratt	Wright, Jr., J.
Dininni	Knight	Pucciarelli	Yahner
Dombrowski	Kolter	Punt	Yohn
Donatucci, R.	Kowalyshyn	Pyles	Zeller
Dorr	Kukovich	Rappaport	Zitterman
Duffy	Laughlin	Rasco	Zord
Dumas	Lehr	Reed	Zwinkl
Durham	Lescovitz	Richardson	
Earley	Letterman	Rieger	Seltzer,
Fee	Levi	Ritter	Speaker
Fischer	Levin	Rocks	

NAYS—0

NOT VOTING—9

Beloff	Jones	McClatchy	Street
Giammarco	Lashingier	Shadding	Williams
Johnson, J. J.			

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

The SPEAKER. The Chair returns to the lady from Susquehanna, Ms. Sirianni, who again offers amendment No. 6442.

Miss SIRIANNI. Miss; I do not like Ms.

The SPEAKER. Will the lady please send her amendment to the desk?

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

Miss SIRIANNI offered the following amendment:

Amend Sec. 1 (Sec. 2376), page 111, line 1 by inserting after "administrator" when the board believes it will improve the operation of the district,

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

The SPEAKER. The Chair recognizes the person from Susquehanna, Carmel Sirianni.

Miss SIRIANNI. Miss Sirianni will now speak.

The SPEAKER. The Chair thanks the lady.

Miss SIRIANNI. My amendment really does not add as much to it as I want to, but it does say that when the board believes it will improve the operation of the district, they will appoint a business manager.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I heartily concur with Miss Sirianni on her amendment.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. The lady has brought forth a very good amendment, and I believe the House should adopt it. This bill will be infinitely better with it. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—182

Alden	Fisher	Lewis	Ryan
Anderson	Foster, W. W.	Lynch, E. R.	Salvatore
Armstrong	Foster, Jr., A.	McCall	Scheaffer
Arty	Freind	McClatchy	Schmitt
Austin	Fryer	McIntyre	Schweder
Barber	Gallagher	McMonagle	Serafini
Belardi	Gallen	McVerry	Seventy
Bennett	Gamble	Mackowski	Shupnik
Berson	Gannon	Madigan	Sieminski
Bittle	Gatski	Maiale	Sirianni
Borski	Geesey	Manmiller	Smith, E. H.
Bowser	Geist	Michlovic	Smith, L. E.
Brandt	George, C.	Micozzie	Spencer
Brown	George, M. H.	Milanovich	Spitz
Burd	Giammarco	Miller	Stairs
Caltagirone	Gladeck	Moehlmann	Steighner
Cappabianca	Goebel	Mowery	Stewart
Cessar	Goodman	Mrkonic	Stuban
Chess	Grabowski	Mullen	Sweet
Cimini	Gray	Murphy	Swift
Civera	Greenfield	Nahill	Taddonio
Clark, M. R.	Grieco	Novak	Taylor, E. Z.
Cochran	Gruppo	Noye	Taylor, F.
Cohen	Hagarty	O'Brien, B. F.	Telek
Cole	Halverson	O'Donnell	Thomas
Cornell	Harper	Oliver	Trello
Coslett	Hasay	Perzel	Vroon
Cowell	Hayes, Jr., S.	Peterson	Wachob
Cunningham	Helfrick	Phillips	Wargo
DeMedio	Hoeffel	Piccola	Wass
DeVertter	Honaman	Pievsky	Wenger
DeWeese	Hutchinson, W.	Pistella	White
DiCarlo	Itkin	Pitts	Williams
Davies	Johnson, E. G.	Pott	Wilson
Dawida	Kanuck	Pratt	Wilt

Dietz	Klingaman	Pucciarelli	Wright, D. R.
Dininni	Knepper	Punt	Wright, Jr., J.
Dombrowski	Knight	Pyles	Yahner
Donatucci, R.	Kowalshyn	Rappaport	Yohn
Dorr	Kukovich	Rasco	Zeller
Duffy	Laughlin	Reed	Zitterman
Dumas	Lehr	Richardson	Zord
Durham	Lescovitz	Rieger	Zwinkl
Earley	Letterman	Ritter	
Fee	Levi	Rocks	Seltzer,
Fischer	Levin	Rodgers	Speaker

NAYS—6

Clark, B. D.	Kolter	Manderino	Petrarca
Hutchinson, A.	Livengood		

NOT VOTING—6

Beloff	Jones	Shadding	Street
Johnson, J. J.	Lashingier		

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

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

Mr. THOMAS offered the following amendment:

Amend Sec. 1 (Sec. 2715), page 148, line 6, by striking out "Every fourth year" and inserting Annually

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

The SPEAKER. The Chair recognizes the gentleman from Snyder, Mr. Thomas.

Mr. THOMAS. Mr. Speaker, all this amendment does is change the provision for the selection of the secretary of an IU board from every fourth year to an annual selection. It does not mean that you cannot have a secretary for 4 years, but it means that you look at the office every year and then you make a decision.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. I urge support of the Thomas amendment.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I concur with Mr. Thomas and his amendment.

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

The following roll call was recorded:

YEAS—173

Alden	Foster, Jr., A.	Levin	Rodgers
Anderson	Freind	Lewis	Ryan
Armstrong	Fryer	Livengood	Salvatore
Arty	Gallagher	Lynch, E. R.	Scheaffer
Austin	Gallen	McCall	Schmitt
Belardi	Gamble	McClatchy	Schweder
Bennett	Gannon	McIntyre	Serafini
Berson	Gatski	McMonagle	Seventy
Borski	Geesey	McVerry	Shupnik
Bowser	Geist	Madigan	Sieminski
Brandt	George, C.	Maiale	Sirianni

Brown	George, M. H.	Manderino	Smith, E. H.
Burd	Gladeck	Manmiller	Smith, L. E.
Caltagirone	Goebel	Michlovic	Spencer
Cappabianca	Goodman	Milanovich	Spitz
Cessar	Grabowski	Miller	Steighner
Chess	Gray	Moehlmann	Stewart
Cimini	Greenfield	Mowery	Stuban
Civera	Grieco	Mrkonic	Sweet
Clark, B. D.	Gruppo	Mullen	Swift
Clark, M. R.	Hagarty	Murphy	Taddonio
Cochran	Halverson	Novak	Taylor, E. Z.
Cohen	Harper	Noye	Taylor, F.
Cole	Hasay	O'Brien, B. F.	Telek
Coslett	Hayes, Jr., S.	O'Donnell	Thomas
Cowell	Helfrick	Oliver	Trello
Cunningham	Hoeffel	Perzel	Wachob
DeMedio	Honaman	Petrarca	Wargo
DeWeese	Hutchinson, A.	Phillips	Wass
DiCarlo	Hutchinson, W.	Piccola	Wenger
Davies	Itkin	Pievsky	White
Dawida	Johnson, E. G.	Pistella	Wilson
Dietz	Kanuck	Pitts	Wright, D. R.
Dininni	Klingaman	Pott	Wright, Jr., J.
Dombrowski	Knepper	Pratt	Yahner
Donatucci, R.	Knight	Pucciarelli	Yohn
Dorr	Kolter	Punt	Zeller
Duffy	Kowalshyn	Rappaport	Zitterman
Durham	Kukovich	Rasco	Zord
Earley	Laughlin	Reed	Zwikel
Fee	Lehr	Richardson	
Fischer	Lescovitz	Rieger	Seltzer,
Fisher	Letterman	Ritter	Speaker
Foster, W. W.	Levi	Rocks	

NAYS—5

Cornell	Nahill	Pyles	Vroon
DeVertter			

NOT VOTING—16

Barber	Giammarco	Mackowski	Stairs
Beloff	Johnson, J. J.	Micozzie	Street
Bittle	Jones	Peterson	Williams
Dumas	Lashingner	Shadding	Wilt

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

On the question recurring,

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

Mr. THOMAS offered the following amendment:

Amend Sec. 1 (Sec. 2718), page 151, line 29, by striking out "all" and inserting at least two-thirds of

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Snyder, Mr. Thomas.

Mr. THOMAS. Mr. Speaker, this changes the requirement whereby all districts within an intermediate unit approve leases for administrative offices. As it is constructed in the law now, it says every constituent district must approve such action. My amendment would reduce that from every district to two-thirds of the districts. That is all it does.

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. I believe the gentleman has offered a good amendment here this afternoon. There are occasions when constituent school districts, who are joined together in intermediate units, are vying for a particular lease, and a district may withhold its support of another district gaining a lease and thereby cause the IU to be unable to make a decision with regard to lease space. I believe this gentleman's amendment is a good amendment and should be adopted by the House this afternoon.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I concur with Mr. Thomas and Mr. Hayes on the amendment.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, back in 1971 or 1972 we had this before the House, and the present law says that they set up their own decision as to majority two-thirds or 100 percent. I agree with you. I was just wondering if we are not smacking into the face of setting up two-thirds when some districts want a simple majority. Now, if you feel that two-thirds is a magic number, sometimes it creates problems in those districts, but if you feel that is better for the taxpayers, fine. But we had that problem in Lehigh. Remember Mr. Zearfoss working with me, those that were on the floor of the House from Chester County, and I know Matt remembers that, and I am sure Sam does, that we had that problem. So I am just wondering whether we are not beating a dead horse here when the district can set up their own.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—180

Alden	Fisher	Lewis	Rodgers
Anderson	Foster, W. W.	Livengood	Ryan
Armstrong	Foster, Jr., A.	Lynch, E. R.	Salvatore
Arty	Freind	McCall	Scheaffer
Austin	Fryer	McIntyre	Schmitt
Barber	Gallagher	McMonagle	Schweder
Belardi	Gallen	McVerry	Serafini
Bennett	Gamble	Mackowski	Seventy
Berson	Gannon	Madigan	Shupnik
Bittle	Gatski	Maiale	Sieminski
Borski	Geesey	Manderino	Sirianni
Bowser	Geist	Manmiller	Smith, E. H.
Brandt	George, C.	Michlovic	Smith, L. E.
Brown	Gladeck	Micozzie	Spencer
Burd	Goebel	Milanovich	Spitz
Caltagirone	Goodman	Moehlmann	Stairs
Cappabianca	Grabowski	Mowery	Steighner
Cessar	Gray	Mrkonic	Stewart
Chess	Greenfield	Mullen	Stuban
Cimini	Grieco	Murphy	Sweet
Civera	Gruppo	Nahill	Swift
Clark, B. D.	Hagarty	Novak	Taddonio
Clark, M. R.	Halverson	Noye	Taylor, E. Z.
Cochran	Harper	O'Brien, B. F.	Taylor, F.
Cohen	Hasay	O'Donnell	Telek
Cole	Hayes, Jr., S.	Oliver	Thomas
Cornell	Helfrick	Perzel	Trello
Coslett	Hoeffel	Peterson	Vroon
Cowell	Honaman	Petrarca	Wachob

Cunningham	Hutchinson, A.	Phillips	Wargo
DeMedio	Hutchinson, W.	Piccola	Wass
DeVerter	Itkin	Pievsky	Wenger
DeWeese	Johnson, E. G.	Pistella	White
DiCarlo	Kanuck	Pitts	Wilson
Davies	Klingaman	Pott	Wilt
Dawida	Knepper	Pratt	Wright, D. R.
Dietz	Knight	Pucciarelli	Wright, Jr., J.
Dininni	Kolter	Punt	Yahner
Dombrowski	Kowalshyn	Pyles	Zeller
Dorr	Kukovich	Rappaport	Zitterman
Duffy	Laughlin	Rasco	Zord
Dumas	Lehr	Reed	Zwilk
Durham	Lescovitz	Rieger	
Earley	Letterman	Ritter	Seltzer,
Fee	Levi	Rocks	Speaker
Fischer	Levin		

NAYS—3

George, M. H. Miller Richardson

NOT VOTING—11

Beloff	Johnson, J. J.	McClatchy	Williams
Donatucci, R.	Jones	Shadding	Yohn
Giammarco	Lashingar	Street	

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

On the question recurring,

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

Mr. FREIND offered the following amendments:

Amend Sec. 2910, page 162, line 12, by striking out "two payments" and inserting payment which shall be made on September 1

Amend Sec. 2910, page 162, line 13, by striking out "estimates" and inserting an estimate

Amend Sec. 2910, page 162, line 15, by inserting after "THE" second payment which shall be made on December 1 shall be 20% and the

Amend Sec. 2910, page 162, line 15, by inserting after "PAYMENT" which shall be made on April 20

Amend Sec. 2910, page 162, line 16, by striking out "20%" and inserting 30%

Amend Sec. 2910, page 162, line 18, by inserting after "payment" which shall be made on June 1

On the question,

Will the House agree to the amendments?

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

Mr. FREIND. I am, at this point, not ready to introduce these amendments. I am not sure whether I am going to or not and I will not know for about 20 minutes or so. Thank you.

The SPEAKER. Did the gentleman indicate that he is not going to offer amendment No. 3716 also?

Mr. FREIND. Which one did you call, Mr. Speaker?

The SPEAKER. A3716.

Mr. FREIND. Okay. That one I will do.

The SPEAKER. The Chair recognizes Mr. Freind.

Mr. FREIND. One of the things that we did in the proposed new school code, which is something that is supported by all of the school districts, all of the teachers' organizations, is to change the quarterly payments from tertiary to quarterly. That is already in HB 1671. This amends this, the quarterly payment schedule, pursuant to an agreement reached with the Governor's Budget Office. It is still a quarterly subsidy payment rather than tertiary, but we make a few small changes, the most significant of which is changing one of the payments from April 15 to April 20, which the Governor's Budget Office requested so that they will have an extra 5 days to receive the revenue from the personal income tax.

What the amendment means and also the amendment which is presently in the bill is that the school districts will not be getting more money, but they will be getting their money quicker, will be able to invest it, and, in fact, it will prove to be a savings for the local school districts.

I think we have pretty wide agreement on this amendment and I would appreciate a support.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. There has been a great deal of concern over the tertiary payments which came about through the enactment of a subsidy bill a few years ago. Negotiations have taken place, suggesting that we return to the previous system of quarterly payments, and I urge support of the gentleman's amendment.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I too, like Mr. Hayes, concur in Mr. Freind's amendment. We have been for a number of years attempting to get this done from tertiary to quarterly payments. It is to the benefit of the school districts instead of the Commonwealth, so I urge a "yes" vote for this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—181

Alden	Fischer	Lewis	Rocks
Anderson	Fisher	Livengood	Rodgers
Armstrong	Foster, W. W.	Lynch, E. R.	Ryan
Arty	Foster, Jr., A.	McCall	Salvatore
Austin	Freind	McClatchy	Scheaffer
Barber	Fryer	McIntyre	Schmitt
Belardi	Gallagher	McMonagle	Schweder
Bennett	Gallen	McVerry	Serafini
Berson	Gamble	Mackowski	Seventy
Bittle	Gannon	Madigan	Shupnik
Borski	Gatski	Maiale	Sieminski
Bowser	Geesey	Manmiller	Sirianni
Brandt	Geist	Michlovic	Smith, E. H.
Brown	George, C.	Micozzie	Smith, L. E.
Burd	George, M. H.	Milanovich	Spencer
Caltagirone	Gladeck	Miller	Spitz
Cappabianca	Goebel	Moehlmann	Stairs
Cessar	Grabowski	Mowery	Steighner
Chess	Gray	Mrkonic	Stewart
Cimini	Greenfield	Mullen	Stuban
Civera	Grieco	Murphy	Sweet
Clark, B. D.	Gruppo	Nahill	Swift
Clark, M. R.	Hagarty	Novak	Taddonio
Cochran	Halverson	Noye	Taylor, E. Z.

