

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

MONDAY, MAY 12, 1980

Session of 1980

164th of the General Assembly

No. 34

HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.d.t.

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

PRAYER

THE HONORABLE RICHARD J. CESSAR, member of the House of Representatives and guest chaplain, offered the following prayer:

Dear Lord, as we gather today, we ask that You would look at this body and invoke Your Divine blessing on us so that we as Your servants may be able to serve the people of the Commonwealth of Pennsylvania.

We ask this in Thy name, Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

JOURNALS APPROVED

The SPEAKER. Are there any corrections to the Journals of April 29 and 30, and May 5, 1980?

If not, and without objection, the Journals are approved.

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal for Wednesday, May 7, 1980, will be postponed until printed.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2528 By Representative POTT.

An Act amending the "Pennsylvania No-fault Motor Vehicle Insurance Act", approved July 19, 1974 (P. L. 489, No. 176), imposing operator's license under certain circumstances.

Referred to Committee on INSURANCE, May 8, 1980.

No. 2529 By Representatives POTT AND BORSKI.

An Act amending "The Local Tax Enabling Act," approved December 31, 1965 (P. L. 1257, No. 511), requiring reports by collectors of certain taxes.

Referred to Committee on LOCAL GOVERNMENT, May 8, 1980.

No. 2530 By Representatives BOWSER, LAUGHLIN, LEVI, DiCARLO, DOMBROWSKI AND DAVIES.

An Act amending the "Public School Code of 1949," approved March 10, 1949 (P. L. 30, No. 14), further providing for public school grants.

Referred to Committee on APPROPRIATIONS, May 8, 1980.

No. 2531 By Representatives DAWIDA, MURPHY, DUFFY, KNIGHT, MICHLOVIC, ITKIN AND SEVENTY.

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for proceedings to determine paternity, conforming certain provisions to existing law and making a repeal.

Referred to Committee on JUDICIARY, May 8, 1980.

No. 2532 By Representatives B. D. CLARK, LETTERMAN, PETRARCA, KOLTER, McCALL AND GATSKI.

An Act providing for the deposit of Federal income tax withholding moneys in a special fund created in the State Treasury.

Referred to Committee on APPROPRIATIONS, May 8, 1980.

No. 2533 By Representatives BROWN AND COCHRAN.

An Act amending "The Controlled Substance, Drug, Device and Cosmetic Act," approved April 14, 1972 (P. L. 233, No. 64), excluding dimethyl sulfoxide (DMSO) from certain provisions of the act.

Referred to Committee on HEALTH AND WELFARE, May 8, 1980.

No. 2534 By Representatives L. E. SMITH, DORR, McMONAGLE AND WACHOB.

An Act amending the "Funeral Director Law," approved January 14, 1952 (1951 P. L. 1898, No. 522), further providing for issuance of licenses for widows and widowers.

Referred to Committee on PROFESSIONAL LICENSURE, May 8, 1980.

No. 2535 By Representatives WHITE, FISCHER, RICHARDSON, BERSON, COHEN, EARLEY, OLIVER, KUKOVICH, HARPER, LEVIN, WACHOB, MILLER, W. D. HUTCHINSON AND KANUCK.

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining "forcible felony" and further providing for the use of force in law enforcement.

Referred to Committee on JUDICIARY, May 8, 1980.

No. 2536 By Representatives REED AND KOWALYSHYN.

An Act amending the "Public Welfare Code," approved June 13, 1967 (P. L. 31, No. 21), limiting the amount of reimbursement for certain court services to children.

Referred to Committee on HEALTH AND WELFARE, May 8, 1980.

SENATE MESSAGE

SENATE BILLS FOR CONCURRENCE

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

SB 1137, PN 1660

Referred to Committee on Insurance, May 8, 1980.

SB 1162, PN 1661

Referred to Committee on Insurance, May 8, 1980.

SB 1246, PN 1549

Referred to Committee on Insurance, May 8, 1980.

SB 1254, PN 1559

Referred to Committee on Education, May 8, 1980.

SB 1287, PN 1618

Referred to Committee on Agriculture and Rural Affairs, May 8, 1980.

SB 1300, PN 1634

Referred to Committee on Appropriations, May 8, 1980.

SB 1312, PN 1655

Referred to Committee on Professional Licensure, May 8, 1980.

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 Bucks, Mr. WEIDNER, for the week, the gentleman from Montgomery, Mr. POLITE, for the week, the gentleman from Lancaster, Mr. BRANDT, for today, and the gentleman from Allegheny, Mr. KNEPPER, for today.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, we ask for a leave of absence for the gentleman from Philadelphia, Mr. RAPPAPORT, for today, the gentleman from Allegheny, Mr. RHODES, for today, the gentleman from Philadelphia, Mr. GREENFIELD, for today, the gentleman from Philadelphia, Mr. PIEVSKY, for today, the gentleman from Philadelphia, Mr. STREET, for today, and the gentleman from Philadelphia, Mr. BARBER, for today.

The SPEAKER. Without objection, leaves will be granted.

MASTER ROLL CALL RECORDED

The SPEAKER. The members will please report to the floor. The Chair is about to take the master roll.

Those members on the floor of the House may now record their presence. The members will proceed to vote.

The following roll call was recorded:

YEAS—181

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

NAYS—0

NOT VOTING—9

Beloff	Harper	Jones	O'Brien, D. M.
Cohen	Johnson, J. J.	McKelvey	Williams
Dumas			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

COMMUNICATION FROM GOVERNOR

BILL SIGNED BY GOVERNOR

The Secretary to the Governor presented the following communication from His Excellency, the Governor:

APPROVAL OF HB No. 2123.

Commonwealth of Pennsylvania
Governor's Office, Harrisburg

May 9, 1980

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

I have the honor to inform you that I have this day approved and signed House Bill 2123, Printer's No. 2931, entitled, "An act making appropriations to the Department of State for payment to county boards of election for expenses incurred in the special elections of March, 1980 and April, 1980."

DICK THORNBURGH
GOVERNOR

**REPORT OF COMMITTEE
OF CONFERENCE PRESENTED**

Mr. D. M. FISHER presented the Report of the Committee of Conference on **SB 65, PN 1505.**

The SPEAKER. The report will be laid over for printing under the rules.

CALENDAR

**BILLS AGREED TO ON SECOND
CONSIDERATION**

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

HB 1440, PN 2649; HB 2358, PN 3030; SB 759, PN 1643; HB 2449, PN 3297; HB 2527, PN 3316; SB 768, PN 1591; HB 1937, PN 2423; HB 2378, PN 3076; SB 963, PN 1367; SB 1048, PN 1718; HB 1452, PN 3244; HB 2383, PN 3081; HB 217, PN 235; HB 218, PN 236; HB 90, PN 101; and HB 2412, PN 3197.

FINAL PASSAGE BILL CONSIDERED

Agreeable to order,

The House proceeded to the consideration on final passage of **SB 881, PN 1650**, entitled:

An Act amending the act of January 22, 1968 (1967 P. L. 42, No. 8), entitled, "Pennsylvania Urban Mass Transportation Assistance Law of 1967," adding and further providing for definitions and program authorizations, making an editorial change, further providing for project grants, further providing for intergovernmental cooperation, providing for State subsidies, authorizing the creation of a transportation authority to function in each metropolitan area consisting of any county of the first class and all nearby counties within a radius of

twenty miles of any such first class county, as a body corporate and politic for the purpose of establishing an integrated mass transportation system with all pertinent powers including, but not limited to, leasing, acquiring, owning, operating and maintaining a system for, or otherwise providing for, the transportation of persons, authorizing the borrowing of money and issuance of bonds therefor, conferring the right of eminent domain on the authority; altering the jurisdiction of the Public Utility Commission, authorizing the acceptance of grants from Federal, State and local governments, limiting actions against the authority and exempting it from taxation, authorizing counties and municipalities to enter into compacts for the financing of each authority and to make appropriations in accordance with such compacts, creating a citizen advisory committee conferring exclusive jurisdiction upon certain courts with respect to matters relating to such authority, empowering each authority to function outside of the metropolitan area under certain terms and conditions, imposing a requirement to submit a reorganization plan, providing sanctions for failure to submit a reorganization plan and making appropriations, and making certain transfers and repeals.

On the question,
Shall the bill pass finally?

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that SB 881 be laid on the table.

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

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2254, PN 2929**, entitled:

An Act amending the "Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act," approved February 11, 1976 (P. L. 14, No. 10), adding definitions, authorizing grants to provide free and reduced fare local transportation for persons sixty-five years of age or older.

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

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that HB 2254 be laid on the table.

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

* * *

The House proceeded to third consideration of **HB 2255, PN 2884**, entitled:

An Act amending the "State Lottery Law," approved August 26, 1971 (P. L. 351, No. 91), further providing for the allocation of money in the fund and making editorial changes.

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

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that HB 2255 be laid on the table.

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

* * *

The House proceeded to third consideration of **HB 1162, PN 3003**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for a plea or finding of guilty but mentally ill.

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

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that HB 1162 be laid on the table.

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

**AMENDED HOUSE BILL RETURNED
FOR CONCURRENCE CONSIDERED**

The Senate returned the following **HB 552, PN 2432**, with the information that the Senate has passed the same with amendments in which concurrence of the House of Representatives is requested:

An Act amending the "Public Welfare Code," approved June 13, 1967 (P. L. 31, No. 21), prohibiting assistance to certain students, further providing for identification and proof of residence, and prohibiting copayment plans.

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

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, on the question of concurrence, I would ask that the members nonconcur in HB 552. I would also request the Speaker to explain the way the question is put so that we understand which way we should vote on this.

The SPEAKER. The Chair recognizes the minority leader.

Mr. IRVIS. Mr. Speaker, I would ask that the Democrats be voting in the affirmative on the question. We are concerned over what may happen in the committee of conference over HB 552, and I am asking that our votes on the question be in the affirmative. In other words, we will

be voting to concur, whereas Mr. Ryan has asked that the vote be in the negative. I am asking Democrats to vote in the affirmative on the question to be placed before the House by the Speaker.

The SPEAKER. The question recurs, will the House concur in the amendment inserted by the Senate? Those who would vote in favor of concurrence would vote "aye," and those who are opposed to concurrence will vote "no."

The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the only reason that I have heard thus far for a nonconcurrence vote on this bill is that there is language contained in the bill that has already been law and became the law of this Commonwealth by previous action of the General Assembly. Now that is true, but repeating it in the law does no mischief. If it is already the law and it is included within HB 552, no mischief occurs. It certainly does not have to go to conference committee just to remove language that is already in the law.

What we are concerned with is that the Senate added a provision which prohibits the Department of Welfare from instituting any copay programs so far as prescriptions and medical care are concerned. We received much pressure in the past from persons who were disadvantaged and persons who were on assistance so far as medical payments are concerned and so far as prescription payments are concerned, and our senior citizens lobbied us so that no copay programs would be instituted. The Senate put that provision in the bill, and it says no copay provisions will be instituted.

If this bill goes to conference, it will simply give the department sufficient time to institute copay provisions, and the likelihood of this bill coming out before that is done I do not think is good. That is the reason that many of us who are against the copay provisions as being too costly, as saving no money, and in the long run playing havoc with the programs that are in place, are going to vote to concur in this bill.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, what Mr. Manderino says with respect to the duplication of existing law is probably correct. I honestly do not know. I do not see that any great harm could come by having the same law on the books in two different places. I think it is untidy. However, perhaps there would be no great harm to it.

Mr. Manderino points out that the Senate did insert a provision in this bill dealing with legislatively eliminating any possibility of any of our departments imposing a copay provision on certain medical payments. I believe that to be a function of the executive and not of the legislative branch of government to make that decision. If we would enact legislation like this in all areas particularly of welfare, pretty soon there would be no need for an executive branch in that department. I feel that some of those decisions are decisions reserved to the executive and should not be meddled in by the legislative.

I would remind each of you that we very, very frequently raise as legislators the three separate and equal branches of government, and we get disturbed and mad when anyone comes over into our area of responsibility—such as the courts have done from time to time—and imposes their will on us. I suggest the same thing is true in reverse, that the executive branch should have certain freedoms and this is one of them.

In addition, what started this and the reason for the request for nonconcurrence is to permit an insertion into HB 552 to permit the extension of the certificate-of-need legislation deadline. Right now that deadline is quickly approaching and it has not been implemented, and it was my intention to recommend to the conferees that an extension date till August 1 be inserted in the bill and that it be brought out for concurrence. So it is a dual purpose, the reason for the nonconcurrence, and I would ask that all of the members—not just the Republicans but all of the members—join with me in nonconcurring on this bill.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, very briefly, to say that whether or not a program of medicaid prescription should be copay or should not be copay is a matter for the administration and not this legislature is ludicrous. It is a matter for this legislature. Departments have been given the right when broad legislation is passed to write rules and regulations. There is very much substance in whether or not a recipient must pay part of the prescription price himself. That certainly is the prerogative of the legislature.

Mr. Speaker, I would point out that we are not talking about—and I may have been mistaken in my original remarks, but we are not talking about—copay programs across the lot. We are talking specifically about copay programs for any medicaid prescription cardholder. That is the only thing that this bill addresses, and it says to the department, you will institute no copay program so far as that cardholder is concerned. It is specific; it is the prerogative of this legislature, and I think we ought to follow the Senate's lead in prohibiting the department from legislating through regulations.

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

Mr. COWELL. Mr. Speaker, I, too, rise to ask that we concur in the amendments that were inserted by the Senate to this bill. The only controversial issue seems to be the matter of copayment, and we have heard that it would be inappropriate for this legislature to address the issue of copayment. I strongly disagree. It is this legislature that appropriates the medicaid dollars, and it is entirely appropriate that this legislature dictate the policies under which those kinds of assistance may or may not be available to eligible recipients. So it is quite appropriate that we address that issue in this legislation or some legislation.

Secondly, I would remind my colleagues that this House already spoke on this matter overwhelmingly a couple of months ago, and we spoke against copayments as a result of an awful lot of correspondence that we heard from

constituents around the state. Let us not reverse ourselves now. Let us not back away from this issue of prohibiting copayments. It is appropriate that we do it; we ought to do it; we have done it before, and we should reassert ourselves by concurring in the amendments that the Senate added in this bill. Thank you.

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

Mr. ZELLER. Mr. Speaker, I wish and I hope the members will hear what I have to say, because I am talking about consistency.

The SPEAKER. Members very seldom listen to that word.

Mr. ZELLER. Thank you, Mr. Speaker. I could not agree with you more, including myself probably.

The consistency problem I have is, let us go back and just briefly say that when HB 2044 was being discussed, I heard it from my side of the aisle that we should not act; let the administration run this; who are we to tell who should be off the welfare rolls and so forth, who are able-bodied citizens who can go out and get a job but they do not. And you remember our discussion on Act 1. It was passed here some time back, and we have a system now which can handle the so-called people who can work and will not. We heard that argument here. Therefore, we were told that the legislature should let the administration run the show.

Now, in HB 552 I happen to be agreeing with my leadership in that we hear from the other side of the aisle now, who is pushing HB 2044, that we should let the administration run the show. In other words, Mr. Manderino said that we should direct what should be done on copay. So I am a little bit confused—as usual, I guess—as to who is right and who is wrong. At one time you hear that the administration should do it; next time you hear that they should not do it. So really, I think it is rather confusing to all of us members here, and it is a matter of where you sit at the time, probably, politically. That is probably where we sit.

I really do not know what that bill is going to be used for. It seems to me like down the road somewhere they have some reason for wanting us not to concur on it. But I am worried about consistency, and I have a feeling that Mr. Manderino is correct on this. I really feel that we as a legislature stated many years ago that we should be telling the bureaus what to do, and here now we are being told by people who were pushing HB 2044 as the legislative push that we should not be doing that.