Cohen	Harper	O'Brien, B. F.	Taylor, F.
Cole	Hasay	O'Donnell	Telek
Cornell	Hayes, Jr., S.	Oliver	Thomas
Coslett	Helfrick	Perzel	Trello
Cowell	Hoeffel	Peterson	Vroon
Cunningham	Hutchinson, A.	Petrarca	Wachob
DeMedio	Hutchinson, W.	Phillips	Wargo
DeVerter	Itkin	Piccola	Wass
DeWeese	Johnson, E. G.	Pievsky	Wenger
DiCarlo	Kanuck	Pistella	White
Davies	Klingaman	Pitts	Williams
Dawida	Knepper	Pott	Wilson
Dietz	Knight	Pratt	Wilt
Dininni	Kolter	Pucciarelli	Wright, D. R.
Dombrowski	Kowalyszyn	Punt	Wright, Jr., J.
Donatucci, R.	Kukovich	Pyles	Yahner
Dorr	Laughlin	Rappaport	Yohn
Duffy	Lehr	Rasco	Zeller
Dumas	Lescovitz	Reed	Zitterman
Durham	Letterman	Richardson	Zord
Earley	Levi	Ritter	Zwikl
Fee			

NAYS—2

Manderino Seltzer,
Speaker

NOT VOTING—11

Beloff	Honaman	Lashinger	Shadding
Giammarco	Johnson, J. J.	Levin	Street
Goodman	Jones	Rieger	

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

On the question recurring,

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

Mr. HOEFFEL offered the following amendment:

Amend Sec. 1 (Sec. 2921), page 168, line 26, by removing the period after "Education" and inserting
: Provided, however, That the Secretary of Revenue shall reduce such personal income valuation for any school district, except school districts of the first class, by an amount equal to the total personal income earned in cities of the first class by residents of that school district. The Secretary of Revenue shall not calculate the individual school district personal income decrease when determining the total Statewide personal income. Any determination made or personal income reduced pursuant to this clause shall not reduce the subsidy payments made to any other school district.

On the question,

Will the House agree to the amendment?

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

Mr. HOEFFEL. The purpose of my amendment, Mr. Speaker, is to correct a true inequity that is currently affecting the suburban school districts surrounding Philadelphia. It would amend the section of the code dealing with the subsidy formula, and particularly the section dealing with the personal income valuation. And my amendment would say that the income that is earned in the city of Philadelphia by nonresident commuters could not be

counted towards the income valuation of their suburban school districts. The reason for this is that the income valuation in the subsidy formula is designed to determine how much money is available in the suburban districts for local taxation, and, obviously, as we all know, the wealthier the district, the lower the state subsidy. The suburban districts around Philadelphia are being credited with an artificially high income valuation, Mr. Speaker, because a large part of that income is earned in Philadelphia and is not taxable by the suburban school districts because of the Sterling Act and Act 511.

The purpose of this amendment is to simply say that the money earned in the city cannot be considered as part of the income available for taxation in the suburbs, and it would therefore reduce the personal income valuation accordingly of those suburban districts. The last sentence of the amendment specifically says that any change in subsidy payments that will be caused by this amendment shall not reduce the subsidy payments to any other district. In other words, the money that would be increased to suburban school districts would not come at the expense of any other district. It would not reduce Philadelphia's subsidy by one penny or anybody else's subsidy by one penny, but would rather increase the money that is provided to the suburban school districts through the subsidy payment. I ask for a favorable vote.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, does the gentleman have a fiscal note on this amendment?

Mr. HOEFFEL. Mr. Speaker, not on this particular amendment. This amendment in bill form passed the House of Representatives last session, and at that time the fiscal note was approximated at about \$7 million to \$8 million. The reason for the approximation is that at that time the Department of Revenue did not know how much money is earned in the city of Philadelphia by suburban commuters, and as a result of that inability to come up with the right figures, the Department of Revenue put onto the income tax form this past year a new box that is designed to determine how much money indeed is earned by suburban commuters in the city.

I believe that at this time, or as soon as the 1979 income tax information is tabulated by the Department of Revenue, because of the presence of the box on the income tax form, they will know the figures and will be able to come up with a more accurate estimation. But based on the assumption that about a third of the income in suburban school districts is earned in the city—which is the figure that planning commissions use, and that is sort of the rule of thumb, that one-third of the income is earned in the city by commuters—therefore, the fiscal note on this was estimated at \$7 million to \$8 million.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, would the gentleman advise the House as to whether or not this would affect a district's aid ratio?

Mr. HOEFFEL. Mr. Speaker, since I do not understand the aid ratio, I am reluctant to comment directly.

This amendment is designed to increase the subsidy payments to suburban Philadelphia school districts. It would do that by lowering the personal income valuation of those suburban districts by subtracting the money earned by commuters in the city of Philadelphia. Since that money is indeed not available for suburban taxation, I do not think it should be counted in our personal income valuation.

I am trying to answer you straightforwardly, Mr. Speaker. I hope I answered your question.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. If I understand the gentleman's amendment, Mr. Speaker, I believe that this language could affect a district's aid ratio, which is a very critical component of the school subsidy formula. It is an issue which is complex and difficult. I think it is a matter which should be handled when we are considering a school subsidy bill as we did last year, 1979, Act 41, where the aid ratio was changed to favorably affect districts such as the one Mr. Hoeffel has been making reference to. I do not believe at this time, with the absence of a fiscal note, with the fact that it is going to affect aid ratios in all probability, that the House should wade into this water this afternoon, and I respectfully suggest that we oppose the gentleman's amendment. That is not to say that we would not on another day, during consideration of a subsidy bill, raise the question. But for the reasons I mentioned, which are two critical reasons - one, the fiscal note; and, two, the aid ratio question - I would ask the gentleman to withdraw his amendment, and if he does not do that, I ask the House to vote against it.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, at this time I will have to wear a different hat, being a suburbanite myself. I concur with Mr. Hoeffel that it does allow the suburban districts in particular to have the total personal income earned in their district to be calculated for their aid ratio, which in a sense does cause roughly \$7 million more in those areas but does not per se take from any specific district. It is just that that additional amount of money will have to be put into the general appropriation bill to provide for it. So I think it is a good sign and a good direction that we are trying to follow, which we did by bill form last year that did pass the House. All we are trying to do is reiterate that in the School Code so that it continues on.

There is a question that everybody has in their mind that the suburbanites will be taking it from the rural or the city areas, and that is not true. It would just have to be added to the general fund to provide for this method of establishing the personal income tax in the suburban areas which in a sense would change their aid ratio, and that is what they are being penalized for under the present statute while other districts all around us are enjoying that method, notwithstanding the fact that the suburbanites are receiving less while they are putting more into the coffers of the Commonwealth. All they are looking for is their fair share

from this type of amendment. So I personally am in favor of it.

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

Mr. COWELL. Mr. Speaker, perhaps Mr. Gallagher would consent to interrogation. He might be more familiar with the questions.

Mr. GALLAGHER. I will.

The SPEAKER. The gentleman, Mr. Gallagher, indicates that he will. The gentleman may proceed.

Mr. COWELL. Mr. Speaker, the amendment clearly states that the intent is that no other district be penalized because of the additional dollars to which the suburban districts will be eligible?

Mr. GALLAGHER. That is correct.

Mr. COWELL. My question relates to the current set of circumstances whereby we are not fully funding the school subsidy law as it exists. I think there is a general consensus that it is not fully funded and, in fact, all districts are getting a prorated share. Is that correct?

Mr. GALLAGHER. That is correct. The Commonwealth owes all school districts about \$8.4 million for the present subsidy formula in which we are in deficit to the districts right now. But the amendment very clearly says that "Any determination made or personal income reduced pursuant to this clause shall not reduce the subsidy payments made to any other school district." That is part of the amendment. What this is saying is what I just spoke of. It is not to in any way reduce payments to any other school district. All we are asking is that this go into law, and then when the GA bill comes up, that additional money is appropriated to take care of this matter plus the \$8.4 million that the Commonwealth owes the rest of the districts in the state.

Mr. COWELL. Mr. Speaker, in addition to the additional \$8.4 million that the Commonwealth owes the 505 districts, am I not correct in understanding that we are not fully funding the school subsidy formula as it exists in its raw form and, in fact, we have agreed as a legislative body to only fund a portion of that in the past?

Mr. GALLAGHER. That is correct. At the present time we are not fully funding all districts under the present subsidy formula in the present fiscal year with the amount of money appropriated last year. So we are saying—let me draw you this kind of conclusion: Last year we passed a new subsidy bill. We felt we put enough money in there to pay for it. We wind up paying less than \$8.4 million to all the school districts in the Commonwealth, and the department basically puts a cap on that at .82 to distribute the money that was appropriated. The same thing will continue to apply unless we put enough money in the general appropriation bill so that it is fully funded, which is the intent of the subsidy act.

Mr. COWELL. Mr. Speaker, my concern—and perhaps you can explain this. I cannot understand—when working with a limited pot of money that currently does not meet the commitments of the Commonwealth and does not meet

the needs of the raw school subsidy formula, how we can provide additional dollars to a few school districts without penalizing the other districts in the pool, the remainder of the 505 school districts in the pool.

Mr. GALLAGHER. Mr. Speaker, the amendment says again, the last paragraph, "Any determination made or personal income reduced pursuant to this clause shall not reduce the subsidy payments made to any other school district," and it is very clear to the department. When they calculate this section in the subsidy section of the code, they will be looking at the amount of dollars appropriated by this General Assembly, and they will calculate in there just like they did last year. Instead of giving them 100 percent of the moneys that we appropriated, they had it prorated by the number of districts, by the aid ratio, by each district, and they came out to a .85 instead of 100, and that is why we are \$8.4 million short. They are just going to have a shortfall of it. Districts are not getting a full amount of that subsidy money and subsidy bill we passed last year. That is why we are \$8.4 million short.

This year, this month or next month when the GA bill comes before this General Assembly, we have to put in \$8.4 million for last year and we would have to put in at least \$7 million for this section so that it does not reduce any payment to any other district in the Commonwealth. It gives these districts that are in this category the money they are entitled to; that is all.

Mr. COWELL. If this Assembly fails to appropriate the additional \$7 million to meet the needs of this amendment, how will the subsidies to the other school districts or to all 505 school districts be treated? Would the subsidies not be prorated?

Mr. GALLAGHER. No, Mr. Speaker, the way this amendment is written, they will not be prorated, because it says, the last section says, that they shall not be reduced because of this amendment, and that precludes the department from arbitrarily doing what they have done in the last year, where they did arbitrarily reduce everybody, prorated the 505 school districts into the \$100-some million that we appropriated last year.

Mr. COWELL. One final question then, Mr. Speaker: The language that says they shall not reduce the subsidies to other school districts, that is reduced from what? What is the base?

Mr. GALLAGHER. Mr. Speaker, that means reduced from what they are now presently receiving without this section in there.

Mr. COWELL. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, I believe I should bring to the House's attention some other matters which impact upon this problem. In addition to there really being a need for a fiscal note, it is obvious while listening to the proponents of this amendment that there is a cost factor. They have not been able to come to us today and tell us what that cost is, and I am not being critical of that, because I understand they do have problems tabulating some of that

information, but nevertheless there is still lurking a fiscal question, a question that is not of an insignificant amount. We are about to go into a budget season. The question of public school funding is definitely going to be part of that question. It is always a difficult question. I do not think there is anybody in this chamber who does not realize that it is going to be difficult to balance a budget and to do well by all the school districts of Pennsylvania.

Now if we go back to 1979, we did things in Act 41 which helped to a very great extent those districts which Mr. Hoeffel and others are representing here today. One of those things that we did was change the aid ratio consideration in the school subsidy formula, something that has not been able to be achieved for many, many years, but this House recognized that those school districts have a unique problem. Now that particular school subsidy bill did not take care of all the unique problems but certainly took a large step forward in trying to understand the problems of those districts.

I was pleased to be part of that effort, and I was pleased to chair the conference committee on Act 41. Now I would also ask the gentleman, Mr. Hoeffel, to, in turn, understand that this House will again have difficulties this year in writing a budget and in doing what is most fair for all the districts of Pennsylvania, 505. It is not going to be an easy task, but this amendment does have a fiscal question. We do not have that note. I am not criticizing the gentleman, but we are not talking about \$1,000 or \$2,000; we are talking about several millions of dollars. Now in addition to those fiscal questions, the Secretary of Revenue, as recently as March 25 of this year, wrote to the Secretary of Education about the matter of Philadelphia income, and the Secretary of Revenue identified several problems which relates to a person's Philadelphia income and the inability of his department to accurately identify what is or is not Philadelphia income.

He has identified at least five types of reporting errors when it comes to Philadelphia income: One, Philadelphia residents have reported Philadelphia income. Two, non-Philadelphia residents with Philadelphia income have failed to report this income. Other income such as interest and rents have been incorrectly included in Philadelphia income. School codes, which is an accounting function, school codes and other identifying numbers have been reported as Philadelphia income. Figures and decimal points have been transposed, reported incorrectly, or reported in a way that could not be read. These are problems that are attendant to the Hoeffel amendment. They have not yet been reconciled.

The gentleman has brought to us a problem, but I do not believe that the House is able to certify, in terms of its fiscal ability or in terms of its being able to guarantee that what we are certifying or what we are having our executive branch certify, as accurate with regard to what is or is not Philadelphia income, and I believe the House should take pause this afternoon and not support that amendment to this bill and cause this bill to be in peril. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Hoeffel.

Mr. HOEFFEL. In response to the comments of Mr. Hayes, he first asked me whether this bill would increase the aid ratios of the suburban districts, and I did not give him a straight yes or no answer mainly because I was not sure what the question meant. He certainly was correct that this does increase the aid ratios or affect the aid ratios of the suburban districts. I did not mean to not give a direct answer to that question, although I did state right from the beginning, of course, that this is more money for the suburbs, and there is no doubt of that. But I want to talk about that issue.

You know, I have not sat here and dreamed up this language in order to give my constituents more money. What I am trying to do is correct an inequity that we built into the school subsidy formula about 3 years ago that has been penalizing my suburban school districts and all the other suburban school districts since that time. The day we changed the subsidy formula about 4 years ago to consider for the first time personal income as well as property values in determining the net worth of a school district, we created a real inequity for suburban Philadelphia districts, because we do not have all of that personal income truly available for suburban taxation, and the whole point of figuring those terms out, again, as I said earlier, is to figure out how much net worth each district has, how much can be taxed locally, and those districts that do not have much money locally can get more money from Harrisburg, and that is a great idea in concept, but as it translates in reality, the suburban districts around Philadelphia are receiving a very raw deal because of the impact of the Sterling Act and Act 511 and the fact that we cannot tax that income in the suburbs that is earned in Philadelphia. So this is not just a scheme that I dreamed up in my office to try to get more money for my suburban constituents. I am trying to correct an inequity that we created 3 or 4 years ago when we changed the subsidy formula. Mr. Hayes has talked about finding other vehicles to insert this language in. The problem is that this is the vehicle before us, and I think this is the time to correct the problem that we have lived with in the suburbs for 3 or 4 years.

Finally, Mr. Hayes talked about some of the problems that the Department of Revenue is having collecting the information in terms of the income earned in Philadelphia, and he seems to say that my amendment is sort of tied in with those problems. Well, the problems he is enumerating or repeating that the Secretary of Revenue listed, are problems that must exist every time any income tax form is filled out, with people putting in the wrong decimal points and not understanding the directions, and I do not think that the problems that the bureaucrats have in devising a form that people can understand, or the problems that people have in filling out an income tax form have anything to do with my amendment. And I do not think that we should use that letter from the Secretary of Revenue as an example of the problems my amendment would cause if enacted into law. What I am talking about here is the fact

that the suburban districts are being short-changed. They have been short-changed since we changed the subsidy formula 4 years ago to include personal income as part of the tabulations, and I just do not think we should wait any longer to correct that inequity, and that is why I have offered the amendment and that is why I would appreciate an affirmative vote. Thank you.

The SPEAKER. The Chair is reluctant to make a decision on his own as it pertains to fiscal notes, especially on this school legislation. There is no doubt that amendments have been offered and amendments will continue to be offered that will have severe and serious effects on the school subsidy formula. Our rule is very explicit as to when fiscal notes are needed. The Chair is reluctant to make these decisions of himself and the Chair has determined that the proper procedure would be for some member of this House to suspend rule 19A for the remainder of the session as it pertains to school subsidy legislation so we no longer make a farce out of fiscal notes. The Chair will entertain such a motion.

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes Mr. Letterman.

Mr. LETTERMAN. I so move, Mr. Speaker.

The SPEAKER. *The gentleman, Mr. Letterman, moves that, for the remainder of the consideration of school recodification on HB 1671, rule 19A be suspended.*

The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

Mr. O'DONNELL. Mr. Speaker, on the motion, I think that is an extremely dangerous motion. I think it is true that the School Code does have tremendous fiscal implications, tremendous financial implications, but we ought to know what they are before we vote it. I was going to get up very early in this debate and make a motion to recommit this bill to committee. After talking to a couple of other members, I decided that there was not really enough support for that kind of motion. I believe if we act in the dark, we are going to be adding a lot of amendments and we are going to find out about their fiscal impact later, and I think that is only necessarily going to yield the need to recommit this bill to committee. I think that is a disastrous way of proceeding. As the Speaker pointed out, there is an extremely good reason for 19A. We ought to know the financial implications of what we are doing before we do it.

I also want to point out that, unless the record reveals that I am wrong, Mr. Hayes stopped short of a point of order. He did not ask that Mr. Hoeffel's amendment be dealt with as failing a fiscal note. He did not raise that issue and ask that the amendment be not considered. He merely used the fiscal implications as an argument to vote against the amendment. The issue of the fiscal note has never been raised, I do not think. The Speaker could correct me from the record but I do not think the fiscal note has ever been raised so far in the debate, and there may be a point at which the fiscal implications are very appropriately raised.

If somebody has an amendment which may have fiscal implications and they are clever enough to have it drafted, it seems to me that they are clever enough to have the fiscal implications explored and presented to the members before we vote on it. I think it is extremely dangerous, especially since I doubt that all the amendments that have been offered or will be offered are currently on your desks. So even if you had the superhuman capacity to go through all the amendments as they are being offered and then get the new amendments so you can figure out the fiscal implications yourself, it is all going to happen in a rush. It is extremely dangerous. I would urge you to vote against the motion.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. It would be wrong for this House of Representatives to suspend its rule 19A just to do something in haste or in some so-called efficient way. We should not suspend our House rule with regard to fiscal notes. That would be wrong, and I respectfully suggest that this House oppose any motion to suspend rule 19A.

There is not anyone in this House who does not realize the season; it is the budget season. There is not anyone who does not realize that this Commonwealth, like individuals, is faced with a very tight fiscal picture in situation and circumstance. That should give us more pause than ever. Revenues are not running freely in an endless way. Rather, they are constricting and growing short. Inflation is rampant. It would be wrong for this House to suspend rule 19A. If an amendment comes forth that needs a fiscal note, a more proper motion and a more correct vote, I believe, would be to vote whether or not there should be a fiscal note for a particular amendment.

Now I raised the question of Mr. Hoeffel's suggestion with regard to its fiscal impact. There is no doubt that it has fiscal impact. I did not move as a point of order to deny the gentleman an opportunity to discuss his amendment by asking first for the House vote on whether or not a fiscal note was needed, but I think after one listens to those who are proponents and opponents, there is no one in the House unsure as to whether or not this amendment will cost a great deal of money. It will, regardless of the amendment's merit or demerit, cost a substantial amount of money. We will be considering as part of the budget how the 505 school districts are to share as equally as possible the existing revenues for the school year 1980-1981.

Let me restate what I said before about Act 41. Never has a subsidy bill been written on the floor of this House in recent years that was as comprehensive and as fair as the one we enacted last year. School districts that have historically found it very difficult to receive from the Commonwealth anything in terms of school subsidies, received a very, very fair share of school subsidy money. A change in a ratio reimbursement for the transportation of nonpublic school children helped very, very handsomely the districts Mr. Hoeffel is talking about today. Coming full circle, Mr. Speaker, I oppose the motion to suspend rule 19. Thank you.

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

Mr. COWELL. Mr. Speaker, as we consider this issue of whether or not to suspend the requirement for fiscal notes, I would only remind the members of the House that one of the major concerns that has consistently been raised during the past 5 or 6 years, as we have talked about various proposals for school recodification, has been the question of the cost. It is a very legitimate concern; it is one of the major concerns; it is certainly not a concern that we should suddenly choose to ignore. I would remind us that with respect to the fiscal notes, we are not only talking about the impact on state government, but, equally important, the fiscal impact on local school districts. We absolutely should not suspend the rule or eliminate the requirement for fiscal notes on the amendments to the School Code. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I agree with the sincerity and direct approach by Mr. Hayes as to how this should be handled, and I agree that 19A should not be suspended. I would like to remind the House that any individual here who voted for HB 1, I do not see how they could even suggest to suspend rule 19A. The simple reason is that in HB 1 you know what it does, and if we create anything here that is going to have a fiscal impact back in the area, we had better be ready to provide the funds for it, and that is one of the reasons why I think it is most important that we not suspend the rule and go on with the proper order of business. I thank you very much.

MOTION TO SUSPEND RULE WITHDRAWN

The SPEAKER. The Chair recognizes Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, I will withdraw my motion, but I would like to explain why I thought we should do it.

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

Mr. LETTERMAN. In the bill as it came out of committee, there are a lot of changes, a lot of things that are going to go to litigation, and a lot of amendments in that piece of legislation are going to cost the school districts a tremendous amount of money. One of the main reasons that I asked for that is because I have amendments that will say that the state, if they cause litigation through anything that was changed in the School Code and cause the school district a litigation fee, they shall pay it then, and I do not think it is any more than right. If we are going to put a lot of laws on the books, we are going to put it out to our districts and they are going to have to go through litigation. I think then we should reimburse them for what they have to pay us, and unless that is the way you want to handle it, then this bill should be sent back to committee and it should be dealt with there and come out with the fiscal impact on not only what it is going to do to the state but also the school districts.

MOTION TO RECOMMIT

Mr. LETTERMAN. So then I will make a motion that we recommit this bill to the Committee on Education with the figure, that every amendment can be presented and looked at for fiscal impact before it is brought back out.

The SPEAKER. The gentleman from Centre, Mr. Letterman, moves that HB 1671 and the amendments be recommitted to the Committee on Education.

The question is on the motion. The motion is debatable only as to the reasons for recommitment.

The Chair recognizes the chairman of the House Education Committee, Mr. Fischer.

Mr. R. R. FISCHER. Mr. Speaker, I rise to vigorously oppose Mr. Letterman's motion to recommit HB 1671 to our committee. Mr. Letterman is not a member of our committee, but I am sure there are members of our committee near him who will tell him of the time and the effort and the hours and the weeks that were spent in considering various amendments. There is no way to preclude members on this floor from offering amendments that will have various kinds of impacts, including fiscal impacts, and I think this bill should stay exactly right here and be considered and each amendment considered. We should look very carefully at the fiscal impacts on this floor.

If it were to return to our committee, I can assure you it would come back out again and we would be considering various amendments, a great many amendments, I am sure. So let us take this systematically and consider it right here and right now and look at the fiscal impact very carefully and do the job that we were elected to do. Let us do it right here.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I, too, oppose the recommitment motion of this bill back to the Education Committee. When the committee reported it from the committee to the floor, it was sent to the Appropriations Committee and they very tediously put together a fiscal note that shows us that it costs \$2,199,000 to the school districts and \$11,420,000 for the Commonwealth. In concurrence with that, we were right on target when it came to the floor from the Appropriations Committee. We all know what the bill itself would cost this Commonwealth and the school districts. It is unique that this time the School Directors Association came within almost the exact amount of dollars that it would cost. I think that it is important that we keep the bill on the floor, handle each amendment with its vital section of the code, as well as any amendment that has a taint of an increase of cost to the Commonwealth or to the districts. I think keeping rule 19 in place keeps us in line in following the concept of passing legislation that we fully understand will cost us this or not cost us anything.

Mr. Speaker, I think the committee has gone through this time and time again, and every time we report the bill back to the floor, there are—this time, we have about 50—

amendments being offered. Previously we had over 300 amendments being offered, and I do not think we want to go through that all over again. If the bill were recommitted with amendments and the committee decided that two-thirds of those amendments that are offered here today are not to be accepted by the committee and reported the bill out, the same two-thirds would be appearing again on the floor. I think that we ought to face the battle right here and now; leave the bill on the calendar in the condition it is today; pay attention to any amendment that has any taint of an increase or a decrease to a school district or to the Commonwealth, and treat it that way. So I very strongly urge that we oppose the motion to recommit.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

Mr. O'DONNELL. Mr. Speaker, will Mr. Gallagher submit to interrogation?

The SPEAKER. The gentleman, Mr. Gallagher, indicates that he will, and Mr. O'Donnell may proceed.

Mr. O'DONNELL. Mr. Speaker, in the course of your remarks, you indicated that you felt that the House knew what the fiscal impact of the bill would be, what the cost to the school districts and the Commonwealth would be. Now this bill runs to 510 pages, and there is a brand new chapter on special education, which is a chapter that lays out in law, for the first time in Pennsylvania history, a detailed provision for special education. Now, I guess my question is: What is the fiscal impact of chapter 41?

Mr. GALLAGHER. Mr. Speaker, I have in front of me a fiscal note on HB 1671 from the House Appropriations Committee, dated September 11, 1979. The total amount to the Commonwealth is \$11,420,000; for the local school districts it is \$2,199,000. I am looking here in this document to find the section you are talking about. You are talking about section 41.

Mr. O'DONNELL. Mr. Speaker, perhaps I can help you. There is no indication in the fiscal note of any cost whatsoever for that entire chapter. We are going to be able to provide special education for the children of Pennsylvania in accordance with the Pennsylvania Association for Retarded Children decree and in accordance with Federal Act 94142, and the Armstrong v. Kline decision, which we discussed on the floor of the House, and we are going to be able to provide all that education in Pennsylvania for special education students with apparently no cost? That is a fairly remarkable kind of an achievement, and I think the document that is being referred to here, the fiscal note, adds an entire chapter on funding special education.

I want you to think a little bit about what the impact of special ed has been in your own local districts, and this fiscal note does not recite one provision of chapter 41. I am not an expert on special ed, but the purpose of that question is to bring out that answer. I would urge—May I be recognized on the motion, Mr. Speaker?

Mr. GALLAGHER. Mr. Speaker, to finish my interrogation of Mr. O'Donnell, I would just like to finish the question that you proposed in a roundabout way, saying

that it is not there. It is there; this is a consolidation. Chapter 41 is a consolidation of present law. It is not a brand new law. It is a consolidation of the present law and of the court decree that was enacted by the Federal Court.

But going back to the school directors' fiscal report, they show that section 4101, which is the section you are talking about, special ed, they say included in section 4701 and 4702 estimates below in item 15, which just speaks of kindergarten programs, which is the new section of that section, has only \$480,000. The fiscal note provided to us by the Appropriations Committee just deals, again, with that new section of kindergarten being mandated. Everything else in there is already mandated by the General Assembly or by the court. So I think that that is the reason you cannot find it on the fiscal note - it is not new. It is present code.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell. The Chair asks the gentleman to please confine his debate to the motion to recommit. The gentleman may proceed.

Mr. O'DONNELL. Yes, Mr. Speaker. The reason I am urging that we recommit is because I do not think it is clear—at least it is not clear to me—what the implications of this bill are. It is an extremely lengthy and difficult bill in terms of the fiscal note.

The reason for my interrogation of Mr. Gallagher along the lines of the fiscal implications of chapter 41, is that, in the beginning of his answer, Mr. Gallagher made the remark that this is already present law. At the conclusion of his remarks he indicated that this is presently in the code. Let me try to make a distinction there. None of chapter 41, in my opinion, is presently in the code. This legislature has never enacted those provisions. Whether or not it is law is open to question.

The Federal Government has passed a number of acts, including Act 94142, and it is not clear to me that the Federal Government can mandate something that we in the state legislature have to do. We fought that battle with the Law Enforcement Assistance Agency law; we fought it with the allocation of Federal funds coming in here, and we will fight it again. This is an area in which we are going to have to fight it.

You could argue that *Armstrong v. Kline* has created a law; that a Federal judge sitting in Philadelphia has created a law, and the obligation of this legislature is merely to now enact it in statute. I do not think we have to. I think we have to face that issue, and what I am saying is that we have got to face the issue squarely and not stick it in on page 500-and-something of a document which says this is merely a recodification of existing law.

My basis for supporting the motion for recommitment is that this is not a recodification. This bill involves massive changes in law. This is not merely a gathering together. The fiscal implications of which are not at all clear and certainly not laid out in the fiscal note, and I think that it ought to be recommitted. Thank you.

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

Mrs. TAYLOR. I oppose the recommitment motion. I do so because I think it is time for each member of this General Assembly to face up to the fact that at some time or other—and it seems that each year it grows later—that we must have a revision of the School Code. It does take time because each member in this General Assembly is very conscious of what that bill is going to do to his or her school district. So I would like, Mr. Speaker, to strenuously oppose the recommitment motion and urge that our members now vote to continue with the discussion on HB 1671. Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, I wish to also join in support of recommitment. I have been on the Education Committee now for 6 years and I have heard the arguments pro and con. You talk to the people on the Education Committee and you talk to various lobbyists and you get the feeling that everybody in Pennsylvania is just demanding a recodification. Well, I have yet to have a single constituent of mine tell me that we need a recodification. Maybe we need changes in certain laws, and if we need changes in certain laws, I think the best way to do that would be to introduce bills which specifically address those changes. Maybe we need 20 bills or 30 bills or 40 bills, but that is the way we ought to go. To try to amend the law through bills means that when a bill is introduced, you will have in the bill a statement of what the current law is and a statement of what the proposed changes are. In the recodification law it is absolutely impossible for any member of this House, from looking at HB 1671, to know what the current law is. All you know is what is in this recodification bill.

You have no idea, and I have no idea, and 99 percent of this House has no idea as to what this bill means in terms of changes in law. The Education Committee has spent a lot of time studying this matter. We have meetings that start at 9 or 10 o'clock in the morning and end 6, 7, or 8 o'clock, occasionally later, at night.

I wish I could tell you that all the members of the Education Committee attend every single minute of these meetings and are wide awake and fully attentive after hours and hours of debate. Obviously, they are not.

I think we ought to stop biting off more than we can chew. We have been fooling around with this as an entity for over 6 years; we have not made any real progress on it. I think the time has come to try to break this down into bite-size pieces so that those of us in the legislature who want changes can know what we are doing. I think it is an absolute farce to pass legislation that we do not understand. I think we ought to stop pretending that it is possible for us humanly to understand a 510-page document. I think a vote for recommitment is a vote for legislative sanity. Thank you.

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

Mr. COWELL. Mr. Speaker, we have heard two different kinds of arguments in favor of recommittal. On the one hand, I think I have heard some proponents of recommittal argue that it ought to be recommitted so that we do not have to go through this hassle of all these amendments on the floor, but instead the committee can take care of that and then report this bill back out.

On the other hand, a couple of the speakers seem to be suggesting that this entire approach, this recodification approach, this thick-document method is inappropriate; that we ought to put this bill back in committee and forget about it and use the approach of several different bills dealing with different issues.

I would like to ask the maker of the motion to recommit, Mr. Letterman, what his intention is. Is it his intention that we continue to work with this document and simply go through this hassle of amendments in committee and then bring this bill back out, or does he intend to agree with Messrs. Cohen and O'Donnell that we ought to send this back and start over again with a different approach? Those are two entirely different reasons for asking for recommittal.

The SPEAKER. Has the gentleman, Mr. Letterman, heard the interrogation? The gentleman indicates that he has, and the Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. Would you ask the question again, please, Mr. Speaker?