So really, I do not know whether I make sense. I think so, in that we have got to be consistent. So I am going to be consistent and go with what Mr. Manderino said, and we as the legislature shall direct the traffic in regard to copay. So I hope you understood what I said.

The SPEAKER. Those in favor of concurrence will vote "aye"; opposed, "no."

On the question recurring,

Will the House concur in Senate amendments?

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

YEAS—80

Austin	Foster, Jr., A.	Lehr	Ritter
Bennett	Fryer	Lescovitz	Rodgers
Berson	Gallagher	Letterman	Schweder
Borski	Gamble	Livengood	Seventy
Brown	Gatski	McCall	Shupnik
Caltagirone	George, C.	McMonagle	Sieminski
Cappabianca	Giammarco	Manderino	Steighner
Chess	Goebel	Michlovic	Stewart
Clark, B. D.	Goodman	Milanovich	Stuban
Clark, M. R.	Grabowski	Mrkonic	Taylor, F.
Cochran	Gray	Mullen	Telek
Cote	Hoeffel	Murphy	Trello
Cowell	Hutchinson, A.	Novak	Wachob
DeMedio	Irvis	O'Brien, B. F.	Wargo
DiCarlo	Itkin	O'Donnell	White
Dawida	Knight	Oliver	Wright, D. R.
Dombrowski	Kolter	Petrarca	Yahner
Duffy	Kowalshyn	Pistella	Zeller
Fee	Kukovich	Pratt	Zitterman
Fischer	Laughlin	Reed	Zwikel

NAYS—88

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

NOT VOTING—22

Beloff	Earley	McIntyre	Richardson
Burns	Halverson	McKelvey	Rieger
Cohen	Harper	Maiale	Schmitt
DeWeese	Johnson, J. J.	O'Brien, D. M.	Shadding
Donatucci, R.	Jones	Pucciarelli	Williams
Dumas	Levin		

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

Less than the majority required by the Constitution having voted in the affirmative, the question was determined in the negative and the amendments were not concurred in.

Ordered, That the clerk inform the Senate accordingly.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Levin. For what purpose does the gentleman rise?

Mr. LEVIN. Mr. Speaker, unfortunately, I was unable to get to my switch on the vote to concur in Senate amendments to HB 552. Had I been able to vote, I would have voted in the affirmative.

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

The Chair recognizes the gentleman from Philadelphia, Mr. Pucciarelli.

Mr. PUCCIARELLI. Mr. Speaker, I would also like to be recorded in the affirmative on concurrence in Senate amendments to HB 552.

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

SENATE MESSAGE

SENATE INSISTS ON NONCONCURRENCE AND APPOINTED CONFERENCE COMMITTEE

The Senate informed that the Senate insists on nonconcurrence in House amendments to SB 770, PN 1717, and has appointed Messrs. COPPERSMITH, KELLEY and HESS, a Committee of Conference to confer with a similar committee of the House of Representatives (if the House of Representatives shall appoint such committee), on the subject of the differences existing between the two houses in relation to said bill.

MOTION INSISTING UPON CONCURRENCE AND APPOINTMENT OF A CONFERENCE COMMITTEE

Mr. RYAN moved that the House insist upon Senate concurrence in House amendments to SB 770, PN 1717, and that a committee of conference be appointed.

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

APPOINTMENT OF COMMITTEE OF CONFERENCE

The SPEAKER. The Chair appoints as a Committee of Conference on the part of the House on SB 770, PN 1717: Messrs. GEESEY, W. D. HUTCHINSON and BENNETT.

Ordered, That the clerk inform the Senate accordingly.

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 recurring,

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

Mr. CUNNINGHAM offered the following amendment:

Amend Sec. 1 (Sec. 704), page 46, line 21, by inserting after "compliance." Although the department may begin to assess a withholding penalty upon reaching a determination of non-compliance, no moneys may be actually withheld until all of the district's administrative and judicial appellate remedies have been exhausted or until the district's time for taking an appeal has expired.

On the question,

Will the House agree to the amendment?

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

Mr. CUNNINGHAM. This amendment is a very simple and short one, and I will read it since it is short: "Although the department may begin to assess a withholding penalty upon reaching a determination of non-compliance, no moneys may be actually withheld until all of the district's administrative and judicial appellate remedies have been exhausted or until the district's time for taking an appeal has expired."

Simply stated, Mr. Speaker, the purpose of this amendment is to avoid a situation in which there would arise a conflict between a school district and the Department of Education as regards the extent to which that school district has complied with a rule or regulation of the department, and out of that conflict the purpose of my amendment is to avoid the tying up of substantial amounts of school district money when the validity of that withholding is in question. Toward that end my amendment would not in any way change the power of the Department of Education to make determinations as regards the extent to which school districts have complied with rules and regulations, but would require that the department not actually withhold the money until there has been a final determination of the validity of that withholding, which is to say until there has been a final determination of the extent to which the district has or has not in fact complied with the rule or regulation of the department.

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

Mr. GALLAGHER. Mr. Speaker, a question to Mr. Cunningham on this amendment: If the department continues to make payments until everything is adjudicated and then the adjudication comes out and finds in favor of the department that it should withhold the funds, how does the department get the money back from the school district?

The SPEAKER. The Chair recognizes Mr. Cunningham.

Mr. CUNNINGHAM. The department would simply be empowered to withhold the moneys that it otherwise could have withheld. Virtually nothing changes in terms of the power of the department to withhold. The only thing that changes is the authority of the department to actually physically begin withholding the money prior to a final determi-

nation as regards the extent to which the district has or has not complied with a rule or regulation of the department. So virtually nothing changes except the actual physical withholding of the money.

Mr. GALLAGHER. Mr. Speaker, the present practice is that if the department finds that a district is not in compliance, it notifies the district and gives them a chance to reply. We have tertiary payments so the money is paid three times a year, so they have ample time during the tertiary payment period. If the district presently objects to the department's withholding, they have, without law, just in logistic common sense, the opportunity to reply back to the secretary, to appeal to the secretary, under the present code, and that is the normal procedure. But under your amendment you are giving the department the opportunity and the responsibility to pay them until everything is adjudicated, and then the district, if it drew out the whole judicial matter past whether it is a quarterly or tertiary payment period of time, there is nothing in your amendment that says at that point that the money, if it was forwarded to the district, shall be automatically returned.

I think if you want to give them every opportunity to adjudicate the matter more than what they are doing now, I think it would be proper to add to it the section that upon adjudication, if it is found in favor of the department, the money shall be returned. Otherwise, the department could wind up going back to the judicial matter to get the money back again or stop sending out money for the next quarterly payment. That is one of the problems with the amendment. I have no real objection to them having the opportunity in law, which they have now in common regs or in common sense, but once we do it by law, there is no adjudication on the part of the department to automatically receive the money back again if the court found in favor of the department.

The SPEAKER. The Chair recognizes Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Speaker, I appreciate the gentleman's concern, but the problem that he raises is clearly resolved by any reasonable reading of the amendment. It is obvious on the face of the amendment, from the language of the amendment, that nothing changes as regards the authority of the department except its ability to begin physically withholding the money. Nothing changes; no power is being taken away from the department in that regard.

It is important to note that the School Code bill that is before us dramatically broadens the authority of the Secretary of Education to withhold moneys. It broadens the circumstances under which these moneys can be withheld, and throughout our entire system of law - the criminal and civil law and administrative law for that matter - we generally operate on the assumption that a person who has been accused or an entity that has been accused of inappropriate conduct is innocent of that until they are proven otherwise. There is an assumption of compliance until noncompliance can be shown.

I would like to avoid the situation that has occurred in the Pennsbury School District, where \$150,000 of school district money has been tied up by the department despite the fact that the school district has prevailed in the Commonwealth Court, at least as I understand the facts of that case. It seems to me that it is perfectly reasonable to allow the school district to continue receiving its money until there has been a final adjudication of the extent to which it has complied or not complied, because when we consider the economic climate under which school districts have got to provide education today, I think it is terribly important that we not interrupt their funding flow except for a very clearly adjudicated failure to comply with a rule or regulation of law. As a consequence of that, I encourage the adoption of the amendment.

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

Mr. DAVIES. Mr. Speaker, will the maker of the amendment stand for one or two questions of interrogation?

The SPEAKER. Mr. Cunningham indicates he will stand for interrogation. Mr. Davies may proceed.

Mr. DAVIES. Mr. Speaker, in quoting now possible hypotheticals—we will not speak about Pennsbury—but let us suppose a large school district, one of the largest in the Commonwealth, for the lack of not using track records, did not pay the amount of money that was due at the end of the year to, let us say, the teachers' retirement fund, but in the meanwhile they had one small case where they were in litigation involving maybe only one teacher. Because of this, they would then be allowed to withhold the payment of that which runs into millions of dollars, and there would be no recourse for that retirement fund or the loss of moneys that they would have in this.

In other words, is it true that the way in which you are extending this, if I have one particular small instance of anywhere that I am in the courts and then I go and I appeal that from the state courts to the Federal courts, or it may involve something even with unemployment compensation which could be sizable amounts of money, you are saying then that the power of trying to get that district to comply by using what has been used heretofore successfully in getting compliance would be in never-never land and it could go 6, 8 years until the courts finally settle this small case, and in the meanwhile something like several million dollars could be going by the boards on the subsidy payments and continue to be paid to the district as long as they were in that litigation? In other words, Mr. Speaker, would it not be possible that in any particular case where there was a matter of any legal question, a district could then naturally engage in this and use this as a reason for, of course, withholding those payments and have no penalty whatsoever assessed upon them or there would be no way in which the state in any manner, shape, or form could make them comply to what we normally have in the law now? Would that be the case, Mr. Speaker?

Mr. CUNNINGHAM. Mr. Speaker, the answer to both of those questions is no, and the answer is no clearly and

unequivocally. First of all, there must be a very, very clear connection between the alleged violation and the withholding or the attempt by the department to withhold the money. So we are not talking about a situation in which litigation is going on over a matter that is not directly related to the withholding and, as a consequence, the department is unable to withhold. That is not what we are talking about.

Secondly, you have raised the issue, is the Department of Education aggrieved by virtue of the fact that potentially substantial sums of money are being tied up while the case is in litigation? My answer to that question is, first of all, you are correct that substantial sums of money are going to be held up one way or another as long as the case is in litigation. The question is, who is worse off, the department or the school district? The point that I am trying to make is, if the department is unable to tie up, let us say, \$150,000 in school district X while litigation is going on, if the department is unable to do that, the department is not aggrieved by that in any way. The ability of the department to function is not diminished by that in any way; the ability of the department to enforce its own rules and regulations is not diminished by that in any way. But when we take \$150,000 away from a school district while a case is in litigation—and, secondly, I would like to note parenthetically that these cases are not being litigated as a general rule if they are frivolous cases; most of the cases over which there is protracted litigation have at least an arguable question in controversy—when that is happening and you tie that money up and deprive it from the school district, you are hurting the children in that school district; you are hurting the taxpayers in that school district, and, Mr. Speaker, it seems to me that there should be a presumption of compliance with a rule or regulation by a school district until the department has demonstrated that there is noncompliance. It is inequitable to allow the department to tie up school district money which has been budgeted and on which expenditures have been made and on which obligations have been entered into, when in fact the allegation of the department that the school district has failed to comply may be totally specious.

As a consequence of that, I would like to conclude by saying you are right, Mr. Speaker; the money is going to be held up. The question is, whose money should be held up and under what circumstances? I am saying that if the department loses the ability to hold up that money, they are not losing anything, but if the school district has its money tied up during this litigation, they are losing a great deal.

Mr. DAVIES. Mr. Speaker, again I would have to state the same question, that I am not talking about holding up money that is not related, and as far as the significant amount, in retirement it could be several thousand dollars. It could be in direct difference. It could involve only one case of one individual in that particular account. Now essentially, as I understand, what you are saying is that if they would have that difference, you are asking that the burden of proof be placed upon the department. In other

words, what you are changing here, and significantly changing, is their power that they have now and they have had. It is the only means that they have been able to exercise to get those moneys and continue to be able to hold the various school districts responsible to pay what they have to pay into the state, and that is by, of course, withholding those particular funds.

Now, what I see and interpret from what you are saying is that as long as there is one case in relation to the retirement moneys or something like that, that school district—again we will say one large city school district—could withhold those particular funds as long as that case was in the courts. What you are doing is you are not only asking for a reduction in authority now; you are vastly changing the existing penalties that now do exist with the department and that have been effective penalties and have been successfully used in the last few years. Now you are asking us to go back to something that would say, we have no guarantee on how long that litigation is going to go on, and in the meanwhile somebody is getting a free ride, and, of course, this is something that we are going to get into that is going to be exactly counterproductive to where we are now. You are going far beyond what exists now essentially in the law, where the department and the secretary need that to be able to deal with somebody who is not in compliance with something as simple as that. We can go on and cite many other instances, but as long as we have that question, I am willing to take something that is a reasonable compromise, but what you are asking us to do is effectively pull the teeth out of things that we have been able to do in a punitive measure and bring school districts in line with such things as sensitive as their obligations to the state. Thank you, Mr. Speaker.

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

Mr. O'DONNELL. I would like to briefly interrogate Mr. Cunningham.

The SPEAKER. The gentleman, Mr. Cunningham, indicates he will stand for interrogation.

POINT OF ORDER

Mr. CUNNINGHAM. Mr. Speaker, point of order. I was under the impression that I was being interrogated by the gentleman, Mr. Davies, and I was about to respond when the Chair recognized the gentleman, Mr. O'Donnell. If I may have an opportunity—

The SPEAKER. It was the impression of the Chair the gentleman, Mr. Davies, had finished his debate.

Mr. CUNNINGHAM. It was my understanding that he was asking—

The SPEAKER. He had concluded the interrogation prior to the debate.

Mr. CUNNINGHAM. I did not hear the gentleman recognized to debate the issue. I understood that—

The SPEAKER. The gentleman was recognized for his remarks.

Mr. CUNNINGHAM. Thank you, Mr. Speaker.

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

Mr. O'DONNELL. Mr. Speaker, I am not honestly sure, but I think that there is some provision sanctioned by the code whereby bondholders and other creditors can have a prior claim or a first claim on subsidy payments and other payments from the state to the school district when the school district goes into certain kinds of default or threatens certain kinds of default. If that is true—I am not sure it is, and you could respond to that—if that is true, would your amendment not preclude that kind of security on the part of bondholders and possibly jeopardize the existing creditors and very possibly violate those contracts and even preclude school districts from the bond market?

Mr. CUNNINGHAM. Mr. Speaker, I would answer that if there is such a provision, I am not aware of it, but assuming arguendo the existence of the provision, nothing changes, in my judgment. Nobody's rights would be prejudiced regardless of any prior right that any creditor or bondholder might have.

To further elaborate, I would like to make it absolutely clear that nobody is getting out of anything by the provisions described in my amendment. Any obligations that any school district has to comply with the School Code will continue to run as long as the school district is in violation. The question is, at what point does the school district begin to pay? Does the school district pay before they are found to be out of compliance or does the school district pay after they are found to be out of compliance? Nobody's rights are prejudiced. Nobody loses anything to which they are entitled. The only thing that my amendment does is that it fixes rights and responsibilities to make payments to various entities after we have fixed liability for compliance with the School Code. It makes sense that the penal aspect, the punitive aspect, of the enforcement proceedings should follow a determination of non-compliance—

Mr. O'DONNELL. Mr. Speaker, may I interrupt you with a question, because I think there is a fundamental—Maybe my question is not clear?