Mr. COWELL. Yes.

Mr. Speaker, I think there have been two different kinds of reasons given for recommitting this bill. I think your original suggestion was that we should not have to go through the hassle of all these amendments on the floor and send it back to committee; let the committee consider these amendments and report back out a bill. On the other hand, I think I interpret the remarks of Mr. O'Donnell and Mr. Cohen to be somewhat different. They want to recommit because they disagree with this approach of this big, thick document. They want to get rid of this bill and use the approach of several different bills. What is your intention with the recommittal motion?

Mr. LETTERMAN. Well, the problem that I have is I have amendments over there that are going to cost money. Okay? It comes up and someone is going to ask for a fiscal note, and my amendment is dead. Okay? Because I do not have the time to give it to them to get the fiscal note on it, and besides that, I doubt if anyone can give me a fiscal note or an answer on some of the amendments that I have. They could not even guess what it is going to cost.

So what I had intended was to put these amendments that have been presented to the amendment clerk, along with the bill, back into committee, and let them try to deal with it, instead of all of us sitting here dealing with it. That was my intention.

The SPEAKER. Does the gentleman, Mr. Hayes, wish to be recognized? The Chair recognizes the majority whip.

Mr. S. E. HAYES. It seems to me that the House Committee on Education, the one that is seated at the present time, and those committees which have served in previous sessions have put forth a good effort to bring to this House of Representatives a piece of legislation which has taken into account many of those things which have been alluded to on this motion to recommit. As Mr. Gallagher said, when HB 770 several sessions ago was reported for committee, there was a windfall of amendments. Those amendments and the bill were sent back to committee. The committee tried to reconcile the differences. Many, if not most, of the most difficult issues could not be reconciled by the committee, and even some of those which were, were not reconciled in a way that satisfied this House.

Now you have in HB 1671, a document that comes fairly close to present law. The gentleman from Philadelphia, Mr. O'Donnell, talks about special education. If the gentleman has some concern about special education, I suggest that he gets an amendment and takes out that whole chapter. And then I predict that the gentleman will not find the cost of special education to be any less after his action, if the House would happen to agree to that abolition of special education. I do not suppose that the cost of special education, in fact, is going to be any less after his action than it is at the present time. No one has come forth with an amendment yet that gives anybody testimony that the House Committee on Education has done a poor job. It has not been indicated by any of the speakers that the committee has woefully failed this House of Representatives.

Now there are several amendments. Many of those amendments are reactions to narrow observations being made by various individuals, groups, or what have you, but none of them are really striking at the effort which has been put forth by the House Committee on Education. I do not believe that there is a speaker here who would come forth and say the committee did not bring to us, in the form of HB 1671, a fairly good proposal. It is not the most perfect, and just because someone comes forth with an amendment that has caused a great deal of consternation, raises a lot of fiscal questions, that we just throw the baby out with the bath water and send the bill back to committee.

There may be a time when the House finds grievous problems with the committee's work, and at that time the committee should receive the bill back, but I do not think that we are at that point yet. We are not there at all, not at all. Mr. Cohen did not say that the committee did a poor job. Mr. O'Donnell, I do not believe, said the committee did a poor job. The committee has done a good job, and the issues which are going to be debated in this House of Representatives are issues that the committee has already considered and could not reconcile in a way satisfactory to this House, I guess. And there are those who are going to come forth with amendments, even though some have asked others to be cautious and careful in bringing forth amendments unnecessarily. But I do not think that we should recommit this bill at this time, Mr. Speaker.

The SPEAKER. The Chair recognizes the lady from Philadelphia, Mrs. Harper.

Mrs. HARPER. Mr. Speaker, I rise in opposition to the recommittal of HB 1671. I am a member of the Education Committee, and we have worked long and hard on this bill, and I think that it is about time that the members of the House face this bill. Let us bite the bullet. It is time to make changes in the recodification of the School Code, so let us go ahead with the bill and get something done. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

Mr. O'DONNELL. Mr. Speaker, I do not think that anyone is prepared to criticize the effort and the diligence of the Subcommittee on Basic Education of this House, who are the folks who basically did the groundwork on this bill. I do not think that is an issue at all. As a matter of fact, on the subject of diligence, I remember the first time I ever met Mr. Hayes, 6 years ago, when we were both working on the recodification of the School Code, and that effort has been underway for 6 years at least, and probably before my time. It is not their diligence that is at issue, and no one is prepared to attack their efforts, but it is the way the whole thing hangs together or does not, and we should be prepared, in my opinion, to cut bait. If we do not cut bait now, maybe it will be next Wednesday night late when we add up all that we have done and see how it works together, and at that point, if it fails today, the motion will again be offered to recommit and maybe then we will be prepared.

An example of what I mean is that we have changed the powers of the school district here and we have given the school district an extremely broad power, which was very contained in the previous code, they could only do what they were authorized to do. In this code, they can do anything that they are not specifically prohibited from doing. And at the same time we gave them that power in one chapter, a little previously in outlining the purposes of the code, we specifically said that one of the purposes of this code is to broaden the discretionary powers of boards to carry out their educational responsibility. Now when you read both of those together, that one of the purposes of this code is to broaden the powers of the board, and then a few chapters later you read another section which specifically authorizes them to do anything that is not prohibited, we have made a radical change, a radical change in the school law in Pennsylvania; a change that, in my opinion is not easily discerned by the members of this House in a floor debate on a bill that is 510 pages deep plus amendments. I just think that we ought to recommit.

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

Mr. GAMBLE. Very briefly, Mr. Speaker, my colleagues never cease to amaze me. We have been dealing here with one motion which was withdrawn and now we are dealing with another motion which only one person has spoken in favor of. I would suggest that we vote the motion.

The SPEAKER. The Chair recognizes the lady from Susquehanna, Miss Sirianni.

Miss SIRIANNI. Mr. Speaker, may I interrogate Mr. O'Donnell?

The SPEAKER. Will the gentleman stand for interrogation?

Mr. O'DONNELL. Yes.

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

Miss SIRIANNI. Mr. Speaker, is Mr. O'Donnell a member of the Education Committee?

Mr. O'DONNELL. Yes.

Miss SIRIANNI. Mr. Speaker, did you not have an opportunity to ask all these questions at all the meetings that you have been having the past few years?

Mr. O'DONNELL. I am sure that was not meant as a personal slight.

The SPEAKER. The question before the House is a recommittal motion, and the debate must be limited to the reasons for recommittal. The Chair asks the lady—

Miss SIRIANNI. I am sorry, Mr. Speaker. I have nothing else to say. My point was made.

Mr. O'DONNELL. May I respond?

The SPEAKER. The Chair did not hear the point and he really is not interested in hearing the answer. Thank you.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—47

Austin	Donatucci, R.	McMonagle	Seventy
Barber	Dumas	Majale	Street
Bennett	George, M. H.	Miller	Sweet
Berson	Giammarco	Novak	Taddonio
Borski	Gray	O'Donnell	Trello
Brown	Greenfield	Oliver	Wachob
Cappabianca	Kanuck	Pievsky	White
Clark, B. D.	Knight	Pratt	Williams
Cochran	Kukovich	Pucciarelli	Zeller
Cohen	Letterman	Rappaport	Zord
DiCarlo	Levin	Rieger	Zwinkl
Dombrowski	McIntyre	Ritter	

NAYS—141

Alden	Freind	Livengood	Salvatore
Anderson	Gallagher	Lynch, E. R.	Scheaffer
Armstrong	Gallen	McCall	Schmitt
Arty	Gamble	McClatchy	Schweder
Belardi	Gannon	McVerry	Serafini
Bittle	Gatski	Mackowski	Shupnik
Bowser	Geesey	Madigan	Sieminski
Brandt	Geist	Manderino	Sirianni
Burd	George, C.	Manmiller	Smith, E. H.
Caltagirone	Gladeck	Michlovic	Smith, L. E.
Cessar	Goebel	Micozzie	Spencer
Chess	Goodman	Milanovich	Spitz
Cimini	Grabowski	Moehlmann	Stairs
Civera	Grieco	Mowery	Steighner
Clark, M. R.	Gruppo	Mrkonic	Stewart
Cole	Hagarty	Mullen	Stuban
Cornell	Halverson	Murphy	Swift
Coslett	Harper	Nahill	Taylor, E. Z.
Cowell	Hasay	Noye	Taylor, F.
Cunningham	Hayes, Jr., S.	O'Brien, B. F.	Telek
DeMedio	Helfrick	Perzel	Thomas
DeVerter	Hoeffel	Peterson	Vroon
DeWeese	Honaman	Petrarca	Wargo
Davies	Hutchinson, A.	Phillips	Wass
Dawida	Hutchinson, W.	Piccola	Wenger

Dietz	Itkin	Pistella	Wilson
Dininni	Johnson, E. G.	Pitts	Wilt
Dorr	Klingaman	Pott	Wright, D. R.
Duffy	Knepper	Punt	Wright, Jr., J.
Durham	Kolter	Pyles	Yahner
Earley	Kowalshyn	Rasco	Yohn
Fee	Laughlin	Reed	Zitterman
Fischer	Lehr	Richardson	
Fisher	Lescovitz	Rocks	Seltzer,
Foster, W. W.	Levi	Rodgers	Speaker
Foster, Jr., A.	Lewis	Ryan	

NOT VOTING—6

Beloff	Johnson, J. J.	Lashingier	Shadding
Fryer	Jones		

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair a few moments ago called to the attention of the membership rule 19A as it pertains to fiscal notes on amendments. The Chair suggested that the House suspend rule 19A so amendments could be considered without fiscal notes. The motion to suspend the rule was withdrawn, which indicates to the Chair that the House is insisting upon the observance of rule 19A; therefore, the Chair is constrained to rule that the amendment offered by Mr. Hoeffel is not proper at this time because it does not fall within the confines of rule 19A.

The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel.

Mr. HOEFFEL. Mr. Speaker, who asked you for that ruling?

The SPEAKER. The Chair has ruled under the rules of this House from Mason's Legislative Manual, "It is the responsibility of the Chair, when presiding, to observe and maintain the rules of the House."

AMENDMENT WITHDRAWN TEMPORARILY

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

Mr. HOEFFEL. Mr. Speaker, I am a little baffled, but that is nothing new, I suppose. There have been other amendments offered and the Chair did not seem to discern the fiscal impact of some of those, but I would like to withdraw this temporarily until the Appropriations Committee would have time to issue a fiscal note.

The SPEAKER. The Chair thanks the gentleman. It is the proper procedure. The Chair was not attempting to pick on the gentleman, Mr. Hoeffel. The Chair is insisting that all amendments to be offered, that have fiscal impact to this bill, will please carry with it the fiscal notes.

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

Mr. FREIND. Well, if Mr. Hoeffel wanted to run his amendments, Mr. Speaker, I was going to suggest that a motion be made that, for the purpose of the Hoeffel amendment only, we suspend rule 19A.

The point of the matter is, Mr. Speaker, there is no way right now with the tax information there is going to be a realistic fiscal note anyway. Until we get better information, we are guessing in the dark anyway. It is going to be a waste of a couple days to try to come up with a fiscal note, and if Mr. Hoeffel desires to keep his amendment, to have it run today, I would move to suspend just for the purpose of his amendment.

The SPEAKER. The Chair will abide by the decision of the House.

Does the gentleman, Mr. Fischer, wish to speak on this subject?

Mr. R. R. FISCHER. Well, Mr. Speaker, it is pretty obvious that we have a number of amendments to consider on the School Code in the next few minutes and in the days ahead. I think there will be plenty of time to consider everybody's amendment, and those who feel that there is any fiscal impact in their amendment, I certainly would invite them to take it to Mr. McClatchy's committee and get that taken care of now, before we consider other amendments today and next week and whatever time it takes to pass this bill.

The SPEAKER. The Chair recognizes Mr. Hoeffel.

Mr. HOEFFEL. Mr. Speaker, may I interrogate Mr. McClatchy very briefly?

The SPEAKER. Will the gentleman, Mr. McClatchy, stand for interrogation? The gentleman indicates that he will, and Mr. Hoeffel may proceed.

Mr. HOEFFEL. Mr. Speaker, knowing as you do the facts surrounding this amendment and the problem in determining the personal income valuation of suburban commuters and the money they earn in Philadelphia, do you feel that your committee can issue a fiscal note that will be useful to the members of this House?

Mr. McCLATCHY. Yes; I do. It has a serious fiscal implication. I certainly intend to vote "no" for that reason, even if what you are trying to do would help my own district. It has serious fiscal problems, and I feel very sure we have the amendment; it has been turned over to the department, and we are trying to ascertain about what it will cost. They will do their best, but I think it will be every indication of how serious a money problem it will create.

Mr. HOEFFEL. Well, Mr. Speaker, on the bill I passed last year, which was the same language as this, the Appropriations Committee could only estimate then what the fiscal impact would be. I am sure you can only estimate now. If you are willing to estimate the fiscal impact of my amendment, I would be happy to hold it over and have you do that. I think from the earlier debate that Mr. Hayes and I engaged in, it is clear that the Department of Revenue for a number of reasons does not have accurate information that the \$7-million to \$8-million fiscal estimation of last session is going to be equally true this session, but in deference to the Speaker and his concerns, I would be happy to ask the Appropriations Committee to do that, and I would be willing to withdraw my amendment now temporarily and ask you to prepare a fiscal note.

The SPEAKER. The gentleman, Mr. Hoefel, has temporarily withdrawn his amendment. The Chair thanks the gentleman.

The Chair recognizes Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, Mr. Fischer pointed out that coming up in the next couple of amendments that are before the General Assembly are amendments that could be in the same category as Mr. Hoefel's, and I would suggest, Mr. Speaker, that since it is 4:30 on Wednesday afternoon—

The SPEAKER. Will the gentleman yield? For the information of the gentleman, it is the intent of the Chair that this will be the last amendment to be offered to the School Code this afternoon. The Chair would like to return to the other bill in order that Mr. Manderino could offer his amendments.

Mr. GALLAGHER. Thank you, Mr. Speaker. I was just going to suggest we hold it over until Monday and give everybody an opportunity to see Mr. McClatchy with their amendments with fiscal notes for next Monday. Thank you, Mr. Speaker.

HB 1671 PLACED ON THIRD CONSIDERATION POSTPONED CALENDAR

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that HB 1671 be placed on the third reading postponed calendar.

On the question,

Will the House agree to the motion?

Motion was agreed to.

CONSIDERATION OF HB 769 RESUMED

On the question,

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

Mr. MANDERINO offered the following amendments:

Amend Sec. 1 (Sec. 401), page 3, line 15 by striking out "1979" and inserting 1980

Amend Sec. 1 (Sec. 401), page 3, by inserting between lines 16 and 17 Notwithstanding this amendatory provision denying any deduction for taxes imposed on or measured by net income, the Department of Revenue shall have the independent duty of computing "taxable income" as such was defined by this section prior to the effective date of this amendatory act. The department shall then compare its computation of "taxable income" and tax liability with the "taxable income" and tax liability reported by such corporation. If the department's own calculation results in a tax liability less than the tax liability actually reported by the corporation for such taxable year, the department shall grant and enter a tax credit in favor of such corporation; but, if such departmental calculation results in a tax liability greater than the tax liability reported by the corporation for such taxable year, the department shall assess the corporation for such additional tax liability which additional tax the corporation shall pay to the department within 60 days after receipt of such assessment.

Amend Sec. 2, page 3, line 20 by striking out "1979." and inserting 1980.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, in reading the amendment that was circulated, I realized that the concept that I had talked about at the microphone had not been embodied in the amendment as I thought it had been. There was a different concept embodied. The amendment now before us, A6493, attempts to meet the issue as raised by a number of the corporations who pay the corporate net income tax, those corporations being the corporations that have multi-state activities, where their income is generated from more than the activity in Pennsylvania and yet must pay the corporate net income tax in Pennsylvania.

As I said, this bill has been around for some time, a number of years, and we have seen it in almost the same form every time we have seen the bill. The last time the bill was introduced, there was an estimate by the Appropriations Committee in the House of Representatives that we would lose some \$28 million if the bill were passed. The Chamber of Commerce memo at that time indicated that they thought the cost of the bill was only \$21 million. The bill since that time has been changed, and the fiscal note indicates, Mr. Speaker, that there will be negligible costs or loss of revenue.

The items that must go into the computation under HB 769 are computations having to do with all of the taxes that any corporation operating in several states has to pay on the basis of income, and to the best of my knowledge, there is no place that this information is available. There is no way that anyone can calculate what kind of loss of revenue will continue to exist under this bill. It is billed as a manner in which the accounting procedures of the corporations in paying their income tax can be simplified and made uniform with what they do in several other states, and, Mr. Speaker, I have no quarrel with removing red tape where it can be removed. I do have a quarrel, Mr. Speaker, with passing legislation that may well run into a large loss of revenue to the Commonwealth from the corporate net income tax.

Mr. Speaker, my amendment is directed to that concern. Any corporation that operates only in Pennsylvania will be paying the 10.5-percent tax on the income generated in Pennsylvania since that is their only income. It would seem to me only fair that we require all of the corporations that do business in Pennsylvania to pay that same rate of tax on the business activity in Pennsylvania. I do not know, frankly, whether HB 769 would make those corporations pay exactly what the corporations operating solely in Pennsylvania have to pay and will continue to pay, because this does not change the law for those corporations that are only within Pennsylvania.

My amendment simply says that the corporations can use their accounting procedures and they can do it the way they want to do it and send the form in, and it will be uniform with what they do in other states as they claim, and we will eliminate whatever minor red tape they are running into,

but we will assume the burden of that red tape at the level of the Revenue Department. We will compute the tax as we compute the tax for corporations presently doing business within the state, and if there is a difference in our computation and their computation in what taxable income is to which the 10.5-percent tax will be applied, then they will either pay the higher tax or we will give them a credit if they come out better under the recomputation.

Mr. Speaker, this insures that the Commonwealth will lose no money by enacting this kind of reform, and it gives the corporations what they have been asking for that operate in other than Pennsylvania and also Pennsylvania - the elimination of the red tape and the making of their procedures uniform. I urge an adoption of the amendment, Mr. Speaker.

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

Mr. POTT. I oppose the Manderino amendment to HB 769 for several reasons. One, the Department of Revenue presently does not have the capacity or the personnel to calculate the Pennsylvania corporate net income taxes for every corporation in Pennsylvania. I do not think it is the department's responsibility to calculate the tax for a private employer; I think it is their responsibility to provide the forms based on the legislation which this General Assembly passes. That has long been a tradition in this state, and I hope that tradition continues.

Secondly, it will require every multistate corporation doing business in Pennsylvania to keep two sets of records, one set based on the calculation of a tax liability prior to the effective date of this act and, second, a tax calculation based on the factors imposed subsequent to the implementation of this act. It just seems to me that we are not whatsoever simplifying Pennsylvania's tax structure; we are complicating it and complicating it without any good reason.

As you know, those of you who have read the fiscal note, the Department of Revenue projects that this bill will generate approximately \$1 million in additional revenue for the Commonwealth, as presently drafted. Mr. Manderino's amendment would completely negate any revenues which we may additionally obtain from the passage of this legislation. I think it creates an unfair burden on the employers of this Commonwealth and the personnel in the Department of Revenue, and it actually negates the entire effect of the tax simplification that we are attempting to propose through this act. I strongly encourage the members not to support the Manderino amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the gentleman said that the Department of Revenue does not have the capability of making these calculations. I do not know where the gentleman got his information. I do not know whether he knows how the corporate net income tax is computed, but I will tell you, Mr. Speaker, that every corporation tax return in this Commonwealth is reviewed and settled with the corporation in a separate settlement proceeding with

that corporation, and after that settlement proceeding takes place, there is a resettlement proceeding in the department of the Auditor General that the Auditor General has to sign off on the settlement that was made with that corporation on its corporate net income tax. There is no additional cost in what I am talking about. It is a calculation that is easy to do.

Mr. Speaker, there is no way—and I will challenge Mr. Pott to tell me which corporations are going to lose and pay more in corporate net income and which are going to gain, because I have heard that there are going to be some gainers and some losers. I challenge you to tell me which will do what; who is going to lose and who is going to gain? I further challenge you to justify, in any manner that you think is proper to justify, how the \$1 million additional revenue was calculated, what method was used to arrive at the \$1 million that you are talking about that we will get in additional revenue. I submit to you, Mr. Speaker, that we should not buy HB 769, which, when it was first introduced into this assembly—and last year it was HB 1026—was admitted by the Chamber of Commerce to cost \$21 million to this Commonwealth. Our figures were \$28 million, and the only change that has taken place is the manner in which the add-back takes place and what is counted in the add-back.

The way the tax works, Mr. Speaker, presently a corporation doing business in Pennsylvania, as well as in other states, first apports their net income and their activity in Pennsylvania. If they made \$1 million profit and 30 percent of that profit was made in Pennsylvania, then they will take an indicator, a multiplier of .3 - 30 percent - against their total net income and they will come up with \$300,000. Then they will add back to that the deduction that the Federal Government gave them for the state taxes paid in Pennsylvania, and when that is added back, whatever that figure might be, if it is \$350,000 now, the 10 1/2 percent is applied to that. What this bill wants to do is say that we will change the time in which the add-back is made. We will add back the tax that was paid in Pennsylvania, and we will add back the taxes that were paid in all other states on the basis of income, regardless of what the percentage of that tax was. We will make that add-back before apportionment. We will add the figure up; then we will apportion to the percentage of their activity in Pennsylvania and then apply the 10 1/2 percent.

Now, that is complicated and it is difficult to understand. What is more difficult to understand is what relationship all the taxes that are paid in all these other states on the basis of income have in an add-back procedure when you are determining the tax in Pennsylvania, but that is what they are asking for. They are asking that we do that, and I think that all sorts of things can happen. Rates in other states can affect what is coming into Pennsylvania so far as our corporate net income tax is concerned. Recision of taxes or forgiveness of taxes in other states will affect what comes into Pennsylvania in the corporate net income tax. We knew, before this new all-other-states add-back procedure

went in, that there was going to be a tremendous loss to the State of Pennsylvania in the corporate net income tax. I suspect that this gimmick of adding back all these other taxes was put in to minimize the loss in Pennsylvania, but no one has been able to convince me—and I have talked to my technicians on the Appropriations Committee—Democrats—and I have talked to people in the department who have tried to explain to me that there are going to be some winners and some losers—and I have yet to be convinced that Pennsylvania is not going to lose tremendous revenue if we do not adopt this amendment.

Mr. Speaker, when I look at the procedures and the simplification that they are saying that they want to have in determining their net income in Pennsylvania or the tax in Pennsylvania, the procedure that is being adopted in HB 769 seems to me to be a lot more complicated procedure than what presently exists in law. And I must suspect—I must suspect although I cannot prove, and I do not think anybody can prove otherwise—I must suspect that HB 769 is before us because someone is going to get a tremendous break on the corporate net income taxes that are paid in Pennsylvania. So I have proposed an amendment that says, if you are serious, if you are serious that all you want to do is simplify the procedure and you do not want to really avoid taxes in Pennsylvania, then we will do that complicated procedure that you say you must now do. You do it the easy way; we will do it the more difficult way—we have to sit down and settle that account anyhow; each separate corporate account must be settled and resettled. We will do that calculation, and if it results in a higher tax to you when we do the calculation, you are going to pay like every Pennsylvania corporation pays, and if it results as a credit, we are willing to give you that credit, too. I will be guaranteed, you will be guaranteed, the people of Pennsylvania will be guaranteed that there will be no tremendous revenue loss. I urge an adoption of the amendment.

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

Mr. POTT. I would like to respond to the minority whip's challenge to indicate those corporations that are going to be paying more and going to be paying less. As the gentleman well knows, this is confidential information that is not available to members of the General Assembly. It would be a violation of state law for the Department of Revenue to disclose the tax liabilities of Pennsylvania corporations to members of the General Assembly or anyone else. It is an absolutely ridiculous challenge for him to make when he knows full well that it is illegal to start with.

I would like to challenge the minority whip to indicate to this body who that somebody is who is going to be getting the big tax break because this bill is before us today. He seemed to imply that there was someone whom he may know of who is getting a big tax break but none of us are aware of, and I would like to challenge him to tell us who that person is who is getting the big tax break.

The minority whip has attempted to confuse the members of this General Assembly on HB 769 with another piece of legislation that was introduced into this House of Representatives in previous sessions. This is not HB 1026 of the session of 1977; this is HB 769. There is little similarity between the two bills. The method of calculation has been changed for this bill. The Department of Revenue, our Appropriations Committee, have estimated the fiscal impact as a \$1-million revenue increase based upon the statistical sample taken of taxpayers in the Commonwealth. I have been informed by the department that all of the larger multistate taxpayers were included in this sample, and in addition, several other corporations were included that were not amongst those largest taxpayers.

Please do not be confused about what is going on. What we are doing with HB 769 is to attempt to improve the climate for employment in Pennsylvania. Unemployment is going to continue to increase. This state has lost 190,000 productive jobs over the last 12 years. The major reason given for this exodus of our employers is the unstable tax climate in Pennsylvania. This method of allocation came in at the eleventh hour when a budget was passed and a tax package was passed in 1970 and 1971. It is time to reform it. It is time to put Pennsylvania in conformity with most of the other northeastern and industrial states. If you want to send jobs to North Carolina or Texas or New Mexico, vote for the Manderino amendment. If you want to preserve Pennsylvania as a good place for employment where your constituents, your people, are going to be able to get jobs, vote against the Manderino amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I am not here to challenge my minority leader, because I do know that what he said was true in regard to the way that the industries, the corporations, are handled in the Department of Revenue. There is no question about it. He is right. The problem I have though is, first, the statement in regard to the formula, because the present formula is Federal tax base times the apportionment formula times the CNI - Corporate Net Income - 10.5 percent, then the add-back. What they are changing to the proposed formula is the Federal tax base plus the add-back; then we will times the apportionment times the 10.5 percent. There is a difference. The reason why they are redoing this, the main thing, is because of the state taxes in other areas of this country that these corporations deal with. It is unfair, because some of these corporations with this new formula are going to pay less and other ones are going to pay more. Now, I am not saying the gentleman is wrong. I would not question his knowledge; he probably forgot more about it than I will ever know. I am going at what I get in regard to what I am reading and what I have found out in discussing this, because we are very concerned about it on account of industries that are leaving this state. The thing is that some of these corporations had been getting away with it because of their dealing

in certain states where their taxes are different than others, and, therefore, they feel that they will be more fair by coming up with the add-back ahead on the formula rather than at the end, and this is what I am told. I could be wrong, and I would be the first one to say I am wrong, but this is the way I see it from a mathematical point of view and in looking at the formula.

Also, the Department of Revenue—and I am not getting political, and I am sure that Mr. Manderino is not getting political. The point I am getting at is that the Secretary of Revenue is going to create a problem here in a climate that is going to create a problem for us to come up with some taxes somewhere if we lose it. Then I am sure someone is going to be on his tail. So, therefore, I believe that it is going to be as they said, and I have read and I have got a formula based on it here that it is going to come out just about even in regard to some are going to pay more and some are going to pay less than they are doing now, and with that, I am willing to go that route, because I believe that the formula is right.

Now, as I say again, I could be wrong on this, but this is the way I read it, and I would be the first to apologize if I am wrong. That is why again now, what Mr. Manderino said—he did not refer to Mr. Laughlin's bill, but you can see why there was a question there then, that if Mr. Laughlin's bill would have gone through, Mr. Manderino says we were going to lose money. Then he would not have gotten anywhere anyway. So you see this whole thing—and it is true; he said it is very complicated. I could not agree with him more, but I will go along with the bill as is, and with all respect, I cannot support the amendment.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Levin.

Mr. LEVIN. Mr. Speaker, I am somewhat mystified by Mr. Pott's attack. This bill was presented to the Finance Committee by the Chamber of Commerce as a means of helping multistate corporations—that is not our normal small Pennsylvania corporation but the major companies in the United States—to simplify their bookkeeping systems. It was not presented as a way to reduce their tax liabilities. Therefore, I do not understand the argument that the Manderino amendment will drive business out of this state or not bring new business in. The Manderino amendment very clearly says that they may calculate the taxes in accordance with the bill. We are giving them what they asked for. The only thing we are saying in the amendment is that if the department's calculations indicate that that reduces their taxes, they are not going to get a tax reduction. They did not ask for a tax reduction; they asked for a simplified bookkeeping system, and the Manderino amendment gives it to them and it should be accepted.

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

Mr. A. C. FOSTER. Without addressing myself to the complexities of the issue, I would like to point out that what the Manderino amendment does as far as I am concerned is simply transfer the matter of what is admit-

tedly complicated calculations from the corporation to the Department of Revenue, and, for heaven's sake, we do not need to impose more duties on an already overburdened bureaucracy.

Secondly, as I look at the Manderino amendment, the corporation may elect to calculate their taxes as the bill would permit. Now, there is just one difficulty in what Mr. Manderino's amendment will do to this, and that is the fact that if I am the fiscal officer of a corporation, I come in to my superiors and say, well, fine, here is what our taxes will possibly be for this year. Then when I am confronted with the question, Well, what do you mean what they might be? Why do you not know what they will be?, I will say, fine, this is what they will be according to HB 769, act so-and-so. However, the department may elect to compute them on the old basis, and what is my superior going to say to me? He is going to say, very well, you go back and compute them the old way so I can see both sets of figures so I will know where this corporation stands fiscally. Now, I think that is ludicrous when we are trying to eliminate paperwork.

I am willing to accept the fiscal note on this bill which states that the fiscal impact is negligible. The Department of Revenue certainly does not wish to lose revenue; they favor the bill. Therefore, I think it would be ludicrous to accept the Manderino amendment and I ask its rejection.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the preceding speaker said, what is admittedly a complicated procedure is going to be transferred to the Department of Revenue. I have never admitted and I do not think anybody who can look at the structure of the tax as it is now and what is being proposed can really decide that the complicated procedure is our present method. The complicated procedure is the method they are asking us to adopt. Can you imagine what the Department of Revenue is going to have to do in auditing the taxes that are paid in all the other states on the basis of income? That is going to be complicated.

Presently I think it is a rather simple procedure: apportion the amount of business you do in Pennsylvania, apply that percentage after you add back the taxes you paid to the total net income, and put the 10 1/2 percent on it. I do not think that is complicated at all, but these multistate corporations are telling us it is too complicated for them to do, and being too complicated for them to do they are asking for this relief. It is ironic that this relief or relief similar to this was billed to save them so much money in the past, and now it is so fogged up and jumbled up that I honestly cannot say how much it is going to lose Pennsylvania, but I really have a gut feeling that we are going to lose money unless we put this amendment in. The complicated procedure is being put into this bill. What the Department of Revenue will have to do is fairly simple. We know what taxes they paid last year. They are going to give us the apportionment figure. We will know what percentage of their business is done in Pennsylvania, and that calculation is simple.

Mr. Speaker, I am not asking these corporations that operate in several states to give up whatever they are going to get in the simplified procedure by my amendment. I am giving them the simplified procedure. I am saying, go ahead and do it the way you say is easier, which I do not really believe is easier, but go ahead and do it that way, but we will do it the other way and we will see that you pay the same rate of tax as the people who do business only in Pennsylvania in the corporate structure have to pay. That is a simple enough concept. The only justification I have heard for this bill from anyone is that we want to simplify their procedure. Fine. If they think that is a simpler procedure, we are going to give them that with my amendment, but we are not going to lose any tax revenue. We are going to guard the tax revenue that is being paid by these multistate corporations.