Under your amendment, the money would still get transferred after the department had found a district in violation. The money would continue to flow to the district. Now if the money continues to flow to the district, and the money is used by the district, between the district and the department, I understand your point, because they can always recoup the money. But where the rights of a third party, such as a creditor or a bondholder are jeopardized, the money, once gone, is gone forever. If a bondholder or another creditor is not being paid this month, next month, the end of the year, and the next year, while the appeal is pending, they, as a secured party, want immediate access to the flow of funds from Harrisburg. If that school district gets into permanent financial trouble, the bondholders, the creditors, have a right, not just to go against the district, and arguably not just go against the department at some future date when all the appeals are over, but rather have

an immediate right, analagous to a secured interest, to go in and grab the money right away. Are they not losing out?

Mr. CUNNINGHAM. I would disagree, Mr. Speaker, that the gentleman's tacit assertion that they are losing out is correct. First of all, we do not know whether this provision exists. But even if it did exist, my amendment does not change anybody's rights or anybody's responsibilities, whether they be secured creditors, whether they be unsecured creditors, whether they be the Department of Education or the school district entity itself. I am simply, in my amendment, creating a situation in which the punitive aspect of enforcement follows rather than precedes a determination on noncompliance. That makes a great deal of sense.

Mr. O'DONNELL. Thank you.

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

The following roll call was recorded:

YEAS—105

Alden	Freind	Levi	Sirianni
Anderson	Fryer	Lewis	Smith, E. H.
Armstrong	Gamble	Lynch, E. R.	Spitz
Arty	Gannon	McClatchy	Stairs
Bennett	Gatski	McVerry	Steighner
Bittle	Geesey	Mackowski	Stewart
Brown	Geist	Madigan	Swift
Burd	George, C.	Manmiller	Taddonio
Cessar	George, M. H.	Micozzie	Taylor, E. Z.
Chess	Gladeck	Miller	Telek
Cimini	Goebel	Moehlmann	Thomas
Civera	Grabowski	Nahill	Trello
Clark, B. D.	Grieco	Noye	Vroon
Clark, M. R.	Gruppo	Perzel	Wass
Cornell	Hagarty	Peterson	Wenger
Cowell	Halverson	Phillips	Wilson
Cunningham	Hasay	Pistella	Wilt
DiCarlo	Hayes, Jr., S.	Pitts	Wright, Jr., J.
Dawida	Helfrick	Pott	Yahner
Dietz	Honaman	Punt	Yohn
Dininni	Johnson, E. G.	Pyles	Zeller
Dorr	Kanuck	Rasco	Zord
Durham	Klingaman	Reed	Zwinkl
Fee	Kowalyszyn	Ryan	
Fischer	Lashinger	Salvatore	Seltzer,
Fisher	Lehr	Seventy	Speaker
Foster, W. W.	Letterman	Sieminski	

NAYS—65

Austin	Gallagher	McCall	Richardson
Belardi	Gallen	McMonagle	Ritter
Berson	Goodman	Manderino	Scheaffer
Borski	Gray	Michlovic	Schweder
Bowser	Hoeffel	Milanovich	Serafini
Caltagirone	Hutchinson, A.	Mowery	Shadding
Cappabianca	Hutchinson, W.	Mrkonic	Shupnik
Cochran	Irvis	Murphy	Smith, L. E.
Cole	Itkin	Novak	Spencer
Coslett	Knight	O'Brien, B. F.	Stuban
DeMedio	Kolter	O'Donnell	Taylor, F.
DeVerter	Kukovich	Oliver	Wachob
DeWeese	Laughlin	Petrarca	Wargo
Davies	Lescovitz	Piccola	White
Dombrowski	Levin	Pratt	Wright, D. R.
Duffy	Livengood	Pucciarelli	Zitterman
Foster, Jr., A.			

NOT VOTING—20

Beloff	Earley	McIntyre	Rieger
Burns	Giammarco	McKelvey	Rocks
Cohen	Harper	Maiale	Rodgers
Donatucci, R.	Johnson, J. J.	Mullen	Schmitt
Dumas	Jones	O'Brien, D. M.	Williams

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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. CUNNINGHAM offered the following amendment:

Amend Sec. 1 (Sec. 2905), page 160, line 11, by removing the period after "entity" and inserting less the product of the salary and the aid ratio of the school entity.

On the question,

Will the House agree to the amendment?

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

Mr. CUNNINGHAM. Mr. Speaker, this amendment is very simple as well. I will read it; it is very short. The amendment simply attempts to return to current law as regards any situation in which a school district has been found to be out of compliance with School Code requirements on the use of substitute teachers. Any penalty that is assessed the school district who has been found to be out of compliance would be assessed as a product of the teacher's salary and the aid ratio of the school entity, which is current law, rather than simply as a direct function of the teacher's salary. We make a school subsidy available as a function of the aid ratio and we should, in my judgment, assess a penalty as a function of the aid ratio. That is the current law.

I think if we are going to preserve equity in terms of the way we apply punitive sanctions and avoid situations in which we are operating more harshly as regards one class of school district vis a vis another, it is important that penalties be assessed as a function of the aid ratio. I would encourage the adoption of the amendment, which, again, simply returns us to current law.

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

Mr. GALLAGHER. Mr. Speaker, I think we have discussed this before in committee. It is unfortunate that we have these kinds of amendments because most of the members within the committee confines suggested that they would not offer the same amendments or same concept back on the floor. But all this does is go back to the present code. It really has no real importance. But I think that when the committee reported the bill out, it tried to bring it up to date without just arbitrarily saying, well, if it did not pass in the committee meeting, we will do it on the floor. It is an unfortunate situation that we have so many amendments.

I have no personal objection to the amendment, but it is up to the General Assembly to decide.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—163

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

NAYS—4

Bennett	Bowser	DiCarlo	Gallagher
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NOT VOTING—23

Beloff	Earley	McKelvey	Rocks
Borski	Giammarco	Maiale	Rodgers
Chess	Harper	Mullen	Schmitt
Cohen	Johnson, J. J.	O'Brien, D. M.	Taylor, F.
Donatucci, R.	Jones	Pratt	Williams
Dumas	McIntyre	Rieger	

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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. 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. In no event shall the increased amount as determined on account of this section exceed \$5,000,000. If the sum of \$5,000,000 is not sufficient to pay in full the total amounts to which all qualified school districts are entitled to receive under this provision, the sum to the school districts shall be proportionately reduced to the extent necessary to bring the aggregate within the limits of the amounts appropriated.

On the question,

Will the House agree to the amendment?

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

Mr. HOEFFEL. Mr. Speaker, this is a new version of the amendment we debated for so long last Wednesday. The changes in the amendment are to language in the last few lines of A6508, that contains a \$5-million cap on the increased subsidy that would result from the changes contained earlier in the amendment that we debated last week.

Now I would like to repeat myself for just a minute. The purpose for this amendment, as I explained last week, is to correct a very real inequity that we, as a General Assembly, created 3 years ago when we changed the school subsidy formula. As you know, the suburbs of Philadelphia must pay a wage tax levied by the city of Philadelphia. Philadelphia is given, by state law, the exclusive right to tax the wages of nonresidents. That was done many years ago. Then, in 1977, the General Assembly turned around and said that the money that is earned in Philadelphia by suburban commuters shall be counted towards the personal income valuation of those school districts. So, on one hand, we say to the school districts, you may not tax that money earned in Philadelphia, and, on the other hand, we turn around and say, but we are going to give you credit for that as if you could tax it. The result of that is we have an artificially high local wealth factor, an artificially high personal income valuation in suburban school districts, and a correspondingly low school subsidy payment from Harrisburg. I am asking this House to take action now to correct that inequity, to correct something that we created in Harrisburg that I think is a real detriment to suburban school districts.

Now I included the language in this amendment, the \$5-million cap, to address myself to the problems that Mr. Hayes and Mr. McClatchy were addressing last week. This language would prevent the increase in subsidy to suburban school districts from exceeding \$5 million. Language is also contained in the amendment to say that no one else's

subsidy payment shall be reduced to pay for this. This is essentially new money; \$5 million, at the most, of new money to correct this problem, which will not fully correct the problem, but at least will take a large step toward solving this real inequity that we created ourselves. I ask for an affirmative vote. Thank you.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, as the gentleman from Montgomery, Mr. Hoeffel, stated, we did debate this amendment in principle last week. There was a question raised, if you recall, concerning the bill's fiscal impact. There was not a fiscal note prepared at that particular time. Mr. Hoeffel has redrafted his amendment. The cost of the amendment probably would be \$5 million. He has capped it at \$5 million. I think it is fair to say that it would cost \$5 million.

The gentleman mentioned that this amendment would not take away from money presently allocated through the school subsidy formula. He did acknowledge that this would be a new appropriation, and to the extent that we have very limited revenues available to us for the purpose of increasing the school subsidy formula to all the 505 school districts, it would still take away in some measure. For instance, if we have available \$50 million of new money for school subsidy purposes, Mr. Hoeffel would take \$5 million right off the top, and that would mean that the 505 school districts would then share in the remaining \$45 million. So it is not completely accurate when the gentleman states that there would not be any pain felt by the 505 school districts, or most specifically those who do not share in the subsidy formula the way the Hoeffel amendment would have certain school districts share.

There are a very few number of dollars which we can offer to the school districts of Pennsylvania this year as new subsidy dollars, and to the extent that Mr. Hoeffel would take \$5 million for just a few, it will in fact have some adverse impact with regard to how much we can offer to the other school districts of Pennsylvania. It does not—and I would like to support the gentleman when he says it does not—take away from existing school subsidy money, but this is a new concept in the school subsidy formula, and due to the fact that there are restrictive revenues available for the next school year, it would limit or take away at least \$5 million that could be appropriated on a broader basis clear across the school system of Pennsylvania. There may be a day when the gentleman's amendment can be adopted.

Last year in Act 41 we changed the aid ratio, which helped the districts that Mr. Hoeffel talks to us about today. We also added a reimbursement for the transport of nonpublic school children, and if one would take the time and read the printout, that person would find that that also favorably helps those districts that Mr. Hoeffel is talking about today. I believe that whatever we do in 1980—and by the way, I was pleased to chair that conference committee, and I believe that those school districts that Mr. Hoeffel is talking about do have a problem, but at the same time I believe that there is a very difficult problem in most school

districts across Pennsylvania. All districts and all taxpayers are finding it difficult to meet their financial obligations, and we know for sure that in 1980 it is going to be difficult to find in a budget the money to help all the school districts of Pennsylvania. On the basis of that, I believe the House should be cautious and not adopt the amendment and the \$5-million fiscal note that has been brought to the House today. Thank you, Mr. Speaker.

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

Mr. GALLAGHER. Mr. Speaker, this is the similar amendment that we debated to some extent last week, and the question was resolved back down to the question whether we had a fiscal note or not. Now the amendment includes that it shall use no more than \$5 million. The concept is basically accepted as long as it does not interfere with any other districts, and putting \$5 million in there protects the other districts so that they will not be short-changed because of Mr. Hoeffel's amendment.

In the Governor's budget that was presented to you earlier this year, there was \$48 million in the budget, and now we all know that there is no budget in front of us; there is no budget on either side of us. I think there is one behind us somewhere. I think we heard of a budget coming over here shortly this week, and we were forewarned that we prepare ourselves for a whole week maybe. But I think since there is no direction on what is going to happen with that \$48 million—there is no subsidy bill; there is no concept of adding more money into the subsidy program—I think it is appropriate that Mr. Hoeffel offer his amendment with the limitation of \$5 million. It is not going to interfere with any other school district. There will still be \$43 million left in the Governor's budget, and whatever that other, whatever we call it, that other body, that three-legged body is that has put together a budget somewhere, I do not know and nobody seems to know what they did with the \$48 million. So I think it is proper for Mr. Hoeffel to offer his amendment today and to take advantage of that \$48 million that is just floating around with no direction, that it should go where it should properly go, to the area that has been hit for so long.

There is no increase over what the Governor has proposed. There is no forceful direction of what to do with the other \$43 million. So I think that we should support Mr. Hoeffel's amendment, and when the \$43 million is before us, then we can decide which of the 505 districts are going to participate in the balance of that money. At this time Mr. Hoeffel is pinpointing a very serious problem in suburbia, and it is important that we consider it at this time before we get caught up in some machinations that I think might be crawling down our backs today or this week sometime, and you will not have a chance to amend such a message coming from the other Chamber. So I would urge members to support this kind of amendment before you find out there is no \$48 million left at all. Thank you.

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

Mr. McCLATCHY. Mr. Speaker, regretfully I rise to ask for a "no" vote on the amendment. I come from the south-east, and certainly my people could use this break. Unfortunately, we do not have \$5 million. No matter how worthwhile the amendment is and no matter how worthwhile or serious Mr. Hoeffel is, I think these kinds of amendments have to be subjected at the time of the whole budget. Therefore, Mr. Speaker, since we do not have the \$5 million, I request a "no" vote.

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

Mr. GALLAGHER. Mr. Speaker, I would like to interrogate Mr. McClatchy.

The SPEAKER. The gentleman, Mr. McClatchy, indicates he will stand for interrogation. The gentleman may proceed.

Mr. GALLAGHER. Mr. Speaker, the amendment says that it shall use no more than \$5 million. Now, that is a cap that it cannot go any more than that. Now, you and I know about the Governor's budget; there is \$48 million in there. Does this go above the \$48 million?

Mr. McCLATCHY. I would assume it does, yes. If it does not, then somebody else loses.

Mr. GALLAGHER. Well, Mr. Speaker, where does the \$48 million go? It is in the line item for basic instructional subsidy.

Mr. McCLATCHY. Sure; it is distributed. You know very well where it goes, Mr. Speaker. It is distributed all in the subsidy formula.

Mr. GALLAGHER. But, Mr. Speaker, the subsidy formula has been capped by the department. Last year when we passed Act 41, we did not have enough money in there to fully fund it up to 100 percent, and it is about .85-something now. Where does the \$48 million go, just distributed among the 505 districts for the full amount of \$48 million?

Mr. McCLATCHY. It is distributed according to the subsidy formula. I have not had a printout or looked at one or gotten into the technicalities of who gets what, but I certainly can assure you that if this \$5 million goes in, other districts will lose unless we spend more than \$48 million, and that much more money we do not have, and that is why I am requesting a "no" vote.

Mr. GALLAGHER. Well, Mr. Speaker, do you have for our information a printout of where that \$48 million would be distributed?

Mr. McCLATCHY. No.

Mr. GALLAGHER. Do you have a bill coming from your Appropriations Committee showing us what to do with the \$48 million?

Mr. McCLATCHY. No.

Mr. GALLAGHER. Do you know of a bill coming from another chamber that would distribute that \$48 million?

Mr. McCLATCHY. Will you repeat that? I did not hear that.

Mr. GALLAGHER. Do you know of a bill coming from another chamber that would tell us what that \$48 million is going to be used for?

Mr. McCLATCHY. No.

Mr. GALLAGHER. You do not know of it?

Mr. McCLATCHY. No.

Mr. GALLAGHER. You never heard of it?

Mr. McCLATCHY. No.

Mr. GALLAGHER. Did you ever meet with the other Chamber and discuss the entire—

The SPEAKER. The Chair has been lenient and let the debate go far afield. The gentleman will please confine his debate to the amendment before us.

Mr. GALLAGHER. Mr. Speaker, I am trying to just find out what happens to the \$48 million.

The SPEAKER. The \$48 million is not before this House at this time; the \$5 million is before the House at this time.

Mr. GALLAGHER. I appreciate the Speaker's dissertation as to where the \$48 million should not be and only \$5 million is before us, so I thank Mr. McClatchy for his replying as best he can to the interrogation from me.

Again, I would ask the members to support Mr. Hoeffel's amendment. It is obvious that the answers are not going to be forthcoming today from the other side or from the Appropriations Committee chairman or anybody else. I think you all read in the papers or you heard on the radio or somebody told you next door to you what is coming down this week, and I think this is the time to start either cut or—what is that saying?

Mr. S. E. HAYES. Fish or cut bait, Mr. Speaker.

Mr. GALLAGHER. That is it. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman, Mr. Hayes.

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

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

The SPEAKER. The gentleman, Mr. Hoeffel, indicates he will stand for interrogation. Mr. Davies may proceed.

Mr. DAVIES. I was not privileged, sir, to the fiscal note. So would either you, sir, or somebody knowledgeable in the makeup of this tell me, what would be the fiscal increase for the school district of Montgomery County?

Mr. HOEFFEL. Mr. Speaker, I do not know the answer to that question.

Mr. DAVIES. All right. Then what would be the increase for Bucks County, the sum total of the school districts of Bucks County?

Mr. HOEFFEL. Mr. Speaker, since the Department of Revenue is unable today to provide the Department of Education with the exact amount of money earned by nonresidents in the city of Philadelphia, I cannot give you a precise answer to your question of how much subsidy increase will go to Bucks County or Montgomery County or Chester or Delaware or any other county.

Mr. DAVIES. Mr. Speaker, will the lion's share of that \$5 million stay within the approximation of those three counties surrounding the city of Philadelphia with the most employes, or some 96 percent, I believe it is, of those employes gainfully employed under the Sterling Act provisions?

Mr. HOEFFEL. Yes, Mr. Speaker. Those are the counties that are currently being discriminated against by the problem that I am trying to solve.

Mr. DAVIES. Then is it safe for me assume that 96 percent, possibly, of the \$5 million will stay within those particular counties and the rest of us will share a paltry sum of possibly 4 percent of that \$5 million? Is that correct, sir?

Mr. HOEFFEL. I do not know if your percentages are correct, Mr. Speaker. Certainly the lion's share of the money will go to the four counties surrounding Philadelphia.

Mr. DAVIES. All right, sir. May I make a brief statement, Mr. Speaker?

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

Mr. DAVIES. Rather than buying a pig in the poke, I would have to stand against this particular amendment. Because of the \$48 million that Mr. Gallagher concerned himself with or somebody else, we poor folk upstate are going to get little or nil of this whatsoever. And as to the guarantee that you are going to get \$5 million in those three counties, I do not blame you for trying to run something like that, but I certainly could not support something like that because I do not even know whether I am going to get one-tenth of that 4 percent that is left, and I feel something like the fellow who was at the rear end of the station on the cow. Thank you, sir.

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

Mr. HOEFFEL. Mr. Speaker, I will be very brief. I just want to make the point that this is not a scheme that I have dreamt up to get my district \$5 million or whatever else may concern Mr. Davies and the other members of this House. The problem I am addressing has shortchanged the suburban counties for the last 3 years, since we enacted Act 59 in 1977. We have lost subsidy money that we have been entitled to, that we should have received because of the unfair treatment that this House of Representatives and the Senate created in Act 59. Five million dollars is fine. No stretch of the imagination is going to make up for that problem. It is not even the full amount of money that we are entitled to in one year, and it certainly is not going to reimburse us for the money that we have lost in the last 2 years. So I simply would like to make that case very clearly, that the problem that I am addressing is one that we created by a combination of three state laws, and I think that it is about time—not next fiscal year or the fiscal year after that—and the time is now to correct the problem. Thank you.

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

The following roll call was recorded:

YEAS—69

Alden	Freind	McCall	Ritter
Arty	Gallagher	McMonagle	Ryan
Austin	Gamble	Manderino	Seventy
Bennett	Gannon	Michlovic	Shupnick

Berson	George, C.	Micozzie	Smith, E. H.
Borski	Gladeck	Milanovich	Spitz
Burns	Goodman	Mrkonjic	Stewart
Cappabianca	Grabowski	Murphy	Stuban
Chess	Hoeffel	Nahill	Taylor, E. Z.
Civera	Irvic	Novak	Taylor, F.
Cochran	Knight	O'Donnell	Trello
Cole	Kukovich	Petrarca	Vroon
Cornell	Lashinger	Pistella	Wargo
DeWeese	Laughlin	Pitts	Wilson
DiCarlo	Letterman	Pratt	Wright, Jr., J.
Dawida	Lewis	Pyles	Yahner
Dombrowski	Lynch, E. R.	Richardson	Zwilk
Durham			

NAYS—102

Anderson	Foster, W. W.	Lehr	Schweder
Armstrong	Foster, Jr., A.	Lescovitz	Serafini
Belardi	Fryer	Levi	Shadding
Bittle	Gallen	Levin	Sieminski
Bowser	Gatski	Livengood	Sirianni
Brown	Geesey	McClatchy	Smith, L. E.
Burd	Geist	McVerry	Spencer
Caltagirone	George, M. H.	Mackowski	Stairs
Cessar	Goebel	Madigan	Steighner
Cimini	Gray	Manmiller	Swift
Clark, B. D.	Grieco	Miller	Taddonio
Clark, M. R.	Gruppo	Moehlmann	Telek
Coslett	Hagarty	Mowery	Thomas
Cowell	Halverson	Noye	Wachob
Cunningham	Hasay	O'Brien, B. F.	Wass
DeMedio	Hayes, Jr., S.	Perzel	Wenger
DeVerter	Helfrick	Peterson	White
Davies	Honaman	Phillips	Wilt
Dietz	Hutchinson, A.	Piccola	Wright, D. R.
Dininni	Hutchinson, W.	Pott	Yohn
Donatucci, R.	Itkin	Pucciarelli	Zeller
Dorr	Johnson, E. G.	Punt	Zitterman
Duffy	Kanuck	Rasco	Zord
Fee	Klingaman	Reed	
Fischer	Kolter	Salvatore	Seltzer,
Fisher	Kowalshyn	Scheaffer	Speaker

NOT VOTING—19

Beloff	Harper	Maiale	Rocks
Cohen	Johnson, J. J.	Mullen	Rodgers
Dumas	Jones	O'Brien, D. M.	Schmitt
Earley	McIntyre	Oliver	Williams
Giammarco	McKelvey	Rieger	

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

On the question recurring,

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

Mr. FREIND offered the following amendment:

Amend Sec. 1 (Sec. 2905), page 160, line 7, by striking out "TWO CONSECUTIVE MONTHS" and inserting a full year

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Freind, for amendment No. 6516.

Mr. FREIND. I will be very brief. This is the other half of Mr. Cunningham's last amendment. Mr. Cunningham's

last amendment reverted back to the present law with respect to the penalties that would be assessed against the school district that had a substitute for more than two consecutive months. This amendment reverts back to the present law. The present law permits a district to have a substitute for a year.

I am aware of no harm that has occurred over the past 10 or 15 years that this has been the present law, and I would ask for support of the amendment because I think it is a reasonable one. Thank you, Mr. Speaker.

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

Mr. GALLAGHER. Mr. Speaker, this matter was discussed very thoroughly in the committee meeting and it was changed from a full year to two consecutive months, and the main reason is that it was felt by the committee that, to the betterment of the system, the vacancies do not exist for more than two consecutive months, so that we can have fulltime, certified teachers in there. And that is why we went from a full year to two consecutive months, and I recommend we oppose the amendment, and that was the concept of the recommendations of the committee when the bill was reported. It was amended by committee from a full year to two consecutive months, so I recommend that the amendment be rejected.

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

Mr. SPITZ. Mr. Speaker, would the gentleman, Mr. Gallagher, stand for a brief interrogation?

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

Mr. SPITZ. Mr. Speaker, would you clear something up for me that I do not understand? The present law permits a district to employ a substitute for a full school year. Is that correct?

Mr. GALLAGHER. Yes, Mr. Speaker.

Mr. SPITZ. And would the bill we have in front of us, HB 1671, absolutely preclude the hiring of, what I consider, long-termed substitutes?

Mr. GALLAGHER. No. The amendment is to subsection (c), which deals with substitutes employed in vacancies, and it says, "any school entity which has in its employ a substitute in a position where a vacancy exists for a full year." That was stricken, the words "a full year." This is not the specific issue you are talking about in this amendment.

In other words, before, if the vacancy existed for a full year or more without specific written approval, the department shall forfeit an amount equal to the amount of the actual salary paid to the employe for the school year. That is what this section is about and it is what Mr. Freind's amendment is about, from a full year to two consecutive months, which the committee decided to put in there. So that if the vacancy would exist more than two months, then the department could forfeit an amount equal to the actual salary being paid for the employe of that school.

Mr. SPITZ. Maybe I do not know the definition of "vacancy." Would a substitute teacher, who is employed to fill the term of a teacher on leave, be filling a vacancy or not?

Mr. GALLAGHER. They could be, but "vacancy" as we are speaking about it in subsection (c) of section 2905 under the new proposed code would deal with existing vacancies, when somebody resigns or when somebody is going to be on sabbatical leave for over a year, if it is going to be for more than just a year, you need more than just a substitute.

Mr. SPITZ. Well, are you changing that year to two months? If somebody is on leave for more than two months, does that then become a vacancy under the code as we have it under the bill, HB 1671?

Mr. GALLAGHER. The basic problem is Mr. Freind's amendment deals with subsection (c) of section 2905. This may seem like rhetoric, but it is very important. It deals with the penalties for unauthorized employes. That is what this section deals with - the penalties for unauthorized employes. So that if you have unauthorized employes such as noncertified employes, that is what we are after, noncertification. We want our teachers to be certified to teach our children, and that whole section 2905, (a), (b), (c) and (d), deals with the vacancies. Section (b) uses the words "TWO CONSECUTIVE MONTHS of any school year", and then subsection (c) uses, right in front of us in this printer's number, "TWO CONSECUTIVE MONTHS". If they are not certified, if they are not, subsection (b), which is important to (c), deals with "Uncertified professionals.— Any school entity which has in its employ any person required by law to be certified in a teaching, specialist, supervisory or administrative capacity for more than one" stricken out to "two consecutive months of any school year who has not been certified for the position by the department shall forfeit an amount equal to the actual salary being paid the employee for that school year less the product of the salary and the aid ratio of the school entity.", et cetera. It is to protect the systems that we have certified teachers in there.

Mr. SPITZ. Well, am I correct that if the bill in its present form, HB 1671, passes, then only certified teachers can be employed as substitutes to fill long-term vacancies; for instance, pregnancy leaves or sabbatical leaves; and then those certified teachers will be the ones who will be laid off when the teacher on leave returns?

Mr. GALLAGHER. That is right. That is correct. It is to keep certified teachers in a classroom when there is a vacancy.

Mr. SPITZ. As substitutes?

Mr. GALLAGHER. As substitutes, when there is a vacancy because of quitting a job, a sabbatical or pregnancy, et cetera, they should be certified.

Mr. SPITZ. Thank you.

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

The following roll call was recorded:

YEAS—108

Alden	Foster, Jr., A.	Lewis	Scheaffer
Anderson	Freind	Lynch, E. R.	Schweder
Arty	Fryer	McClatchy	Serafini
Belardi	Gallen	McVerry	Sieminski
Berson	Gannon	Mackowski	Sirianni
Bittle	Gatski	Madigan	Smith, E. H.
Bowser	Geesey	Manmiller	Smith, L. E.
Burd	Geist	Micozzie	Spencer
Burns	George, M. H.	Miller	Spitz
Cessar	Gladeck	Moehlmann	Stairs
Chess	Goebel	Mowery	Swift
Cimini	Grieco	Nahill	Taddonio
Civera	Gruppo	Noye	Tealor, E. Z.
Clark, B. D.	Hagarty	O'Donnell	Telek
Clark, M. R.	Halverson	Perzel	Thomas
Cochran	Hasay	Peterson	Vroon
Cornell	Hayes, Jr., S.	Phillips	Wass
Coslett	Helfrick	Piccola	Wenger
Cunningham	Hoeffel	Pistella	Wilson
DeVertter	Honaman	Pitts	Wilt
Dietz	Hutchinson, W.	Pott	Wright, Jr., J.
Dininni	Johnson, E. G.	Punt	Yohn
Dorr	Kanuck	Pyles	Zeller
Durham	Klingaman	Rasco	Zord
Earley	Kowalyszyn	Reed	
Fischer	Lashinger	Ryan	Seltzer,
Fisher	Lehr	Salvatore	Speaker
Foster, W. W.	Levi		

NAYS—60

Armstrong	Duffy	Lescovitz	Pratt
Austin	Fee	Letterman	Pucciarelli
Bennett	Gallagher	Levin	Richardson
Brown	Gamble	Livengood	Ritter
Caltagirone	George, C.	McCall	Shupnik
Cappabianca	Goodman	McMonagle	Steighner
Cole	Grabowski	Manderino	Stewart
Cowell	Gray	Michlovic	Taylor, F.
DeMedio	Hutchinson, A.	Milanovich	Tello
DeWeese	Irvis	Mrkonic	Wachob
DiCarlo	Itkin	Mullen	Wargo
Davies	Knight	Murphy	Wright, D. R.
Dawida	Kolter	Novak	Yahner
Dombrowski	Kukovich	O'Brien, B. F.	Zitterman
Donatucci, R.	Laughlin	Petrarca	Zwilk

NOT VOTING—22

Beloff	Johnson, J. J.	Oliver	Seventy
Borski	Jones	Rieger	Shadding
Cohen	McIntyre	Rocks	Stuban
Dumas	McKelvey	Rodgers	White
Giammarco	Maiale	Schmitt	Williams
Harper	O'Brien, D. M.		

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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 amendments:

Amend Sec. 1 (Sec. 2922), page 172, by inserting between lines 2 and 3 (d) Adjustment of payment as a result of strike.—For the school year 1980-1981 and thereafter, a school district's basic instruction payment shall not be reduced because the district was unable, as a result of a strike, to provide the minimum days of instruction required by section 3721 (c)

(relating to establishment of school calendar), unless the school district's instructional expense per weighted average daily membership or the base earned for reimbursement is reduced because of the shortened school calendar.

Amend Sec. 1 (Sec. 3721), page 336, lines 25 through 27, by striking out all of said lines and inserting (c) Minimum days of instruction.—All public schools shall be kept open for at least 180 days, except as provided in subsection (d) and except when a strike, as defined in section 301 (9) of the act of June 23, 1970 (P. L. 563, No. 195), known as the "Public Employee Relations Act," prevents the fulfillment of this requirement. In such situations, the school year for the effected school district shall consist of the actual number of days that instruction is provided. Any reduction in a school district's basic instruction subsidy shall be made only pursuant to section 2922(d) (relating to amount of payments).

On the question,

Will the House agree to the amendments?

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

Miss SIRIANNI. Mr. Speaker, my amendment makes it impossible for the school districts to lose school subsidies because of school strikes. It is as simple as that. I believe that the school district has an obligation to try to get in 180 days. However, if it is an impossibility, the school district is not supposed to lose money for something they cannot help.

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

Mr. GALLAGHER. Mr. Speaker, first, the amendment includes two sections, D and C. Basically what it does is it eliminates the current requirement for 180 days of instruction when a strike, pursuant to Act 195, occurs, and also mandates payment to school districts in full even when less than 180 days are offered. That is what I deduce from these amendments. Firstly, there have been some court decisions in this area. It could cause some very serious problems. What it basically says, if there is a strike under Act 195, which is a legal strike, they are not required to give 180 days.