And, Mr. Speaker, I do not expect you to tell me that U.S. Steel is going to gain and that Bethlehem Steel is going to lose. I do not expect that kind of discovery procedure. I do not expect that that kind of information is available. I know that it is not available. I will take the standard industrial classifications. I would like to know whether mining industries are going to gain and whether steel producers are going to lose; whether shoe manufacturers are going to gain. I would like to know that if that is available, and if someone is going to gain and someone is going to lose, why should that be so? Why should anyone gain or anyone lose? Do we not want all corporations, all business entities treated the same, those that do business only in Pennsylvania and those that do business in other states?

I must suspect that there is a revenue loss to the Commonwealth, because if there was not going to be a revenue loss to the Commonwealth, it would seem to me that the people who are asking for this bill, if they are in earnest and if they are honest and if they are sincere in saying we do not want to avoid taxes, we just want a simplified procedure, I am giving them the simplified procedure. Corporate taxes in Pennsylvania can never be accurately forecast by any corporate economist for the corporation. Their capital stock franchise tax is negotiated, and until they sit down in the resettlement and the settlement procedure, they never know what they are going to pay and we never know what we are going to get. That same procedure, not with as great a variation, takes place in the corporate net income tax also. We have got to agree with them that they only get 30 percent business in Pennsylvania and that that is the apportionment figure that we should use. That is why every corporate tax form gets individualized treatment, and I am saying, let us give it the individualized treatment that will guarantee that we do not lose millions and millions of dollars. I am satisfied with the 10 1/2 percent that they are paying. I do not want any more money from the multistate corporations. I do not want that extra million dollars. I want a guarantee that we are not going to lose \$10 million, \$15 million, or \$20 million by what we do today.

Mr. Speaker, I have been challenged to say who is going to gain by this bill. There is only one group of corporations that can gain by this bill, those that do business in more than one state. Certainly our own corporations who do business only in Pennsylvania cannot pay a lesser tax. This does not touch their corporate tax responsibility. I urge an adoption of the amendment, Mr. Speaker.

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

Mr. POTT. I would like to take an opportunity—and I hope I do not bore some of the members—to actually explain how a multistate corporation calculates its taxes for Pennsylvania. I know there is some confusion on this, and I would like to just take an opportunity to explain it to you.

You start off with line 28 from your Federal form. That is taxable income for Federal income tax purposes - line 28 - before your operating loss, carry forwards, and so forth. You then apply to that an apportionment percentage based on the amount of business you do in Pennsylvania, and that apportionment percentage is calculated with three factors: The first one, your sales in Pennsylvania to your total sales that are shown on the tax return; second, the total amount of fixed assets that you deploy in Pennsylvania to the total amount of fixed assets that you deploy in all states where you do business; third, the amount of payroll dollars which you pay in Pennsylvania compared to the total amount of payroll dollars that you do through all your corporations. You calculate these three percentages, divide them out to six decimal points, add the three dividends together, and divide by 3. That is then your percentage of business that you do in Pennsylvania, and you apply it to your taxable Federal income. You then determine what your Pennsylvania state tax provision was - the amount of money that you accrued as a liability to pay taxes in Pennsylvania - and you add that back in. Now, there is where the misinterpretation comes in. The minority whip attempted to have you believe that these were taxes that were paid in Pennsylvania. They have not yet been paid; they have been estimated on the Federal income tax and they have been guessed at really to determine the deduction.

Now, let us look very simply at this, how every corporation determines its tax liability. It does not compute a separate tax liability for Pennsylvania, for Ohio, for New Jersey, for New York; it makes an estimated provision for all state taxes, for every state where they do business. What do you think our percentage will be this year; that is what we will add back. They do not presently ever really calculate a Pennsylvania tax liability, but they have to come up with some kind of number for their tax return, and this is how many of the adjustments to corporations' income occur. The department says they are either putting in too small a percentage for Pennsylvania, too great a percentage, so on and so forth, of their total state tax provision. HB 769 simply says we take the Federal income tax liability from line 28; we add back that total state tax provision for all the states that all corporations calculate—and that is

exactly the way all our major industrial corporations do calculate—and then we apply that apportionment percentage that I had explained the calculation of a little bit earlier.

I hope I have not bored you with that attempted technical explanation, but please do not be confused by the majority whip's contention that these taxes have been paid in Pennsylvania, that all they have to do is go and look in a checkbook and see how much they have paid. That is not right. It is how much they have accrued, how much they have provided. The words "tax provision" and "tax liability" are important, not the taxes that have been paid.

I believe that this is the correct method to allocate taxes levied by states based on income. We are the only state out of 50 that does it our way. Twenty-four other states do it exactly the same way that HB 769 is proposing. Fourteen other states have comparable ways of adding back the state income taxes comparable to what we are doing in HB 769, some minor variations. So we are talking about 38 states. Mr. Manderino would lead you to believe that Pennsylvania is in step and all the other states are out of step. Well, if this be the case, why do 24 other states do it exactly the way we are providing here? Let us make it simpler to do business in Pennsylvania. Let us not make Pennsylvania so different from any other state that a potential employer says, I am not going to do anything more in Pennsylvania; I can never understand what that government is going to do, what their tax structure is going to be; now they make me calculate one tax liability and they make their Department of Revenue calculate another one, and I have got to pay the highest. It just does not seem to me that it is reasonable at all for us to adopt the Manderino amendment here this afternoon. I strongly urge you to please reject the Manderino amendment and try to understand the effects of what we are trying to do. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, I do not know where the gentleman is finding his information that 38 states do what is proposed here. There is nowhere near 38 states that do what is proposed here. There may be 9; there may be 18 at the most that do this. What we are trying to do with the Manderino amendment is protect the revenues of the Commonwealth of Pennsylvania. All of us should be interested in that. I am allowing the simplified procedure.

Mr. Speaker, we are not out of step with what other states do. We have a very valid way of doing it in Pennsylvania. We have done it this way for years, Mr. Speaker, and I think we ought to continue to receive the same moneys. If the procedure, because of the Federal income tax, is easier for them to report to Pennsylvania in a different manner, we allow them to do that, but we will make the calculation with figures that we have. We certainly know the corporate net income tax that they paid to Pennsylvania or will pay to Pennsylvania. We know the apportionment figure, and we can insure that there will be no loss of revenue, Mr. Speaker. I again reiterate that the only justification is the simplified procedure, and I do not take that away.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I agree with Mr. Manderino when he says that the wrong title has been given to this debate as to simplification. That is wrong. There is nothing simple about it, and there is nothing simple about the formula. The department, as he says, has the knowledge and has the power as far as the personnel, and they have the equipment and so forth over there to be able to figure out all the corporations, and they do sit down with them and work these things out. I have no argument in that area whatsoever. The problem lies in the reallocation of the burden, and I have said that before and I say it again as to reallocating the burden of cost to those when you take and change the add-back in the formula.

Now, one point, where we would be in favor—and we have got to be fair on this because this is one of the very serious bills, very serious, of industry leaving our state and so forth. The area where Mr. Manderino could be correct—and the argument has not been brought up—with our conditions economically in this state and our Nation right now, next year at this time we could be at a loss of revenue because of the companies that are involved and are not making sales due to foreign imports and many other reasons and the conditions of our economy, and we wind up with a real loss. Now, that point has not been brought out, but that has nothing to do with the formula. I think the formula change—the only point I am getting at is a fair assessment of the formula that would rightly place in position the add-back because of the other states that they are involved in, because all the states are different. I agree with him in regard to the amount of states that are involved, and I believe I was told it is something around 9 or 10. I do not believe it is 24 that are involved as we have our bill, and I do not believe there could be 14 other states that are close to it. I have not got that information; we tried to get it.

One other last point. I am not fighting Mr. Manderino on this; I am saying you can go either way probably on this one, because I do not think any of us know with the conditions of the economy; I do not think any of us know. But in Mr. Manderino's amendment—and I do not know whether he meant corporations or corporation—here is my problem: "If the department's own calculation results in a tax liability less than the tax liability actually reported by the corporation for such taxable year, the department shall grant and enter a tax credit in favor of such corporation"—fine—"but, if such departmental calculation results in a tax liability greater than the tax liability reported by the corporation for such taxable year, the department shall assess the corporation for such additional tax liability which additional tax the corporation shall pay...." My problem with that is, we are looking at a formula on an overall basis of all the corporations which that one corporation will blend into, because if we do what he says here, then we are right back to spanking the corporations. If they find out through our new formula that they are going to get a break, I do not believe, Mr. Speaker, that your amendment is going to

help that corporation. That is my problem. I believe we are still going to come back and spank that corporation, and that is my problem on it. I pride myself with mathematics and formulas, and I just cannot grasp what you are getting at in regard to the wording. I feel there should have been in there, overall corporations paying the tax and blending into the complete formula. Then we have got to proceed. But the bottom line is going to be jobs. The bottom line is going to be what our economic conditions are going to be next year at this time and years ahead, and I believe possibly you can vote one way or the other on this and who in the heck knows how we are going to come out. All I know is I will stay with the new formula.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—84

Austin	George, C.	McMonagle	Ritter
Bennett	Giammarco	Maiale	Rodgers
Berson	Goebel	Manderino	Schmitt
Borski	Goodman	Michlovic	Schweder
Brown	Gray	Milanovich	Seventy
Caltagirone	Greenfield	Mrkonic	Shupnik
Cappabianca	Harper	Mullen	Steighner
Chess	Hoeffel	Murphy	Stewart
Clark, B. D.	Hutchinson, A.	Novak	Stuban
Cochran	Itkin	O'Brien, B. F.	Sweet
Cohen	Kanuck	O'Donnell	Taylor, F.
Cole	Knight	Oliver	Telek
DeMedio	Kolter	Petrarca	Trello
DeWeese	Kukovich	Pievsky	Wachob
DiCarlo	Laughlin	Pistella	Wargo
Dawida	Lescovitz	Pratt	White
Dombrowski	Letterman	Pucciarelli	Williams
Fee	Levin	Rappaport	Wright, D. R.
Fryer	Livengood	Reed	Yahner
Gallagher	McCall	Richardson	Zitterman
Gatski	McIntyre	Rieger	Zwinkl

NAYS—101

Alden	Fisher	Levi	Scheaffer
Anderson	Foster, W. W.	Lewis	Serafini
Armstrong	Foster, Jr., A.	Lynch, E. R.	Sieminski
Arty	Freind	McClatchy	Siranni
Belardi	Gallen	McVerry	Smith, E. H.
Bittle	Gamble	Mackowski	Smith, L. E.
Bowser	Gannon	Madigan	Spencer
Brandt	Geesey	Manmiller	Spitz
Burd	Geist	Micozzie	Stairs
Cessar	George, M. H.	Miller	Swift
Cimini	Gladeck	Moehlmann	Taddonio
Civera	Grabowski	Mowery	Taylor, E. Z.
Clark, M. R.	Grieco	Nahill	Thomas
Cornell	Gruppo	Noye	Vroon
Coslett	Hagarty	Perzel	Wass
Cowell	Halverson	Peterson	Wenger
Cunningham	Hasay	Phillips	Wilson
DeVertter	Hayes, Jr., S.	Piccola	Wilt
Davies	Helfrick	Pitts	Wright, Jr., J.
Dietz	Honaman	Pott	Yohn
Dininni	Hutchinson, W.	Punt	Zeller
Dorr	Johnson, E. G.	Pyles	Zord
Duffy	Klingaman	Rasco	
Durham	Knepper	Rocks	Seltzer,
Earley	Kowalyszyn	Ryan	Speaker
Fischer	Lehr	Salvatore	

NOT VOTING—9

Barber	Dumas	Jones	Shadding
Beloff	Johnson, J. J.	Lashinger	Street
Donatucci, R.			

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

ANNOUNCEMENT BY MAJORITY LEADER

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I have had a number of inquiries as to what time we would finish tonight. I would intend to run no bills beyond this bill. The debaters may take notice of that.

The SPEAKER. For the information of the members of the House, this is the last amendment that the Chair has before it. There is a reconsideration motion on an amendment that was offered by the gentleman, Mr. Sweet, earlier today.

CONSIDERATION OF HB 769 CONTINUED

On the question recurring,

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

Mr. COLE offered the following amendment:

Amend Bill, page 3, lines 18 through 20, by striking out all of said lines and inserting

Section 2. The act is amended by adding a section to read:
Section 1101.3. Certain Purchased Energy Costs Not Taxed.—Notwithstanding any provision of law to the contrary, no tax shall be imposed pursuant to this article on any public utility's revenues resulting from higher purchased energy costs incurred as a direct consequence of an unscheduled outage lasting two months or longer at a nuclear generating facility resulting from a major accident or natural disaster as determined by the Public Utility Commission. To determine purchased energy costs the Public Utility Commission shall make a determination of the estimated reliability of the plant operating under normal conditions prior to such unscheduled outage. Any utility where the tax liability is reduced pursuant to this section shall appropriately adjust to the rates charged to the ratepayers pursuant to procedures established by the Public Utility Commission to fully reflect the tax reduction. Any exemption granted under this section shall be calculated beginning with the original date of the unscheduled outage and shall extend until regular service at the generating facility is resumed but not for more than twenty-four months without another review by the commission.

Section 3. Section 1101.2 shall take effect immediately and shall be retroactive to January 1, 1979, and the remaining provisions of this act shall take effect immediately and shall apply to taxable income for the calendar or fiscal year of the corporation beginning on or after January 1, 1979.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Adams, Mr. Cole.

Mr. COLE. This amendment prohibits the Commonwealth from imposing the gross receipts tax on any revenue resulting from higher replacement energy costs incurred by a utility as a result of an accident or a natural disaster at a nuclear facility in which the facility has been shut down for at least 2 months. The bill in effect would exempt customers of Metropolitan Edison and Pennsylvania Electric from paying the gross receipts tax on any purchased power incurred by the utility which exceeds the power cost that would have been incurred if that power had been generated at the Three Mile Island facility.

Although the gross receipts tax is assessed on the utility's gross revenue at a rate of 4 1/2 percent, the utilities are allowed to pass it on to their customers. So the customer is picking up this tax, not the utility. Both Met Ed and Penelec have been purchasing more expensive energy to replace the power that would have been generated at Three Mile Island. Consequently, the higher replacement energy cost has resulted in higher utility revenue. Since the gross receipts tax is applied on a company's gross revenue, the amount of tax money collected from the consumer has been drastically increased.

The Public Utility Commission is authorized to determine what the plant's reliability was before the accident, and any increase above that amount would be exempt from the GRT. The exemption shall begin on the original shutdown date of the plant and shall be continued until the plant is returned to operation but not for more than 2 years without another review by the PUC. Many of the consumers in the Met Ed and the Penelec districts are paying the toll and the penalty for Three Mile Island on this gross receipts tax, and I think that we should take this above cost, above the normal expenses of these utility companies, and eliminate it.

Last year during the summer the PUC, in their findings from the Three Mile Island accident, recommended that this be initiated. Also, as a member of the special House committee that served in the investigation of the Three Mile Island incident, many members expressed their concern for this relief to the customers of the Met Ed and Penelec people. So I especially urge you members who have customers who are affected by Three Mile Island, who are under these two utilities, and other members of the House to support this amendment.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. McClatchy, chairman of the Appropriations Committee.

Mr. McCLATCHY. Mr. Speaker, to the best of our knowledge from the Revenue Department, there will be a loss of revenue from this amendment of roughly \$6 million. Whether we agree or disagree with the gross receipts tax, whether we agree or disagree on whom it should not be placed upon, unfortunately you do have this loss of revenue from this gross receipts tax on this amendment of \$6 million. For that reason I oppose the amendment.

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

Mr. DORR. Mr. Speaker, I must disagree with the chairman of the Appropriations Committee. It seems to me that it is perhaps a matter of semantics, but it seems to me that it is not a loss of revenue but rather a prevention of an increase in revenue. The increase in revenue in this case is due to a nuclear accident which had nothing to do whatever with the taxpayers of this Commonwealth. I do not think the taxpayers of this Commonwealth have made a positive decision that the Commonwealth's revenue should benefit from the nuclear accident which took place at Three Mile Island.