Secondly, that the department is mandated to pay the school district in full for 180 days, even though they do not provide 180 days. So we were just arguing a little while ago about money and finances and where it is going to come from, and here we are saying that if they have a strike, and say it is 30 days, so they are going to give 150 days' instruction and get paid for 180 days of instruction. I guess if I were a school director and had that in front of me, I would say, go on strike as long as you want to. We are still going to get 180 days, which is the basic subsidy requirement for instruction. Even though they do not perform, the school director could sit back and say, you stay out on the pavements as long as you want to. We are going to get 180 days. I think it is an amendment that should not be adopted, Mr. Speaker.

Miss SIRIANNI. Mr. Speaker, the law provides that the school district has to attempt to get in 180 days. Sometimes it is an impossibility, but I think my amendment also addresses itself to the fact that unless the school district's

instructional expense per weighted average daily membership or the basis earned for reimbursement is reduced, then they can lose money. But if it is not reduced, it presents a hardship to the school district.

I think they budget a year in advance and it is difficult for them, but they do have the obligation to try to get in 180 days. And if they do not have to pay the teachers for the full 180 days, then they can still get some subsidy money; but if they do have to pay them, I do not think they should have to suffer the loss.

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

Mr. DAVIES. Would the lady stand for a few questions of interrogation?

The SPEAKER. The lady indicates that she will. The gentleman, Mr. Davies, may proceed.

Mr. DAVIES. Mr. Speaker, how would you differentiate in this where there is a dispute between what they call a lockout and a strike?

Miss SIRIANNI. I did not hear what you said, Mr. Speaker.

Mr. DAVIES. How is that?

Miss SIRIANNI. I did not hear what you said.

Mr. DAVIES. I said, Mr. Speaker, how would you make the determination where one side says it is a lockout and the other side says it is a strike? How is that to be determined if, let us say, the thing goes to litigation such as one did in our county and has been decided 2 years later as to which was which?

Miss SIRIANNI. I do not know, Mr. Speaker, but it would have to be decided by the courts if it goes to litigation.

Mr. DAVIES. How is that?

Miss SIRIANNI. It would have to be decided by the courts if it goes to litigation.

Mr. DAVIES. In other words, you—

Miss SIRIANNI. What I would determine would not make any difference, whether I said it was a lockout or a strike. If it went to litigation, it would be the court who would rule.

Mr. DAVIES. In other words then, in the interim, as a matter of subsidy relative to those 180 days, what would be the disposition of it in the interim while we are waiting for, let us say, the legal beagles and the jurisprudence to take place? Would we be in a hold pattern on those particular figures for those days?

Miss SIRIANNI. I think that whatever the school district has to pay out for the year, they should be reimbursed for that amount, and that is what this addresses itself to.

Mr. DAVIES. You are saying regardless of whether it is a lockout or a strike? I am still waiting for an answer to the question. You are saying in one instance if there is a dispute that it will just go on? I still do not understand your answer.

Miss SIRIANNI. I said the school district should be reimbursed for the number of days they have to pay the teachers.

Mr. DAVIES. Well, then, are you saying essentially that if it is a lockout, regardless if they lock the doors and say, well, you know, you are locked out, but we are going to get our money?

Miss SIRIANNI. Well, since I come from a district that does not have lockouts or strikes, I do not quite know what you are talking about. Is a lockout when the school district closes the doors and does not let the school term start?

Mr. DAVIES. Yes, essentially that would be somewhat of an explanation—

Miss SIRIANNI. Well, then they would have to start paying them when the districts start school. I do not know why lockout or strike makes any difference. Can you explain to me why?

Mr. DAVIES. Well, yes. It would very well pay a school district just to lock out and not recognize the fact that they have to meet the obligations demanded for a contract and then—

Miss SIRIANNI. They would still have to meet the obligations to have 180 days.

The SPEAKER. Will the lady yield and let the gentleman complete his answer?

Mr. DAVIES. In other words, you are guaranteeing the subsidy regardless of whether it is one or the other, is that correct? They do not have it in Hop Bottom, but we do have it in Reading and Berks County.

Miss SIRIANNI. Yes, we had a lockout at the beginning of the year, Mr. Speaker, but they still got their 180 days in, so I do not know why they should be jeopardized.

Mr. DAVIES. No, I am saying in the instance where they would not, they would be jeopardized. Is that true?

Miss SIRIANNI. Well, does a school district not have an obligation to get 180 days in, to try, and is there not something in the code that says if they make an honest effort to get 180 days in there, that is what counts?

Mr. DAVIES. Well, I would agree with that, but I do not know about leaving it up to your honest effort without my knowing which is which. I would like to have clarity before I can cast an intelligent vote, and, of course, I would have to oppose it if you are saying it would be identified by some legal means, as being, one, a strike, why, then possibly I could support it. So you are giving me no choice, because I do not know essentially what your point is. I cannot vote intelligently.

Miss SIRIANNI. My point is that the school district should receive the money if they pay it out. They should be reimbursed for as much as they have to pay out.

Mr. DAVIES. Thank you, Mr. Speaker.

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

Mr. ZELLER. Mr. Speaker, this is a very simple amendment we have been trying to get through for some time. It is a question of just whose side you are on, whether you are with the elected officials back home or whether you want school strikes and to let the teachers have the hammer. It is a question of whose side you want the hammer on.

Personally I think it is a great amendment. It is about time. It is a very simple one. If the teachers want to go out on strike and they feel that they have a hammer over the head of the school board and say, we will go out and you are going to lose all this time, and the school board then is pressured into coming back because they do not want to lose the subsidy, then you are on the side of the teachers, and if you want to vote against it, then go ahead. But if you are on the side of responsible—and I say responsible—elected officials back home who have a monkey on their back with the so-called strikes, then you are going to be on the side of Miss Sirianni's amendment. It is as simple as that. All this running around and gobbledygook and court business is just to confuse the lady. So it depends on whose side you are on.

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

Mr. COWELL. Mr. Speaker, would Miss Sirianni consent to interrogation, please?

The SPEAKER. The lady indicates she will stand for interrogation. The gentleman, Mr. Cowell, may proceed.

Mr. COWELL. Mr. Speaker, I do not quarrel with the goal that you are trying to accomplish, but I want to discuss the mechanics just a brief bit. Your language, the language in your amendment, indicates that payment will not be reduced from the state to a school district if the school district cannot meet the minimum days of instruction because of a strike, and then you say, unless the school district's instructional expense per weighted average daily membership is actually reduced because of the strike or the shorter year.

Now, in the case of a strike, Mr. Speaker, where you cannot complete 180 days because it is physically impossible, and let us say you have 175 days of instruction completed, in fact the teachers will be paid for 175 days then rather than 180 days. Is that not correct?

Miss SIRIANNI. No; it is not my understanding that it is correct. My understanding is that if the school district makes an honest effort to try to get in 180 days, they will be paid for as many as they get in, even if they lack a few.

Mr. COWELL. Let me rephrase that, Mr. Speaker. I am concerned about the cost that will be incurred by the school district. If they cannot get in 180 days, if they make an honest attempt to complete the calendar but June 30 rolls around and they have only completed 175 days of instruction, I am asking, is the teacher not compensated for only 175 days of instruction rather than the full 180 days that may have been covered in the teacher-school district contract?

Miss SIRIANNI. No. They are covered for 180 days.

Mr. COWELL. You say the teachers are paid for 180 days?

Miss SIRIANNI. The law states that if they make an honest effort to get them in and cannot, they are paid for 180 days.

Mr. COWELL. Okay. I think that answers my question then. Thank you.

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

Mr. LETTERMAN. Mr. Speaker, may I interrogate Mr. Gallagher, I guess?

The SPEAKER. The gentleman, Mr. Gallagher, indicates he will stand for interrogation. Mr. Letterman may proceed.

Mr. LETTERMAN. Mr. Speaker, if a school district is not able to complete 180 days because of a strike, do the schoolteachers get paid the full 180 days since we pay them over a 12-month period?

Mr. GALLAGHER. Mr. Speaker, that would depend on what their contract was with the school district. What you are talking about, the school subsidy for 180 days is a subsidy to the school district, not to the teachers. The school district receives the money and they pay the salaries for the teachers who provide the services that the school district contracted with them to do. Now, if the union contract or the association contract says that you shall pay us 180 days—some of them are 185 days and some are 187 days—whatever agreement they have with the teachers the district will pay. The state only pays 180 days for those days that are viable instructional days. During strike situations we have had the question thrown to the department whether or not they had viable classroom experiences on those days that a strike occurred. The department sent people down there to find out who was teaching what, and then they determined whether or not they were getting a viable education on those days. If the department determined that, they paid the district for those days. If they found that they were just running movies, having some study in the classroom area, they did not pay them for those days. But whatever the union or the association contract or the teacher contract is with that district is what the district pays that teacher. That has nothing to do with this 180 days. One hundred and eighty days is what the state pays the school districts for instruction.

Mr. LETTERMAN. Okay, Mr. Speaker. Do we have a contract with the state for each school district?

Mr. GALLAGHER. No; we do not have a contract with each school district. Each school district is receiving its subsidy through the subsidy formula of the School Code.

Mr. LETTERMAN. Figured on how many days, Mr. Speaker?

Mr. GALLAGHER. Not how many; for 180 days of education for how many pupils they have, and that is all. The formula does not include teachers at all. It just pays for basic instructional subsidy.

Mr. LETTERMAN. Then the state has the same kind of contract with the school district as the school district has with the teachers. Right?

Mr. GALLAGHER. No.

Mr. LETTERMAN. And if they do not perform, they should not be paid for the 180 days either, but they are.

Mr. GALLAGHER. No; the—

Mr. LETTERMAN. And that is the argument by a lot of these school districts.

Mr. GALLAGHER. There is no contract between the state and the school district.

Mr. LETTERMAN. Do you think—

Mr. GALLAGHER. School districts by law have to provide 180 days to receive state subsidies. Pure and simple.

Mr. LETTERMAN. Do you think, because school districts are afraid that they will not receive the subsidy to keep their schools up, that they settle with teachers on strike at a higher wage so that they can get back to school?

Mr. GALLAGHER. No; I do not.

Mr. LETTERMAN. You do not?

Mr. GALLAGHER. I do not think they do that. I think I have seen experiences where school districts have said, the door is closed; there will be no teaching in here until the contract is agreed upon. That school district, because they do not have 180 days, gets only the days that they perform instructional classes, but on top of that, the school district is still receiving the real estate property tax and the other taxes from the school district. So the school district is not losing the local money. They are not losing it at all. The only thing they are losing is the instructional subsidy formula money for those children who are being taught. That is what the district loses. At the same time they are still receiving the local tax money. There is no impediment of that. They still get that real estate tax every year. They still get a per capita, if they have it, or whatever. They still receive that, even though they are on strike, and so they have money coming in. They have money in, and in a sense some of the districts said, look, we can hold you out for 30 days and we still are going to have money to maintain the system and maintain the buildings, because they have the local real estate taxes there.

Mr. LETTERMAN. Some school districts, but not all of them.

Mr. GALLAGHER. Well, all of them still have real estate taxes.

Mr. LETTERMAN. So, in other words, next year then they have to look at the possibility of raising the millage, right?

Mr. GALLAGHER. This year every school district in my area is looking for 20 to 30 mills without any strike, just to balance the budget. So that has nothing to do with the next year. Next year, if a contract occurs, they are only not going to receive the days that they do not perform instructional classes. That is the only time they would lose, and it is 180 days that they are bound by the School Code to provide. If they do not provide the 180 days, they are only going to get paid for 170 days or 175 days or 160 days. That is all they are going to get. That is the way it should be, because they are not performing anything, and the amendment that is offered would give it to them anyhow.

Mr. LETTERMAN. Mr. Speaker, answer this for me if you will, please: If we had the teachers not being paid on a 12-month basis and they had deductions made against their salaries for the amount of days that they did not perform, then would it not be easier for them both to sit down at the table and negotiate their problems? What Miss Sirianni is

asking is that you give the school district the same opportunity as you have already given to the teachers, and that is to be paid for the 180 days that you are speaking about that schools are supposed to be under instruction. And I think that she is probably hearing exactly the same thing as I am hearing, that it is very difficult to continue as a school board to stay out on strike when you know you have to raise taxes for your people next year to make up for what you are not being paid by the school subsidy.

Mr. GALLAGHER. Well, the money, Mr. Speaker, that they will not receive if they do not perform 180 days is for the days that they did not have to expend, because they do not have to pay—

Mr. LETTERMAN. They have to expend every day, Mr. Speaker. If it is cold, they have to heat the building. They still have the expenses.

Mr. GALLAGHER. Well, that is what the local money is for. The money from the state is not for the utilities and it is not for the heating; it is for the basic instructional subsidy for the work in the classroom. That is what the subsidy is for.

Mr. LETTERMAN. What is the formula for?

Mr. GALLAGHER. The formula is for a basic instructional subsidy formula. That is not for heating; that is not for ventilating; it is not for electrifying it; it is for paying for the teacher who gives that student education. That is what it is for. What do you think they do with the local money, just put it in the bank and pay for chauffeurs in Philadelphia or do something up in Centre County in your area or Clearfield County for hunters? That local money is usually more than 50 percent of their budget. What do you think they do with it, just pay for the land that they have already bought, or pay for the buildings?

Mr. LETTERMAN. Buildings?

Mr. GALLAGHER. Sure. Maintenance out of a bond issue and they get subsidy from the bond issue. So they get money from that too.

Mr. LETTERMAN. Why do they bother paying—

The SPEAKER. Will the gentleman yield?

Both gentlemen have gone far astray of the amendment before us.

Mr. LETTERMAN. I do not think so, Mr. Speaker.

The SPEAKER. The Chair has indicated that it is his opinion that both gentlemen have gone far afield.

Will the gentleman, Mr. Letterman, please confine his interrogation to the amendment offered by Miss Sirianni? The gentleman may proceed.

Mr. LETTERMAN. I am finished with my questioning of Mr. Gallagher. I would like to make a statement.

The SPEAKER. The Chair recognizes Mr. Letterman to debate the amendment.

Mr. LETTERMAN. I would like to see support for Miss Sirianni's amendment. I think that a lot of us who live where the poorer school districts are would feel this kind of a crunch. I think it is probably a way that our school boards would be able to settle without giving the higher wages all the time. I do believe that this does have a defi-

nite way of settling a strike. I think that when school boards are put under the hammer to the point that they feel they must settle or lose that subsidy, the only choice they have is to go ahead and give the higher wages. The only thing that does is bring the taxes up the next year in your local school district.

I certainly hope that everybody would think about this amendment very seriously. I think Miss Sirianni has a good amendment and I think it needs to be passed. Thank you.

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

Mr. COWELL. Mr. Speaker, very reluctantly I have got to ask that we not support the Sirianni amendment, because I do not believe that it will accomplish the purpose that is intended by the maker of the amendment. I think the answer that Miss Sirianni gave me earlier in response to my interrogation was incorrect. I asked if a school district is unable to complete 180 days of instruction because of a strike, would not in fact the expenses to that school district be decreased because teachers would not be compensated for working 180 days, and Miss Sirianni, I believe, responded and said that teachers would be paid for 180 days. I believe that answer is incorrect. I have been able to find nothing that substantiates it, and I would ask her, when I am done with my remarks, if she can cite a specific section of the code to the contrary to please do so. But as far as I can determine, if a school district, because of a strike and because June 30 rolls around, cannot complete 180 days, teachers do not get paid for 180 days.

It follows then that if teachers are paid something less, the expenses to the school district will be something less. I am concerned that the language in the first paragraph of the Sirianni amendment will become operational then. I am speaking specifically to the last clause of that sentence where it says, "...unless the school district's instructional expense per weighted average daily membership...is reduced because of the shortened school" year. In fact, I think because of the shortened school year, the expenses and the average expenses to that school district per weighted membership will in fact decrease. I think the net impact then will be to again permit the state, permit the Department of Education, to reduce the instructional subsidy to the school district. I concur with the goal of the Sirianni amendment and like to insulate the school districts as best we can and like to give some incentive to the school districts and the teacher unions to settle more promptly. But in fact I do not think that this amendment will accomplish that purpose. I think that this amendment will in fact simply allow things to go on as they have gone on in the past, because, inevitable with the shorter year, the expenses to the district will be reduced and then in fact the reduced school subsidy will be permitted.

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

Miss SIRIANNI. Mr. Speaker, I believe that under section (d) of my amendment, the 8th line takes care of what Mr. Cowell is talking about. It says, "...unless the

school district's instructional expense per weighted average daily membership or the base earned for reimbursement is reduced because of the shortened school calendar" year. They will receive the same money they were supposed to unless it is reduced. Then if it is reduced, theirs will be reduced. Usually it is not reduced.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—72

Anderson	Gallen	Levi	Scheaffer
Armstrong	Gamble	Lewis	Serafini
Arty	Gannon	Livengood	Sirianni
Belardi	Geesey	Lynch, E. R.	Smith, E. H.
Bittle	George, C.	Madigan	Smith, L. E.
Bowser	George, M. H.	Miller	Spencer
Burd	Gladeck	Moehlmann	Swift
Burns	Goebel	Nahill	Taylor, E. Z.
Cimini	Grabowski	Perzel	Telek
Civera	Grieco	Peterson	Thomas
Clark, M. R.	Halverson	Petrarca	Wass
Cornell	Hayes, Jr., S.	Phillips	Wenger
DeVerter	Helfrick	Pitts	Wilt
Dietz	Honaman	Punt	Wright, Jr., J.
Dininni	Hutchinson, A.	Pyles	Zeller
Dorr	Kanuck	Rasco	
Earley	Lashinger	Ryan	Seltzer,
Foster, W. W.	Lehr	Salvatore	Speaker
Foster, Jr., A.	Letterman		

NAYS—97

Alden	Fisher	McCall	Ritter
Austin	Freind	McClatchy	Schweder
Bennett	Fryer	McMonagle	Seventy
Berson	Gallagher	McVerry	Shadding
Brown	Gatski	Mackowski	Shupnik
Caltagirone	Geist	Manderino	Sieminski
Cappabianca	Goodman	Manmiller	Spitz
Cessar	Gray	Michlovic	Stairs
Chess	Gruppo	Micozzie	Steighner
Clark, B. D.	Hagarty	Milanovich	Stewart
Cochran	Hasay	Mowery	Stuban
Cole	Hoeffel	Mrkonic	Taddonio
Coslett	Hutchinson, W.	Murphy	Taylor, F.
Cowell	Irvis	Novak	Trello
Cunningham	Itkin	Noye	Wachob
DeMedio	Johnson, E. G.	O'Brien, B. F.	Wargo
DiCarlo	Klingaman	O'Donnell	White
Davies	Knight	Piccola	Wilson
Dawida	Kolter	Pistella	Wright, D. R.
Dombrowski	Kowalyszyn	Pott	Yahner
Donatucci, R.	Kukovich	Pratt	Yohn
Duffy	Laughlin	Pucciarelli	Zitterman
Durham	Lescovitz	Reed	Zord
Fee	Levin	Richardson	Zwikl
Fischer			

NOT VOTING—21

Beloff	Harper	Maiale	Rocks
Borski	Johnson, J. J.	Mullen	Rodgers
Cohen	Jones	O'Brien, D. M.	Schmitt
DeWeese	McIntyre	Oliver	Vroom
Dumas	McKelvey	Rieger	Williams
Giammarco			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Sireet
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

The SPEAKER. Does the gentleman from Chester, Mr. Pitts, have a fiscal note on his amendment?

The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, the gentleman, Mr. Pitts, after we came to session, notified me that the amendment 6483 should most properly be offered to another section of the code and so he is withdrawing the amendment which the Speaker has on his agenda.

The SPEAKER. The Chair understands that, but the gentleman, Mr. Pitts, has amendments No. 6517 and 6518 that he submitted and which had been circulated.

Mr. S. E. HAYES. That is to chapter 43, Mr. Speaker, not chapter 29.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. MILLER offered the following amendments:

Amend Sec. 1 (Sec. 2981), page 214, by inserting between lines 16 and 17 "Vocational business education." That form of vocational education designed to prepare an individual to enter or advance in an occupational field wherein success is largely dependent upon skills, knowledges, attitudes, work habits and leadership development necessary to demonstrate competency in accounting, clerical, data processing or secretarial occupations and similar business pursuits.

Amend Sec. 1 (Sec. 2981), page 215, line 14, by inserting after "in" vocational business education and

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Miller.

Mr. MILLER. Very briefly, in the section on vocational education, my amendment would propose the \$25 per pupil reimbursement for the new category of vocational business education.

Some of you perhaps are now familiar in your home districts with vocational education being offered in the area of agricultural training and technical training. This would expand it for reimbursement payments of both state and Federal dollars by \$25 per student in the category of vocational business education. The fiscal impact estimated by the Department of Education for the Commonwealth for the first year is at \$1.4 million. Thank you, Mr. Speaker.

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

Mr. GALLAGHER. Mr. Speaker, I rise to support Mr. Miller's amendment. I think it is a fine amendment, well needed, and I urge the adoption of this amendment.

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

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

The SPEAKER. The gentleman, Mr. Miller, indicates that he will stand for interrogation. Mr. Davies may proceed.

Mr. DAVIES. Mr. Speaker, in renaming this as vocational, there would be no chance, in a district where they now currently have the program in force, that it would be taken from that particular district and moved to an intermediate unit rather than a vocational school, rather than the district retaining that particular educational offering within the confines of that district? This in no way would jeopardize those current offerings. Would that be correct, or am I assuming in error?

Mr. MILLER. Mr. Speaker, the gentleman from Berks County is correct. Existing language in that current chapter reserves reimbursement funding under these eligible categories for each fulltime student currently enrolled in vo-technical schools within that particular vo-tech district. You are correct, Mr. Speaker.

Mr. DAVIES. All right. Then it is my understanding that if you have it in force now and you have it in Manheim Township, this could not be moved to the vo-tech school down near Brownsville or something like that? In other words, it would make the provision that they are going to stay in force where they are currently being offered?

Mr. MILLER. The gentleman's assumption is correct with respect to existing programs in place. I do not want to mislead the gentleman, however. There is no language under the current vo-tech section to prohibit any vo-technical offering that is not now available in a given district from being added. Obviously, with reimbursement now being available, we might expect a growth in vo-technical business education in those districts that have the programs now in place.

Mr. DAVIES. Thank you, Mr. Speaker. I would stand in support of the amendment, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—159

Alden	Foster, W. W.	Lewis	Scheaffer
Anderson	Foster, Jr., A.	Livengood	Schweder
Armstrong	Freind	Lynch, E. R.	Serafini
Arty	Gallagher	McCall	Seventy
Austin	Gallen	McClatchy	Shupnik
Belardi	Gamble	McMonagle	Sieminski
Bennett	Gannon	McVerry	Sirianni
Berson	Geesey	Mackowski	Smith, E. H.
Bittle	Geist	Madigan	Smith, L. E.
Bowser	George, C.	Manderino	Spencer
Brown	George, M. H.	Manmiller	Spitz
Burd	Gladeck	Michlovic	Stairs
Burns	Goebel	Micozzie	Steighner
Caltagirone	Goodman	Milanovich	Stewart
Cappabianca	Grieco	Miller	Stuban
Cessar	Gruppo	Moehlmann	Swift
Chess	Hagarty	Mowery	Taddonio
Cimini	Halverson	Mrkonic	Taylor, E. Z.
Civera	Hasay	Murphy	Taylor, F.
Clark, M. R.	Hayes, Jr., S.	Nahill	Telek
Cochran	Helfrick	Novak	Thomas
Cole	Hoefel	Noye	Trello
Cornell	Honaman	O'Brien, B. F.	Vroon
Coslett	Hutchinson, A.	O'Donnell	Wachob
Cowell	Hutchinson, W.	Peterson	Wargo
DeMedio	Irvis	Petrarca	Wass
DeVerter	Itkin	Phillips	Wenger
DeWeese	Johnson, E. G.	Piccola	Wilson

DiCarlo	Kanuck	Pistella	Wilt
Davies	Knight	Pitts	Wright, D. R.
Dawida	Kolter	Pratt	Wright, Jr., J.
Dietz	Kowalshyn	Pucciarelli	Yahner
Dininni	Kukovich	Punt	Yohn
Dombrowski	Lashingier	Pyles	Zeller
Dorr	Laughlin	Rasco	Zitterman
Duffy	Lehr	Reed	Zord
Durham	Lescovitz	Richardson	Zwinkl
Earley	Letterman	Ritter	
Fee	Levi	Ryan	Seltzer,
Fischer	Levin	Salvatore	Speaker

NAYS—6

Clark, B. D.	Fryer	Grabowski	Klingaman
Cunningham	Gatski		

NOT VOTING—25

Beloff	Harper	Mullen	Rocks
Borski	Johnson, J. J.	O'Brien, D. M.	Rodgers
Cohen	Jones	Oliver	Schmitt
Donatucci, R.	McIntyre	Perzel	Shadding
Dumas	McKelvey	Pott	White
Giammarco	Maiiale	Rieger	Williams
Gray			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

REMARKS ON VOTE

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

Mr. VROON. Mr. Speaker, when the vote on Miss Sirianni's amendment 5873 to HB 1671 was taken, I was out of my seat, and I wish to be recorded in the affirmative.

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

CONSIDERATION OF HB 1671 CONTINUED

On the question recurring,

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

Miss SIRIANNI offered the following amendments:

Amend Sec. 1 (Sec. 3131), page 227, line 16, by inserting after "under" (subject to adjustment pursuant to subsection (f))

Amend Sec. 1 (Sec. 3131), page 228, by inserting between lines 1 and 2 (f) Adjustments caused by change in CPI.—The department shall annually calculate the percentage change in the Consumer Price Index for the preceding year as published by the United States Bureau of Labor Statistics. Such annual percentage change shall be applied to the figures relating to purchasing requirements as provided in subsection (b) and sections 3132(a) (relating to solicitations for quotations for certain purchases) and 3133(a) (relating to formal bidding for certain purchases). The resulting figures shall be applicable to purchases made by each school entity during the ensuing fiscal year.

Amend Sec. 1 (Sec. 3132), page 228, line 4, by inserting after "\$7,500" (subject to adjustment pursuant to section 3131(f))

Amend Sec. 1 (Sec. 3133), page 229, line 3, by inserting after "more" (subject to adjustment pursuant to section 3131(f))

On the question,

Will the House agree to the amendments?

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

Miss SIRIANNI. Mr. Speaker, this amendment requires that an adjustment caused by a change in the Consumer Price Index be applied to the school subsidy. It states that the department shall annually calculate the percentage change in the Consumer Price Index for the preceding year as published by the United States Bureau of Labor Statistics and that this annual percentage change shall be applied to the figures relating to purchasing requirements as provided in the law. It is relating to formal bidding for certain purchases. The resulting figures shall be applicable to purchases made by each school entity during the ensuing fiscal year.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. I urge support of the lady's amendment.

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

Mr. GALLAGHER. Mr. Speaker, I concur with Mr. Hayes and support Miss Sirianni's amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—163

Alden	Foster, Jr., A.	Letterman	Ryan
Anderson	Freind	Levi	Salvatore
Armstrong	Fryer	Levin	Scheaffer
Arty	Gallagher	Lewis	Schweder
Austin	Gallen	Livengood	Serafini
Belardi	Gamble	Lynch, E. R.	Seventy
Bennett	Gannon	McCall	Shupnik
Berson	Gatski	McClatchy	Sieminski
Bittle	Geesey	McMonagle	Sirianni
Bowser	Geist	McVerry	Smith, E. H.
Brown	George, C.	Mackowski	Smith, L. E.
Burd	George, M. H.	Madigan	Spencer
Burns	Gladeck	Manderino	Spitz
Caltagirone	Goebel	Manmiller	Stairs
Cappabianca	Goodman	Michlovic	Steighner
Cessar	Grabowski	Micozzie	Stewart
Chess	Gray	Milanovich	Stuban
Cimini	Grieco	Miller	Swift
Civera	Gruppo	Moehlmann	Taddonio
Clark, B. D.	Hagarty	Mowery	Taylor, E. Z.
Clark, M. R.	Halverson	Mrkonic	Taylor, F.
Cochran	Hasay	Murphy	Telek
Cole	Hayes, Jr., S.	Nahill	Thomas
Cornell	Helfrick	Novak	Trello
Coslett	Hoeffel	Noye	Vroon
Cowell	Honaman	O'Brien, B. F.	Wachob
DeMedio	Hutchinson, A.	Peterson	Wargo
DeVerter	Hutchinson, W.	Petrarca	Wass
DeWeese	Irvs	Phillips	Wenger
DiCarlo	Itkin	Piccola	Wilson
Davies	Johnson, E. G.	Pistella	Wilt
Dawida	Kanuck	Pitts	Wright, D. R.

Dietz	Klingaman	Pott	Wright, Jr., J.
Dininni	Knight	Pratt	Yahner
Dombrowski	Kolter	Pucciarelli	Yohn
Dorr	Kowalshyn	Punt	Zeller
Duffy	Kukovich	Pyles	Zord
Durham	Lashinger	Rasco	Zwikl
Earley	Laughlin	Reed	
Fee	Lehr	Richardson	Seltzer,
Fisher	Lescovitz	Ritter	Speaker
Foster, W. W.			

NAYS—2

Fischer O'Donnell

NOT VOTING—25

Beloff	Harper	Mullen	Rodgers
Borski	Johnson, J. J.	O'Brien, D. M.	Schmitt
Cohen	Jones	Oliver	Shadding
Cunningham	McIntyre	Perzel	White
Donatucci, R.	McKelvey	Rieger	Williams
Dumas	Maiale	Rocks	Zitterman
Giammarco			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

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

Mr. CUNNINGHAM. Mr. Speaker, I am going to ask that that vote be stricken, if I am correct in understanding that this amendment is of such a nature that there may be a significant fiscal impact, and I am unaware of any fiscal note. Was there a fiscal note associated with the amendment?

Mr. S. E. HAYES. No. I have a report from the Appropriations Committee that there are no costs connected with the Sirianni amendment.

The SPEAKER. For the information of the gentleman, on this amendment and all other amendments he has before him today, either the fiscal notes are attached to the amendments or there is no need for a fiscal note.

Mr. CUNNINGHAM. Mr. Speaker, do I understand that the nature of this amendment is that the reimbursement available to school districts is going to change, it is going to vary as a function of the Consumer Price Index, and I am advised that there is no fiscal impact associated with that?

The SPEAKER. The Chair has been advised that there is no need for a fiscal note for this amendment.

Mr. CUNNINGHAM. That seems a curious assertion to me, Mr. Speaker, in light of the fact—

The SPEAKER. The Chair is unable to debate the issue with the gentleman.

Mr. CUNNINGHAM. Thank you, Mr. Speaker.

On the question recurring,

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

Mr. LETTERMAN offered the following amendments:

Amend Sec. 1 (Sec. 3191), page 245, lines 26 through 29, by striking out all of lines 26 through 28 and "(3)" in line 29, and inserting (2)

Amend Sec. 1 (Sec. 3191), page 246, line 1, by striking out "(4)" and inserting (3)

Amend Sec. 1 (Sec. 3191), page 246, line 4, by striking out "(5)" and inserting (4)

On the question,

Will the House agree to the amendments?