While I might have preferred to see this particular piece of legislation placed in a more appropriate bill form, I support the amendment. I think it is important and appropriate, and those of us who have been working since the accident to try to keep the people who have suffered greatest from this accident from having to pay more than was absolutely necessary within the realm of our responsibility as legislators should certainly support the gentleman Mr. Cole's amendment.

The SPEAKER. The Chair recognizes the gentleman from Adams, Mr. Cole.

Mr. COLE. Mr. Speaker, we have introduced a bill, and it has been lingering in the Finance Committee for many, many months. Shortly after the Three Mile Island accident, this bill was introduced in the version of HB 1004. That legislation has not moved, and that is why I am offering the amendment. And I do not agree that there will be a loss to the state of tax revenues, because this is not anticipated revenues. This is above and beyond the normal cost of revenues that are coming in that would be placed in the gross receipts tax. So this is unanticipated revenues above and beyond, so it is in reality no loss to the state.

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

Mr. McCLATCHY. Mr. Speaker, just so the membership is clear about unanticipated or anticipated revenues, the gross receipts tax resulting from the increased expenditures through their ratepayers at Three Mile Island is certainly included in our revenue estimates for the coming budget year and will be a \$6-million loss. Now, whether we agree or disagree with the rightness or wrongness, that is another question, but let us assure ourselves it is a \$6-million loss in revenue.

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

Mr. A. C. FOSTER. Whether we are talking about anticipated revenues or unanticipated revenues, I think the fact remains that the Commonwealth should aid and assist those who are the victims of this accident rather than trying to benefit from the accident. Therefore, I would strongly support the Cole amendment.

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

The following roll call was recorded:

YEAS—115

Anderson	Gamble	McIntyre	Ritter
Austin	Gannon	McMonagle	Rodgers
Belardi	Gatski	Maiale	Schmitt
Bennett	Geesey	Manderino	Schweder
Berson	George, C.	Manmiller	Serafini
Borski	George, M. H.	Michlovic	Seventy
Bowser	Giammarco	Milanovich	Shupnik
Brown	Goebel	Miller	Sieminski
Caltagirone	Goodman	Mowery	Spitz
Cappabianca	Grabowski	Mrkonic	Stairs
Chess	Gray	Mullen	Steighner
Clark, B. D.	Greenfield	Murphy	Stewart
Cochran	Gruppo	Novak	Stuban
Cohen	Harper	Noye	Sweet
Cole	Hoeffel	O'Brien, B. F.	Taylor, F.
Cowell	Hutchinson, A.	O'Donnell	Trello
DeMedio	Itkin	Oliver	Wachob
DeWeese	Kanuck	Peterson	Wargo
DiCarlo	Knight	Petrarca	White
Dawida	Kolter	Pievsky	Williams
Dombrowski	Kowalyszyn	Pistella	Wilt
Dorr	Kukovich	Pitts	Wright, D. R.
Duffy	Laughlin	Pratt	Yahner
Fee	Lehr	Pucciarelli	Zeller
Fischer	Lescovitz	Punt	Zitterman
Foster, W. W.	Letterman	Rappaport	Zwinkl
Foster, Jr., A.	Levi	Reed	
Fryer	Livengood	Richardson	Seltzer,
Gallagher	McCall	Rieger	Speaker
Gallen			

NAYS—67

Alden	Earley	Lynch, E. R.	Sirianni
Armstrong	Fisher	McClatchy	Smith, E. H.
Arty	Freind	McVerry	Smith, L. E.
Bittle	Geist	Mackowski	Spencer
Brandt	Gladeck	Madigan	Swift
Burd	Grieco	Moehlmann	Taddonio
Cessar	Hagarty	Nahill	Taylor, E. Z.
Cimini	Halverson	Perzel	Telek
Civera	Hasay	Phillips	Thomas
Clark, M. R.	Hayes, Jr., S.	Piccola	Vroon
Cornell	Helfrick	Pott	Wass
Coslett	Honaman	Pyles	Wenger
Cunningham	Hutchinson, W.	Rasco	Wilson
DeVerter	Johnson, E. G.	Rocks	Wright, Jr., J.
Davies	Klingaman	Ryan	Yohn
Dietz	Knepper	Salvatore	Zord
Durham	Lewis	Scheaffer	

NOT VOTING—12

Barber	Donatucci, R.	Jones	Micozzie
Beloff	Dumas	Lashinger	Shadding
Dininni	Johnson, J. J.	Levin	Street

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

RECONSIDERATION OF VOTE ON AMENDMENTS TO HB 769

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

Mr. POTT. Mr. Speaker, I move that the vote by which the Sweet amendment No. A6314 to HB 769 was passed on May 7 be reconsidered.

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

Mr. VROON. Mr. Speaker, I second the motion.

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

The following roll call was recorded:

YEAS—135

Alden	Earley	Levin	Salvatore
Armstrong	Fisher	Lewis	Scheaffer
Arty	Foster, W. W.	Livengood	Schweder
Austin	Freind	Lynch, E. R.	Serafini
Belardi	Fryer	McClatchy	Sieminski
Bennett	Gallagher	McIntyre	Sirianni
Berson	Gallen	McMonagle	Smith, E. H.
Bittle	Gamble	Mackowski	Smith, L. E.
Bowser	Gannon	Madigan	Spencer
Brandt	Gatski	Manderino	Spitz
Brown	Geesey	Manmiller	Stairs
Burd	Geist	Miller	Steighner
Caltagirone	Giammarco	Moehlmann	Stuban
Cappabianca	Gladeck	Mowery	Swift
Cessar	Goodman	Mrkonic	Taddonio
Chess	Grabowski	Mullen	Taylor, E. Z.
Cimini	Gray	Nahill	Taylor, F.
Civera	Gruppo	Noye	Telek
Clark, M. R.	Hagarty	Oliver	Thomas
Cochran	Halverson	Perzel	Vroon
Cohen	Harper	Peterson	Wargo
Cole	Hasay	Petrarca	Wass
Cornell	Hayes, Jr., S.	Phillips	Wenger
Coslett	Helfrick	Piccola	Williams
Cowell	Hoeffel	Pievsky	Wilson
Cunningham	Honaman	Pitts	Wilt
DeVerter	Hutchinson, W.	Pott	Wright, Jr., J.
DiCarlo	Johnson, E. G.	Pratt	Yohn
Davies	Kanuck	Pucciarelli	Zeller
Dietz	Klingaman	Punt	Zitterman
Dininni	Knepper	Pyles	Zwinkl
Dombrowski	Kowalyszyn	Rappaport	
Dorr	Lehr	Rocks	Seltzer,
Duffy	Levi	Ryan	Speaker
Durham			

NAYS—36

Borski	Hutchinson, A.	Michlovic	Schmitt
Clark, B. D.	Itkin	Murphy	Seventy
DeMedio	Knight	Novak	Stewart
DeWeese	Kukovich	Pistella	Sweet
Dawida	Laughlin	Reed	Trello
Fee	Lescovitz	Richardson	Wachob
Fischer	Letterman	Rieger	White
George, C.	McCall	Ritter	Yahner
George, M. H.	Maiale	Rodgers	Zord

NOT VOTING—23

Anderson	Goebel	Lashinger	Rasco
Barber	Greenfield	McVerry	Shadding
Beloff	Grieco	Micozzie	Shupnik
Donatucci, R.	Johnson, J. J.	Milanovich	Street
Dumas	Jones	O'Brien, B. F.	Wright, D. R.
Foster, Jr., A.	Kolter	O'Donnell	

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

On the question recurring,

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

Mr. SWEET reoffered the following amendments:

Amend Title, page 1, line 11, by removing the period after "tax" and inserting and limiting the Utilities Gross Receipts Tax.

Amend Bill, page 3, by inserting between lines 17 and 18 Section 2. Section 1101 of the act is amended by adding a subsection to read: Section 1101. Imposition of Tax.—* * * (g) Annual Adjustment.—The rate of the tax imposed by this section shall be adjusted annually by the Pennsylvania Public Utility Commission to produce the revenue equal to the amount of revenue due and payable during the 1979-1980 fiscal year of the Commonwealth.

Amend Sec. 2, page 3, line 18, by striking out "2. This" and inserting 3. (a) Section 1 of this

Amend Sec. 2, page 3, by inserting after line 20 (b) Section 2 of this act shall take effect July 1, 1980 or, if this act is enacted after July 1, 1980, section 2 shall take effect immediately and shall be retroactive to July 1, 1980. (c) The remainder of this act shall take effect immediately.

On the question recurring,

Will the House agree to the amendments?

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

Mr. SWEET. Mr. Speaker, I know the hour is late, and I will not prolong the agony. I would however like to make two comments and at least have a little bit of agony before the vote.

First, I think everybody should now understand what the gross receipts tax is. It is an extremely unfair tax, and this amendment may be the only piece of true tax reform that we get to vote on this whole session that will affect consumers daily.

If you choose to vote against this amendment, what you are really doing is voting for a tax increase of \$140 million by 1983, because this money will continue to come into the state coffers as the inflationary spiral continues, as OPEC - Organization of Petroleum Exporting Countries - continues to raise energy prices, and you are in effect voting for a hidden tax increase if you do that. Now, I know many of you would prefer to vote for a hidden tax increase instead of a real one, but I think that from our discussion today, you ought to realize what you are doing. This is a tax increase if you continue to allow this tax to be assessed to the people of Pennsylvania.

Secondly, I might point out that I know there has been at least one business group that has wandered around and spoken to at least a number of members on my side of the aisle and asked them to oppose this. My amendment not only helps the little old lady I talked about before who gets a deduction on her sales tax when she buys a coat and who gets a deduction when she buys drugs and who gets a deduction when she buys food. Those are all deductions and exemptions from the sales tax. However, when she buys heat, she gets no exemption; she pays 4.5 percent. There is another group in this Commonwealth that also pays 4.5 percent every time they pay an electric bill or a gas bill, and that group is business, small businesses and large

businesses all over the State of Pennsylvania. I certainly hope that those business groups that have chosen to oppose this amendment will make it very clear to their membership that they have prevented them from getting a fair and decent shake from the Commonwealth by stopping the fact that they are caught up in inflation, and that every time OPEC raises their electric bill, they are caught paying 4.5 percent as that bill escalates. This has gone from \$172 million in 10 years, from 1973 to 1983, to half a billion dollars, all of it hidden inflationary tax increases. I ask, Mr. Speaker, that you stop that tonight by continuing to support this amendment. Thank you.

CONSTITUTIONAL POINT OF ORDER

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

Mr. POTT. Mr. Speaker, I request that you place the issue of constitutionality of the Sweet amendment before the House, and then I would like to speak on the constitutionality.

The SPEAKER. The gentleman from Allegheny, Mr. Pott, raised the question of constitutionality of the amendment offered by the gentleman, Mr. Sweet. Under the rules of the House, the question of constitutionality is decided by the House.

The question before the House is, is the Sweet amendment constitutional? Those who believe that it is constitutional will vote "aye"; those who would believe that the amendment is unconstitutional will vote "no."

The Chair recognizes the gentleman from Allegheny, Mr. Pott.

Mr. POTT. Article II, section 1, of the Constitution states: "The legislative power...shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives." Amongst those legislative powers is the power of taxation. Article III, section 31, states, and I paraphrase: The General Assembly shall not delegate to any special commission any power to levy taxes. The Sweet amendment delegates the power to adjust the gross receipts tax rate to the Public Utility Commission.

Court cases have backed up this constitutional amendment. I quote to you from *Wilson v. School District of Philadelphia*, 328 Pa. 225: "...the power to tax is peculiarly a power of the Legislature... The taxing power, one of the highest prerogatives, if not the highest, of the Legislature, must be exercised through representatives chosen by the people." In *Evans v. West Norriton Township Municipal Authority*, 370 Pa. 150, part of the decision is: "It is well established that the state Legislature has the right to delegate its power to tax, to municipal bodies...whose commissioners or taxing officers are elected by the people."

Mr. Speaker, the Sweet amendment delegates the power to levy taxes to the Public Utility Commission. It takes the budgetmaking process and revenue-raising responsibilities from the General Assembly. I urge the members to declare the Sweet amendment to be unconstitutional.

The SPEAKER. The Chair recognizes the minority whip. Mr. MANDERINO. Mr. Speaker, I guess accountants are bad lawyers and lawyers are bad accountants, but, Mr. Speaker, there is no question that the issue of constitutionality should properly be resolved by this House in favor of the constitutionality of the Sweet amendment.

First of all, the Public Utility Commission is an arm of this legislature. It is not an unconstitutional delegation of power to anybody that would be considered unconstitutional, in my opinion, by the courts.

Secondly, Mr. Speaker, even if we were delegating this kind of power to an independent agency of the executive branch of government, even if we were doing that, we have set proper guidelines, and that is what you must do when you delegate authority. We have told them exactly how to calculate the rate of tax. We have said that you will recalculate the rate of tax so that the same amount of money will be brought in in any year as is brought in in the year that Mr. Sweet designates in his amendment. The calculation and what the Public Utility Commission has to do is simply a ministerial duty. There is no judgment exercised by them at all.

The cases that Mr. Pott quotes are cases where delegation of authority is given and the judgment is exercised by the other agency. There is no judgment; they must merely make a calculation that any of us could make based on the guidelines set down, and there certainly is no constitutional problem.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, I agree with Mr. Manderino as far as the constitutionality of this amendment. Although I may not agree with the amendment, I do agree that for too long—and with all respect to my good friend, Mr. Pott—this business of constitutionality has been used to get something out of the way, and I really believe that this is wrong. We have been doing it too many times here and hurting members who really and sincerely are trying to do a job. I say this with respect, and I really feel that we should not be using this kind of ploy, and I feel—and I will argue with either side on this issue because I feel very strongly about it—that it is constitutional. We have that power to set caps; we have that power to tell the PUC what we want to do, and that is why we are sent here by our people. Therefore, I believe it is constitutional and we should quit using these sorts of methods.

The SPEAKER. The question recurs, is the amendment offered by Mr. Sweet constitutional? Those who believe that it is will vote "aye"; opposed, "no."

The following roll call was recorded:

YEAS—107

Austin	Earley	Lehr	Rieger
Barber	Fee	Lescovitz	Ritter
Belardi	Fischer	Letterman	Rodgers
Bennett	Freind	Levin	Schmitt
Berson	Fryer	Livengood	Schweder
Borski	Gallagher	McCall	Seventy
Bowser	Gamble	McIntyre	Shupnik
Brown	Gatski	McMonagle	Spitz
Caltagirone	Geesey	Maiale	Steighner

Cappabianca	George, C.	Manderino	Stewart
Chess	George, M. H.	Michlovic	Stuban
Civera	Giammarco	Milanovich	Sweet
Clark, B. D.	Goebel	Mrkoncic	Taylor, F.
Cochran	Goodman	Mullen	Trello
Cohen	Grabowski	Murphy	Wachob
Cole	Gray	Novak	Wargo
Cornell	Greenfield	O'Brien, B. F.	White
Cowell	Harper	O'Donnell	Williams
DeMedio	Hoeffel	Oliver	Wilson
DeWeese	Hutchinson, A.	Petrarca	Wilt
DiCarlo	Itkin	Pievsky	Wright, D. R.
Davies	Kanuck	Pistella	Yahner
Dawida	Knight	Pratt	Zeller
Dombrowski	Kolter	Pucciarelli	Zitterman
Dorr	Kowalyszyn	Rappaport	Zord
Duffy	Kukovich	Reed	Zwick
Dumas	Laughlin	Richardson	

NAYS—79

Alden	Geist	Madigan	Serafini
Anderson	Gladeck	Manmiller	Sieminski
Armstrong	Grieco	Miller	Sirianni
Arty	Gruppo	Moehlmann	Smith, E. H.
Bittle	Hagarty	Mowery	Smith, L. E.
Brandt	Halverson	Nahill	Spencer
Burd	Hasay	Noye	Stairs
Cessar	Hayes, Jr., S.	Perzel	Swift
Cimini	Helfrick	Peterson	Taddonio
Clark, M. R.	Honaman	Phillips	Taylor, E. Z.
Coslett	Hutchinson, W.	Piccola	Telek
Cunningham	Johnson, E. G.	Pitts	Thomas
DeVerter	Klingaman	Pott	Vroon
Dietz	Knepper	Punt	Wass
Dininni	Levi	Pyles	Wenger
Durham	Lewis	Rasco	Wright, Jr., J.
Fisher	Lynch, E. R.	Rocks	Yohn
Foster, W. W.	McClatchy	Ryan	
Foster, Jr., A.	McVerry	Salvatore	Seltzer,
Gallen	Mackowski	Scheaffer	Speaker
Gannon			

NOT VOTING—8

Beloff	Johnson, J. J.	Lashingier	Shadding
Donatucci, R.	Jones	Micozzie	Street

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the amendments was sustained.