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

Mr. LETTERMAN. Mr. Speaker, I am trying in this amendment to knock out the proposal for solicitation of bids from two or more persons engaged in a business related to the nature of the items to be disposed of. In a school district the size of mine with as many business people as I have, it is very, very difficult to get two people handling the same kind of item. You are very fortunate if you find one that handles the kind of item you might need in a school district. So I would like to have you vote for this amendment to knock that out and not make us go for two bids. Thank you.

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

Mr. GALLAGHER. Mr. Speaker, this amendment really looks rather simple, but what it really does is, the surplus property of a school district must now be offered by bid or auction to municipalities, other schools, nonpublic schools, or other nonprofit educational institutions. Property not thus disposed of may be put out to auction, bid, or public offering at a fixed price or as a bartered item to suppliers. This amendment would eliminate the solicitation of bids as a means of disposal, but since section 3191, subsection 5, page 246, provides for adoption by the board of a method they wish as a means of disposal, the intent of the amendment then becomes very frustrating. What it does is, in another section of the proposed School Code, it puts the school directors on opposite ends of each other. In one section you are going to do away with any bidding, and in the other section, under the new section of the new code, the board may adopt by resolution any other method which shall not be implemented sooner than 5 days from a public meeting. So it is already in there, and I think that your amendment takes away the protection. You want to strike out all of lines 26 through 28 and strike out "(4)" and insert (3), et cetera, but it does a lot more than just change numbers as far as the continuity of the code, because on the following page you will find that what you really want is there, that the board has the opportunity under this proposed code that they may do this and also always let the public know when they are going to do it. So they have the opportunity to do it the way they would feel the best method is to do away with it without being hamstrung on one side and then on the other side saying they can go ahead. So I think if you would consider withdrawing your amendment, it would make it a lot easier.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. The gentleman, Mr. Gallagher, is right. On page 245 the gentleman strikes lines 26 through 28, and by doing that it would stop the board from

adopting that particular type of property disposal method, but then when you go to page 246, lines 4, 5, and 6 would allow the board to in fact adopt that type of property disposal. So what I am suggesting to the gentleman as he considers his amendment is that his amendment could be made more perfect by striking the lines on page 246, specifically lines 4, 5, and 6. Then the gentleman, if the House agreed to his amendment, would achieve what he is trying to achieve, I believe, Mr. Speaker.

AMENDMENTS WITHDRAWN TEMPORARILY

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

Mr. LETTERMAN. Mr. Speaker, may I ask for a hold on this until I have time to study what they are talking about?

The SPEAKER. The Chair would suggest that the gentleman withdraw his amendment temporarily.

Mr. LETTERMAN. Thank you.

The SPEAKER. The gentleman agrees?

Mr. LETTERMAN. Yes. I will withdraw it temporarily.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. PISTELLA offered the following amendments:

Amend Bill, page 11, line 30, by striking out "Appeals from Audits" and inserting

Audits and Other Financial Matters in First Class A Districts

- § 3331. Monthly reports by depositories.
- § 3332. Reports of taxes collected.
- § 3333. Annual budget.
- § 3334. City controller to be elected school controller.
- § 3335. Oath, bond and compensation of controller.
- § 3336. Vacancies.
- § 3337. Clerks, stationery, etc. for controller and treasurer.
- § 3338. School orders.
- § 3339. Contracts.
- § 3340. Payment of contracts and liability of controller.
- § 3341. Estimates of expenses.
- § 3342. Annual statement of finances for past year.
- § 3343. Information for estimates and tax levies.
- § 3344. Publication of annual financial statements.
- § 3345. Audit of finances by school controller.
- § 3346. Limitation on employment of controllers and auditors.
- § 3347. Statements of accounts.
- § 3348. Power to issue subpoenas and oaths.
- § 3349. Disobedience to subpoena.
- § 3350. Witness fees.
- § 3351. Copies of reports.
- § 3352. Duties of controller.
- § 3353. Inconsistent provisions.

Subchapter D. Appeals from Audits

Amend subchapter analyses, page 12, line 1, by striking out "3331." and inserting 3361.

Amend subchapter analyses, page 12, line 2, by striking out "3332." and inserting 3362.

Amend subchapter analyses, page 12, line 3, by striking out "3333." and inserting 3363.

Amend subchapter analyses, page 12, line 4, by striking out "3334." and inserting 3364.

Amend subchapter analyses, page 12, line 5, by striking

out "3335." and inserting 3365.

Amend subchapter analyses, page 12, line 6, by striking out "3336." and inserting 3366.

Amend bill, page 246, line 16, by striking out "Appeals From Audits" and inserting Audits and Other Financial Matters

in First Class A Districts D. Appeals from Audits

Amend Sec. 1 (Sec. 3311), page 248, lines 29 and 30, by striking out "first class A or authorities created by them." and inserting any authority created by such district.

Amend Bill, page 254, by inserting between lines 26 and 27

SUBCHAPTER C

AUDITS AND OTHER FINANCIAL MATTERS IN FIRST CLASS A DISTRICTS

- Sec.
- 3331. Monthly reports by depositories.
- 3332. Reports of taxes collected.
- 3333. Annual budget.
- 3334. City controller to be elected school controller.
- 3335. Oath, bond and compensation of controller.
- 3336. Vacancies.
- 3337. Clerks, stationery, etc. for controller and treasurer.
- 3338. School orders.
- 3339. Contracts.
- 3340. Payment of contracts and liability of controller.
- 3341. Estimates of expenses.
- 3342. Annual statement of finances for past year.
- 3343. Information for estimates and tax levies.
- 3344. Publication of annual financial statements.
- 3345. Audit of finances by school controller.
- 3346. Limitation on employment of controllers and auditors.
- 3347. Statements of accounts.
- 3348. Power to issue subpoenas and oaths.
- 3349. Disobedience to subpoena.
- 3350. Witness fees.
- 3351. Copies of reports.
- 3352. Duties of controller.
- 3353. Inconsistent provisions.

§ 3331. Monthly reports by depositories.

Every bank or trust company designated as a depository for school funds in any school district of the first class A shall, at the end of every month, make a report to the school treasurer, to the board of school directors, and to the school controller, if any, stating the amount of school funds deposited with it during the month, together with the balance on hand at the beginning of the month, as well as the amount of school funds disbursed by it during the month, any accrued interest paid, or due, and the balance remaining on hand at the time of making the report.

§ 3332. Reports of taxes collected.

In every school district of the first class A the receiver of taxes, city treasurer, or other proper authority collecting or receiving the school taxes, shall, at the end of each month, report to the board of public education, and to the school controller, the total amount of school taxes collected during the month, setting forth the years for which collected. He shall pay the same when and as collected to the school treasurer, and shall file with the school controller a duplicate receipt therefor, and shall, at the end of each month, also report the total amount collected during the current fiscal year, and the unexonerated balance remaining uncollected on the tax duplicate for each year in such district.

§ 3333. Annual budget.

(a) Preparation.—The board of public education of each school district of the first class A shall, annually, at or before the time of levying the annual school taxes, prepare an approx-

imate estimate of the amount of funds that will be required by the school district in its several departments for the following fiscal year. Such annual estimate shall be apportioned to the several classes of expenditures of the districts as the board of public education thereof may determine. The total amount of such estimate shall not exceed the amount of funds, including the proposed annual tax levy and State appropriation, available for school purposes in the district. The annual estimates shall be properly certified to the school controller of the district by the secretary of the board.

(b) Advertisement and public hearing.—The board of public education shall, at least 15 days prior to the time final action is taken on any budget, publish, by advertisement at least once in two newspapers of general circulation printed in the municipality in which such school district is located, notice that such proposed budget has been prepared and is open to public inspection at the office of the board of public education. Such advertisement shall include a notice of public hearing on the proposed budget, scheduled for at least 10 days before final action is taken upon any budget.

§ 3334. City controller to be elected school controller.

In each school district of the first class A or any authority created by such district, the board of public education shall elect the controller of the city comprising all or the greater part of such district as school controller for said district for and during his term of office as city controller. The school controller of each school district of the first class A may recommend to the board of public education for appointment a deputy school controller. The board of public education shall appoint as deputy school controller the candidate recommended by the school controller, who, in case of death, resignation or inability of the school controller to act for any cause whatsoever, shall have the same powers and shall perform the same duties as imposed by law on the school controller. In case the school controller does not recommend to the board of public education for appointment a deputy school controller, the board of public education may elect a deputy school controller who shall serve until such time as the school controller recommends to the board of public education the appointment of a deputy school controller. The salary of the deputy school controller shall be fixed by the board of public education. He shall furnish bond in the sum of \$10,000.

§ 3335. Oath, bond and compensation of controller.

Every person elected as a school controller in any school district of the first class A shall, before entering upon such duties of his office, take or subscribe to the oath or affirmation herein provided for school directors, and shall furnish to the school district in which he is elected a proper bond, in the amount of \$25,000, with such surety or sureties as the board of school directors may approve, conditioned upon the faithful performance of all duties of his office during his term. The school controller in each district of the first class A shall be paid, from the funds of the school district, an annual salary fixed by the board of public education, payable monthly.

§ 3336. Vacancies.

In case there is a vacancy in the office of school controller, by reason of death, resignation, or otherwise, such vacancy shall be filled by the election of the city controller by the board of public education for and during his term of office as city controller.

§ 3337. Clerks, stationery, etc. for controller and treasurer.

The board of public education in school districts of the first class A shall appoint upon the recommendation of the school controller and school treasurer respectively such clerks as they deem necessary to assist them in the performance of their duties. All such appointments shall be made upon the recommendation of the school controller and school treasurer. Their salaries shall be fixed by the board of public education at the time the appointments are made. The school controller and

school treasurer shall, in addition to their salaries, be furnished, by the school district in which they are elected, with necessary stationery and books, required by them in the performance of their duties as school controller or school treasurer.

§ 3338. School orders.

In every school district of the first class A the school controller shall approve all proper school orders, drawn on the school treasurer, before the same are paid. He shall not approve any school order issued in violation of any of the provisions of this act.

He shall at all times have access to all the accounts, books, records, and papers of the district so far as they relate to the school finances, and may require from the board of public education, or any person presenting any school order, such evidence or information regarding its correctness as he may deem proper.

§ 3339. Contracts.

All contracts made by any school district of the first class A shall state therein on what item in the annual estimate of school expenditures the same is based. Every contract before becoming valid shall be properly certified by the school controller, who shall, at the time of so doing, charge up the amount of any such contract against the item in the annual estimate on which the same is based. No contract shall be certified by the school controller if the amount to become due thereon shall exceed the item of expenditure on which it is based.

§ 3340. Payment of contracts and liability of controller.

It shall be the duty of each school controller in each school district of the first class A to certify all contracts, for the payment of which a sufficient sum has been provided in the annual school estimate. If any school controller shall certify any contract in excess of the amount of the item of expenditure in the annual estimate made thereof, he together with his surety or sureties shall be individually liable on his bond therefor.

§ 3341. Estimates of expenses.

The annual estimate of expenses made by the board of public education in each school district of the first class A, at or before the time of assessing and levying the annual school tax, shall be certified to the school controller of the district by the secretary of the board. The school controller shall, in a proper book or books kept for that purpose, keep an account with each item of expenditure as therein stated or thereafter changed by the board in the manner herein provided. He shall charge up against each item of such estimate all school orders drawn against the same, at the time they are approved by him, and he shall not permit any such estimate to be overdrawn. He shall furnish to the board of public education a monthly statement showing the original amount of each item of such estimate, the amount paid out thereon, and the balance, if any, on hand. If any item is exhausted he shall promptly notify the board of such fact.

§ 3342. Annual statement of finances for past year.

The school controller in every school district of the first class A shall, on or before the thirtieth day of April of each year, submit to the board of public education therein an annual itemized statement of the finances of the school district for the past year. Such statement shall include all assets of the district and the source from which they were obtained, together with the amount of uncollected school taxes, stating the amount of delinquent taxes of each year remaining unpaid. The statement shall also set forth the disbursements named in the several items of expenditure, as well as the outstanding indebtedness of the district, if any, together with the rate of interest on the same and when it becomes due. It shall include a statement of the sinking fund of the district, if any, including the securities therein held by the district. The statement shall also contain such further facts and information as the controller may see proper to report.

§ 3343. Information for estimates and tax levies.

The school controller in every school district of the first class A shall also furnish annually to the board of public education, on or before the first day of November, such information as he may think proper, or as may be required of him by the board of public education, in order to enable it to prepare the annual estimate of expenditures and tax levy for the coming school year.

§ 3344. Publication of annual financial statements.

The annual financial statement, or any part thereof, furnished by the school controller in any district of the first class A to the board of public education, shall be published by the board of public education in two newspapers, designated by the board, once a week for three successive weeks, beginning the first week after the same has been furnished to it.

§ 3345. Audit of finances by school controller.

The finances of every school district of the first class A and of every joint school board, in every department thereof, together with the accounts of all school treasurers, school depositories, teachers' retirement funds, teachers' institute funds, directors' association funds, sinking funds, and other funds belonging to or controlled by the district, shall be properly audited by the school controller.

§ 3346. Limitation on employment of controllers and auditors.

No elected county, city, borough, town or township controller or auditor, and no controller or auditor appointed to fill a vacancy in the office of county, city, borough, town or township controller or auditor for the unexpired term of the previous controller or auditor, shall be employed in any other capacity by a school district of the first class A or joint school board if he audits any finances or any funds belonging to or controlled by any school district of the first class A or joint school board.

§ 3347. Statements of accounts.

In order that the accounts may be thoroughly and properly audited, it shall be the duty of all boards of school directors of districts of the first class A and their proper officers, school depositories, district superintendents, treasurers of directors' associations, treasurers of teachers' retirement funds, and other proper persons, to furnish to such auditors, whenever required by them for auditing purposes, statements and accounts of all finances of the district, of teachers' institutes or directors' associations, and other funds belonging to or controlled by the district, including assets and liabilities, together with access to all books, records, tax duplicates, vouchers, school orders, payrolls, letters and other matters pertaining to the same.

§ 3348. Power to issue subpoenas and oaths.

The auditors in any school district of the first class A shall have power, and are hereby authorized, to issue subpoenas to compel the attendance of school officers or other persons whom they may deem necessary to examine as witnesses, and to compel the production of all books, records, vouchers, letters, and papers relating to any accounts being audited by them.

The auditors shall have power to administer oaths or affirmations to all persons appearing before them as witnesses, and any person guilty of testifying falsely in any such examination shall be guilty of perjury, and be liable for and subject to all the penalties provided therefor.

§ 3349. Disobedience to subpoena.

In case of disobedience to a subpoena to appear and testify, or to produce any papers, books, records, vouchers, letters, or other written or printed matter, as required by the provisions of this subchapter, the Secretary of Education, school controller, or auditors, as the case may be, may invoke the aid of the court of common pleas of the county, within whose jurisdiction such hearing is held, or accounts are being audited, to compel compliance with the same. Any such court, in case

of contumacy or refusal to obey a subpoena, may issue its orders to such person so refusing to appear and testify, or to produce books, papers, vouchers, or other written or printed matter. Any failure to obey such order of court may be punished by the court as contempt thereof.

§ 3350. Witness fees.

Every witness attending before any auditors in any school district of the first class A shall receive, out of the funds of the district, to be paid by a proper order drawn on the school treasurer, the same witness fees and mileage as a witness is allowed in the court of common pleas of the county in which such district is located.