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

The following roll call was recorded:

YEAS—105

Austin	Freind	Levi	Ritter
Belardi	Fryer	Levin	Rodgers
Bennett	Gallagher	Livengood	Schmitt
Berson	Gamble	McCall	Schweder
Borski	Gatski	McIntyre	Seventy
Bowser	Geesey	McMonagle	Shupnik
Brown	George, C.	Maiale	Spitz
Caltagirone	George, M. H.	Manderino	Stairs
Cappabianca	Giammarco	Michlovic	Steighner
Chess	Goebel	Milanovich	Stewart
Clark, B. D.	Goodman	Mrkoncic	Street
Cochran	Grabowski	Mullen	Stuban
Cohen	Gray	Murphy	Sweet
Cole	Greenfield	Novak	Taylor, F.
Cowell	Harper	O'Brien, B. F.	Trello
DeMedio	Hoeffel	O'Donnell	Wachob

DeVerter	Hutchinson, A.	Oliver	Wargo
DeWeese	Itkin	Petrarca	White
DiCarlo	Kanuck	Pievsky	Williams
Davies	Knight	Pistella	Wilson
Dawida	Kolter	Pratt	Wilt
Dombrowski	Kukovich	Pucciarelli	Wright, D. R.
Donatucci, R.	Laughlin	Rappaport	Yahner
Dorr	Lehr	Reed	Zitterman
Duffy	Lescovitz	Richardson	Zord
Fee	Letterman	Rieger	Zwikl
Fischer			

NAYS—80

Alden	Geist	Manmiller	Serafini
Anderson	Gladeck	Micozzie	Sieminski
Armstrong	Grieco	Miller	Sirianni
Arty	Gruppo	Moehlmann	Smith, E. H.
Bittle	Hagarty	Mowery	Smith, L. E.
Brandt	Halverson	Nahill	Spencer
Burd	Hasay	Noye	Swift
Cimini	Hayes, Jr., S.	Perzel	Taddonio
Civera	Helfrick	Peterson	Taylor, E. Z.
Clark, M. R.	Honaman	Phillips	Telek
Cornell	Hutchinson, W.	Piccola	Thomas
Coslett	Johnson, E. G.	Pitts	Vroon
Cunningham	Klingaman	Pott	Wass
Dietz	Knepper	Punt	Wenger
Dininni	Kowalshyn	Pyles	Wright, Jr., J.
Durham	Lewis	Rasco	Yohn
Earley	Lynch, E. R.	Rocks	Zeller
Fisher	McClatchy	Ryan	
Foster, W. W.	McVerry	Salvatore	Seltzer,
Foster, Jr., A.	Mackowski	Scheaffer	Speaker
Gannon	Madigan		

NOT VOTING—9

Barber	Dumas	Johnson, J. J.	Lashing
Beloff	Gallen	Jones	Shadding
Cessar			

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

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

On the question recurring,

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

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—171

Alden	Foster, Jr., A.	Lewis	Salvatore
Anderson	Freind	Livengood	Scheaffer
Armstrong	Fryer	Lynch, E. R.	Schmitt
Arty	Gallagher	McCall	Schweder
Belardi	Gamble	McClatchy	Serafini
Bennett	Gannon	McIntyre	Seventy
Berson	Gatski	McMonagle	Shupnik
Bittle	Geesey	McVerry	Sieminski
Borski	Geist	Mackowski	Sirianni
Bowser	George, C.	Madigan	Smith, E. H.
Brandt	George, M. H.	Maiale	Smith, L. E.
Brown	Giammarco	Manmiller	Spencer
Burd	Gladeck	Micozzie	Spitz
Caltagirone	Goebel	Milanovich	Stairs
Cappabianca	Goodman	Miller	Steighner
Cessar	Grabowski	Moehlmann	Stewart

Chess	Gray	Mowery	Stuban
Cimini	Greenfield	Mrkonic	Sweet
Civera	Grieco	Mullen	Swift
Clark, M. R.	Gruppo	Murphy	Taddonio
Cochran	Hagarty	Nahiv	Taylor, E. Z.
Cohen	Halverson	Novak	Taylor, F.
Cole	Harper	Noye	Telek
Cornell	Hasay	O'Brien, B. F.	Thomas
Coslett	Hayes, Jr., S.	Perzel	Trello
Cowell	Helfrick	Peterson	Vroon
Cunningham	Honaman	Petrarca	Wachob
DeMedio	Hutchinson, A.	Phillips	Wass
DeVerter	Hutchinson, W.	Piccola	Wenger
DeWeese	Itkin	Pievsky	Williams
DiCarlo	Johnson, E. G.	Pistella	Wilson
Davies	Kanuck	Pitts	Wilt
Dawida	Klingaman	Pott	Wright, D. R.
Dietz	Knepper	Pratt	Wright, Jr., J.
Dininni	Knight	Pucciarelli	Yahner
Dombrowski	Kolter	Punt	Yohn
Dorr	Kowalshyn	Pyles	Zeller
Duffy	Kukovich	Rappaport	Zitterman
Durham	Laughlin	Rasco	Zord
Earley	Lehr	Reed	Zwikl
Fee	Lescovitz	Ritter	
Fischer	Letterman	Rocks	Seltzer,
Fisher	Levi	Ryan	Speaker
Foster, W. W.			

NAYS—12

Austin	Levin	O'Donnell	Rieger
Clark, B. D.	Manderino	Oliver	Wargo
Hoefel	Michlovic	Richardson	White

NOT VOTING—11

Barber	Dumas	Jones	Shadding
Beloff	Gallen	Lashing	Street
Donatucci, R.	Johnson, J. J.	Rodgers	

EXCUSED—8

Burns	Irvis	O'Brien, D. M.	Rhodes
Hayes, D. S.	McKelvey	Polite	Weidner

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

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

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.

SENATE MESSAGE

HOUSE BILLS CONCURRED IN BY SENATE

The clerk of the Senate informed that the Senate has concurred in **HB 1771, PN 2166; HB 2238, PN 2860; and HB 2393, PN 3283.**

BILLS SIGNED BY SPEAKER

The following bills, having been prepared for presentation to the Governor, were signed by the Speaker:

HB1771, PN 2166

An Act making an appropriation to the Mummerts Museum of Arts in Philadelphia, Pennsylvania.

HB 2238, PN 2860

An Act amending the "Korean Conflict Veterans' Compensation Bond Act," approved May 4, 1959 (P. L. 285, No. 39), to reduce the authorization.

HB 2393, PN 3283

An Act amending the "Motor Vehicle Sales Finance Act," approved June 28, 1947 (P. L. 1110, No. 476), further providing for the finance charge of certain motor vehicles.

RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. L. E. SMITH. Mr. Speaker, I move that the rules be suspended in order that the House may consider a resolution that I am about to introduce immediately.

The SPEAKER. Has the gentleman, Mr. Smith, indicated to the minority whip what the resolution is? This takes a suspension of the rules.

The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, Mr. Manderino and I spoke to the issue, and we would agree to suspend the rules to adopt the resolution. It is commemorating Small Business Week.

Mr. MANDERINO. That is correct, Mr. Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to.

HR 229 ADOPTED

The SPEAKER. The Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. L. E. SMITH. Mr. Speaker, I offer the following resolution.

The following resolution was read:

In the House of Representatives,

WHEREAS, There are approximately 200,000 small businesses in the Commonwealth which are vital to the Commonwealth's economy and provide over one-half of the Commonwealth's economic output; and

WHEREAS, Small businesses are an important source of major innovations which create new markets and improve the quality of life; and

WHEREAS, Small businesses account for over 37% of the Commonwealth's work force; and

WHEREAS, Approximately 80% of Pennsylvania's manufacturing establishments employ fewer than 100 persons accounting for one-fourth of Pennsylvania manufacturing workers; and

WHEREAS, Small business accounts for nearly all of the increases in employment in the Commonwealth since 1970; and

WHEREAS, A national study indicates that 66% of all new jobs created in the economy are provided by firms employing less than 20 people; and

WHEREAS, Governor Thornburgh established the Governor's Small Business Council on May 4, 1979 to act as an advisory board and advocate in the area of creating and maintaining a favorable environment for small business in the Commonwealth; and

WHEREAS, The week of May 11-17, 1980 has been designated National Small Business Week; and

WHEREAS, The House of Representatives desires to insure a central focus for small business in the legislative process; therefore be it

RESOLVED, That the House of Representatives direct the Chairman of the House Committee on Business and Commerce to appoint a Special Subcommittee on Small Business from the members of the House Committee on Business and Commerce, three members to be from the majority party and two members to be from the minority party; and be it further

RESOLVED, That the Special Subcommittee on Small Business be responsible for reviewing all legislative proposals to determine the potential impact on benefits for small business.

L. EUGENE SMITH
REID L. BENNETT
DONALD W. DORR
ROOSEVELT I. POLITE
THOMAS J. McCALL

On the question,

Will the House adopt the resolution?

Resolution was adopted.

REPORT FROM RULES COMMITTEE

**BILLS REMOVED FROM TABLE
FOR CALENDAR**

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that the following bills be removed from the table:

HB 1155, PN 2023;
HB 1452, PN 3244;
HB 1937, PN 2423;
HB 2358, PN 3030;
HB 2378, PN 3076;
HB 2383, PN 3081;
HB 2406, PN 3246;
HB 2449, PN 3299;
SB 768, PN 1591;
HB 1947, PN 3245;
HB 2440, PN 3184;
HB 2441, PN 3185; and
HB 2442, PN 3186.

On the question,

Will the House agree to the motion?

Motion was agreed to.

BILLS REREFERRED

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that the following bills be removed from the table and rereferred to the Committee on Appropriations for the purpose of a fiscal note:

HB 1947, PN 3245;
HB 2440, PN 3184;
HB 2441, PN 3185; and
HB 2442, PN 3186.

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

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

HB 1542, PN 1819 By Rep. McCLATCHY

An Act providing for adoption of capital projects to be financed from aviation restricted revenues within the Motor License Fund.

APPROPRIATIONS.

HB 2507, PN 3290 By Rep. McCLATCHY

An Act making an appropriation to the Cerebral Palsy Society of Lackawanna County.

APPROPRIATIONS.

SB 506, PN 526 By Rep. McCLATCHY

A Supplement to the act of July 9, 1976 (P. L. 857, No. 154), entitled "An act providing for the capital budget for the fiscal year 1976-1977," itemizing an additional public improvement project to be constructed by the Department of General Services, together with its estimated financial cost, authorizing the incurring of debt for the project without approval of the electors to complete the project, stating the estimated useful life of such project and making an appropriation.

APPROPRIATIONS.

SB 1240, PN 1541 By Rep. McCLATCHY

An Act making an appropriation to the Association for the Blind for Armstrong and Indiana Counties, for the provision of services to the blind.

APPROPRIATIONS.

BILLS REREPORTED FROM COMMITTEE

HB 90, PN 101 By Rep. McCLATCHY

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), defining the term "taxable income" to exclude from the corporate income tax the amortization of certified pollution control devices.

APPROPRIATIONS.

HB 217, PN 235 By Rep. McCLATCHY

An Act amending "The Game Law," approved June 3, 1937 (P. L. 1225, No. 316), increasing the issuing agent's fee.

APPROPRIATIONS.

HB 218, PN 236 By Rep. McCLATCHY

An Act amending "The Game Law," approved June 3, 1937 (P. L. 1225, No. 316), further prohibiting the sale by any person of any license for a fee in excess of the fee established by law; providing penalties for violations of license fee requirements; authorized three-day licenses to residents of the Commonwealth to hunt on regulated shooting grounds and increasing the issuing agent's fee for issuing such licenses.

APPROPRIATIONS.

HB 265, PN 285 By Rep. McCLATCHY

An Act amending the act of July 19, 1974 (P. L. 486, No. 175), entitled "An act requiring public agencies to hold certain meetings and hearings open to the public and providing penalties," further providing for open meetings of public agencies.

APPROPRIATIONS.

HB 266, PN 2033 By Rep. McCLATCHY

An Act requiring certain records of the Commonwealth, its agencies, political subdivisions, certain authorities and other agencies receiving or dispensing public funds or performing essential governmental functions to be open for examination and inspection by citizens of this Commonwealth; authorizing citizens to make extracts, copies, photographs or photostats of such records; providing for remedial relief; and providing penalties.

APPROPRIATIONS.

HB 281, PN 444 By Rep. McCLATCHY

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, removing provisions relating to retention election system.

APPROPRIATIONS.

HB 1440, PN 2649 By Rep. McCLATCHY

An Act amending "The Second Class Township Code," approved May 1, 1933 (P. L. 103, No. 69), changing provisions relating to supervisors and township manager.

APPROPRIATIONS.

HB 1793, PN 3319 (Amended) By Rep. McCLATCHY

An Act authorizing the creation of agricultural areas.

APPROPRIATIONS.

HB 1908, PN 2365 By Rep. McCLATCHY

An Act creating the Public Employee Retirement Study Commission to make a continuing study of all public employee retirement and pension systems; and making an appropriation.

APPROPRIATIONS.

HB 2176, PN 3129 By Rep. McCLATCHY

An Act providing for a Statewide emergency telephone number "911" system, establishing the Office of Telecommunication in the Department of General Services and providing for its powers and duties, and making a repeal.

APPROPRIATIONS.

HB 2412, PN 3197 By Rep. McCLATCHY

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), authorizing the representative filing the tax return of a deceased individual taxpayer to claim the tax forgiveness.

APPROPRIATIONS.

SB 759, PN 1643 By Rep. McCLATCHY

An Act amending the act of July 15, 1976 (P. L. 1036, No. 208), entitled "Volunteer Fire Company, Ambulance Service and Rescue Squad Assistance Act," changing the minimum loan and extending assistance in the form of loans for purchase of certain used equipment and further providing for certain refinancing and for the guarantee of certain funds by political subdivisions.

APPROPRIATIONS.

SB 963, PN 1367

By Rep. McCLATCHY

An Act amending the act of July 15, 1976 (P. L. 1014, No. 204), entitled "Magisterial District Reform Act," further providing for the compensation of district justices.

APPROPRIATIONS.

SB 1048, PN 1718

By Rep. McCLATCHY

An Act amending the act of July 20, 1979 (No. 62), entitled "A supplement to the act of _____, entitled, 'An act providing for the capital budget for the fiscal year 1979-1980,' itemizing public improvement projects to be acquired or constructed by the Department of General Services together with their estimated financial cost;....," authorizing the acquisition of property in Turtle Creek Borough for the Saw Mill Run project.

APPROPRIATIONS.

ADJOURNMENT

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

Mr. MICOZZIE. Mr. Speaker, I move that this House do now adjourn until Monday, May 12, 1980, at 1 p.m., e.d.t.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 5:50 p.m., e.d.t., the House adjourned.