§ 3351. Copies of reports.

In all school districts of the first class A the auditors' report of the finances of the district for the preceding year, as made by the auditors, shall be filed with the board of school directors, entered on the minutes of the board by the secretary thereof and forwarded to the Secretary of Education. A copy of such report shall be filed with the intermediate unit board of directors.

§ 3352. Duties of controller.

The school controller in each school district of the first class A, shall properly audit the finances of the school district, including the accounts of the receiver of school taxes, school treasurer, or other proper authority collecting school taxes, school depositories, and all other funds under the control of the board of public education.

The school controller shall, at the end of each school year, certify to the board of public education that he has audited the several accounts above stated, and shall report to it the result of such audit.

§ 3353. Inconsistent provisions.

In the event any of the provisions of this subchapter are in conflict with any other provisions of this act, the provisions of this subchapter shall control insofar as they relate to school districts of the first class A.

Amend Bill, page 254, line 27, by striking out "C" and inserting D

Amend Sec. 1 (subchapter analyses), page 254, line 30, by striking out "3331." and inserting 3361.

Amend Sec. 1 (subchapter analyses), page 255, line 1, by striking out "3332." and inserting 3362.

Amend Sec. 1 (subchapter analyses), page 255, line 2, by striking out "3333." and inserting 3363.

Amend Sec. 1 (subchapter analyses), page 255, line 3, by striking out "3334." and inserting 3364.

Amend Sec. 1 (subchapter analyses), page 255, line 4, by striking out "3335." and inserting 3365.

Amend Sec. 1 (subchapter analyses), page 255, line 5, by striking out "3336." and inserting 3366.

Amend Sec. 1 (Sec. 3331), page 255, line 6, by striking out "3331." and inserting 3361.

Amend Sec. 1 (Sec. 3332), page 255, line 21, by striking out "3332." and inserting 3362.

Amend Sec. 1 (Sec. 3333), page 256, line 8, by striking out "3333." and inserting 3363.

Amend Sec. 1 (Sec. 3334), page 256, line 16, by striking out "3334." and inserting 3364.

Amend Sec. 1 (Sec. 3335), page 256, line 25, by striking out "3335." and inserting 3365.

Amend Sec. 1 (Sec. 3336), page 257, line 10, by striking out "3336." and inserting 3366.

Amend Sec. 1 (Sec. 3336), page 257, line 13, by striking out "3335(a)" and inserting 3365(a)

Amend Sec. 1 (Sec. 3336), page 257, line 19, by striking out "3335(b)" and inserting 3365(b)

On the question,

Will the House agree to the amendments?

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

Mr. PISTELLA. Mr. Speaker, this amendment outlines the duties and responsibilities of the controller for school boards in the cities of the first class A. What I have done with this amendment is taken the language that exists in the current School Code and incorporated it into this amendment for insertion in HB 1671. Again, I would like to reiterate that this only outlines and defines the duties and responsibilities of the school controller in the city of Pittsburgh, nothing more, nothing less. I would appreciate the support of all the members on this amendment.

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

Mr. GALLAGHER. Mr. Speaker, I concur with Mr. Pistella that the amendment is in order and is needed for his area.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. I urge adoption of the amendment, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—165

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

NAYS—0

NOT VOTING—25

Beloff	Donatucci, R.	McIntyre	Perzel
Bennett	Dumas	McKelvey	Rieger
Borski	Giammarco	Maiale	Rocks
Bowser	Harper	Mullen	Rodgers
Caltagirone	Johnson, J. J.	O'Brien, D. M.	Schmitt
Cohen	Jones	Oliver	Williams
DiCarlo			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

AMENDMENTS WITHDRAWN

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

Mr. LETTERMAN. Mr. Speaker, I withdraw permanently my amendment 5208.

On the question recurring,

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

Mr. CUNNINGHAM offered the following amendment:

Amend Sec. 3701, page 326, by inserting between lines 29 and 30 (d) Outline.—The board of school directors, with the assistance of the superintendent of schools, shall, on written request of the parent or person in loco parentis, prepare and make available a reasonably detailed outline of any program or course of study in which such parent's child is enrolled. Each outline shall contain sufficient detail to give notice of the specific elements of the content of the program or course of study offered.

On the question,

Will the House agree to the amendment?

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

Mr. CUNNINGHAM. Mr. Speaker, another short amendment, which reads as follows: "The board of school directors, with the assistance of the superintendent of schools, shall, on written request of the parent or person in loco parentis, prepare and make available a reasonably detailed program of any outline or course of study in which such parent's child is enrolled. Each outline shall contain sufficient detail to give notice of the specific elements of the content of the program or course of study offered."

Mr. Speaker, I think this is potentially the most important amendment that we will place in this School Code, and I say that because what is at stake here is the ability of parents to control the socialization process to which their children are exposed. It is terribly important to me and I think it is terribly important to the parents of this Commonwealth that they know what their public schools are teaching their children. It is very important from a philosophical point of view; it is very important from a moral and spiritual point of view, but it is important from the standpoint of the inalienable right of parents to control the upbringing of their children.

Mr. Speaker, we have in this Commonwealth today various interests that are doing their very best to win the hearts and minds of children in our school districts by exposing them to materials that are highly controversial and materials which I believe are legitimately and exclusively within the purview of parental discretion and not public school discretion as regards the extent to which children will or will not be exposed to these materials. I think it is very important that every parent has the right to know on request what their children are being taught in a specific course, and toward that end, Mr. Speaker, I ask for the adoption of this amendment.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. There is language in HB 1671 which restricts the testing of children in the academic and cognitive skills. This language was placed in the legislation so that some of the problems which Mr. Cunningham referred to would not be broached through the testing programs across Pennsylvania, and the gentleman's amendment further strengthens that spirit and that intent, and I would urge adoption of the amendment.

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

Mr. GALLAGHER. Mr. Speaker, I concur with Mr. Hayes. The amendment just reiterates what Mr. Hayes spoke of and just reiterates what the committee had put in the bill that is before us. I move for the adoption of this amendment.

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

The following roll call was recorded:

YEAS—163

Alden	Fisher	Letterman	Salvatore
Anderson	Foster, W. W.	Levi	Scheaffer
Armstrong	Foster, Jr., A.	Levin	Schweder
Arty	Frcind	Livengood	Serafini
Austin	Fryer	Lynch, E. R.	Seventy
Belardi	Gallagher	McCall	Shupnik
Bennett	Gallen	McClatchy	Sieminski
Berson	Gamble	McMonagle	Sirianni
Bittle	Gannon	McVerry	Smith, E. H.
Bowser	Gatski	Mackowski	Smith, L. E.
Brown	Geesey	Madigan	Spencer
Burd	Geist	Manderino	Spitz
Burns	George, C.	Manmiller	Stairs
Caltagirone	George, M. H.	Michlovic	Steighner
Cappabianca	Gladeck	Micozzie	Stewart
Cessar	Goebel	Milanovich	Stuban
Chess	Goodman	Miller	Swift
Cimini	Grabowski	Moehlmann	Taddonio
Civera	Gray	Mowery	Taylor, E. Z.
Clark, B. D.	Grieco	Mrkonic	Taylor, F.
Clark, M. R.	Gruppo	Murphy	Telek
Cochran	Hagarty	Nahill	Thomas
Cole	Halverson	Novak	Trello
Cornell	Hasay	Noye	Vroon
Coslett	Hayes, Jr., S.	O'Brien, B. F.	Wachob
Cowell	Helfrick	O'Donnell	Wargo
Cunningham	Hoeffel	Peterson	Wass
DeMedio	Honaman	Petrarca	Wenger
DeVerter	Hutchinson, W.	Phillips	Wilson
DeWeese	Irvis	Piccola	Wilt
DiCarlo	Itkin	Pistella	Wright, D. R.
Davies	Johnson, E. G.	Pitts	Wright, Jr., J.
Dawida	Kanuck	Pott	Yahner

Dietz	Klingaman	Pratt	Yohn
Dininni	Knight	Punt	Zeller
Dombrowski	Kolter	Pyles	Zitterman
Dorr	Kowalyszyn	Rasco	Zord
Duffy	Kukovich	Reed	Zwickl
Durham	Laughlin	Richardson	
Earley	Lehr	Ritter	Seltzer,
Fee	Lescovitz	Ryan	Speaker
Fischer			

NAYS—3

Hutchinson, A.	Lashinger	Lewis
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NOT VOTING—24

Beloff	Harper	Mullen	Rocks
Borski	Johnson, J. J.	O'Brien, D. M.	Rodgers
Cohen	Jones	Oliver	Schmitt
Donatucci, R.	McIntyre	Perzel	Shadding
Dumas	McKelvey	Pucciarelli	White
Giammarco	Maiale	Rieger	Williams

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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. CUNNINGHAM offered the following amendment:

Amend Sec. 1 (Sec. 3701), page 326, by inserting between lines 29 and 30 (d) Right to withhold student from portions of a program or course of study.—(1) The parents or persons in loco parentis of any student shall have the right to temporarily withdraw such student from that specific portion or those specific portions of any program or course of study which the parents deem to be morally or religiously objectionable and such withdrawal shall in no way prejudice such student's academic rights or standing. (2) The parental right set forth in paragraph (1) shall be exercised by written request of the superintendent of schools which request shall specifically designate that portion or those portions of the program or course of study which is objectionable and from which such student is to be withdrawn.

On the question,

Will the House agree to the amendment?

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

Mr. CUNNINGHAM. Mr. Speaker, this amendment is really offered in tandem with the amendment just considered and reads as follows: "(1) The parents or persons in loco parentis of any student shall have the right to temporarily withdraw such student from that specific portion or those specific portions of any program or course of study which the parents deem to be morally or religiously objectionable and such withdrawal shall in no way prejudice such student's academic rights or standing.

"(2) The parental right set forth in paragraph (1) shall be exercised by written request of the superintendent of schools which request shall specifically designate that portion or those portions of the program or course of study which is objectionable and from which such student is to be withdrawn."

Mr. Speaker, the right to know what the public schools are teaching our children, as parents, is a meaningless right unless we have the right and the ability to act on that knowledge by withholding our children and protecting our children from material which we deem to be spiritually or morally anathema to us. I could cite specific examples of materials that are increasingly being sought to be introduced into public school curricula which are highly controversial. I believe they are more spiritual than academic and I believe should be confined where a parent believes that such material should be exclusively within their purview as regards parental discretion, should be confined to that milieu rather than to the public schools.

The amendment is carefully drafted to avoid working a hardship on the school district and to avoid depriving parents again of an inalienable right which I believe needs the kind of firming up that this amendment will give it in this School Code. I urge the adoption of the amendment, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Hutchinson.

Mr. A. K. HUTCHINSON. Mr. Speaker, could I ask Mr. Cunningham a couple of questions?

The SPEAKER. The gentleman, Mr. Cunningham, indicates he will stand for interrogation. Mr. Hutchinson may proceed.

Mr. A. K. HUTCHINSON. Do you mean to tell me if there are 15 children in a gym class, they can get out of gym or swimming? Are we going to have to have another teacher to watch these kids in the meantime where both the mother and father work and care less about the kids?

Mr. CUNNINGHAM. Mr. Speaker, my amendment does not even do anything that approximates that. My amendment makes it clear that where parents have reason to believe that a given element of a given course is exposing their children to materials which are spiritually or morally anathema—and I will give you one very clear example, and that is a situation in which children are given a very heavily value-laden characterization of what abortion is, for instance, and the desirability of seeking abortions under various circumstances. Where those kinds of materials are sought to be introduced into a public school curriculum, I think it has to be the right of a parent to make a judgment with regard to the moral acceptability of that material and withdraw his child from that portion of that course which he believes to be morally anathema. I think it is something of an aspersion on the judgment of our parents to assume that they are going to attempt to argue that gym class is morally or spiritually anathema to them.

Mr. A. K. HUTCHINSON. Gym class to a lot of people, when they have to show their bodies, in one big bunch— In the swimming pool I went to, everybody swam bare naked, and a lot of people did not want to see their boys look at somebody else's privates. I think that the gym class—

The SPEAKER. Will the gentleman yield until we have order? The skinny-dipper may proceed.

Mr. A. K. HUTCHINSON. I think this is very important, because a lot of intelligent kids have two left feet, and their parents do not want everybody to see they have them. I think that most questions I have had on this subject—and I do not know how many schools teach about abortion, but the gym class showed me pictures about 50 years ago of stuff I never saw before when somebody came in to show me sex. So I think the gym class is one of the most important things for people, and you will see a lot of people trying to get out of gym class. I thank you very much.

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

Mr. CUNNINGHAM. Mr. Speaker, I offer this amendment because more and more there are special interests in this Commonwealth that are seeking to gain public acceptance of their peculiar perspectives on various kinds of controversial things by taking children, at their most impressionable stage in life, and attempting to influence the values of those children as regards their special interests, whatever that special interest is. It may be abortion; it may be homosexuality; it might be a variety of things, but the point I am making is, our schools are increasingly becoming a philosophical battleground over these kinds of issues. That is not a situation of my choosing and I am sure it is not a situation of our choosing, but in point of fact the situation exists and I project will continue to exist over time.

I think the right of a parent to demand and be given the curriculum content of the material to which his child is being exposed is meaningless if the parent does not have the right to act on that revelation by withholding his child from those portions of those courses which in his judgment are spiritually anathema, and I have enough confidence in the parents of this Commonwealth to assume that that right is not going to be abused in any way. Thank you, Mr. Speaker.

The SPEAKER. Does the gentleman from Allegheny, Mr. Goebel, wish to be recognized on this amendment? The gentleman is in order and may proceed.

Mr. GOEBEL. Mr. Speaker, would the gentleman, Mr. Cunningham, stand for interrogation?

The SPEAKER. The gentleman indicates that he will. Mr. Goebel may proceed.

Mr. GOEBEL. Could you give us some more examples of how something like this might come to pass where there are some moral objections? You cited one on abortion.

Mr. CUNNINGHAM. Mr. Speaker, I think, with all due respect to the gentleman making the inquiry, the examples I have given serve sufficiently to illustrate the intent of the amendment.

Mr. GOEBEL. Well, the purpose of my inquiry though is to determine how broad an aspect this could be. In other words, something could be judged immoral from almost any viewpoint or standpoint. I think Mr. Hutchinson was alluding there to someone perhaps in a swimming class who does not want to go into a shower because they would have to take all their clothes off in front of somebody. It might

be considered objectionable to some parents; I do not know. What about that?

Mr. CUNNINGHAM. Mr. Speaker, this country was founded in no small part on the notion of freedom of religion, on the notion of spiritual freedom, the ability to pursue one's spiritual predilections free from the interference of the state, and I think that each person's definition of that which is spiritually or morally acceptable or that which is spiritually or morally objectionable is something that each individual parent is going to have to decide for themselves, and they are going to have to weigh essentially two values. They are going to have to weigh on the one hand the interest they have in seeing their child get a good education, which would suggest the desirability of not withholding a child from any portion of any course that was not absolutely necessary to be withheld from, and on the other hand, the value they have got to weigh is the desirability of them as parents being able to control the spiritual upbringing of their children. I have enough confidence again in the parents of this Commonwealth to believe that this right, which I think is an inherent right—I think we are merely giving voice to it in the School Code; I do not think we are creating a new right by any means—but I have every confidence in the judgment and the wisdom of the parents of this Commonwealth in terms of their ability to exercise this right in a responsible way.

Mr. GOEBEL. Mr. Speaker, that was a nice speech on religious liberty and that, but I do not think it quite answered my question. In other words, was that a "yes" or a "no"?

Mr. CUNNINGHAM. Mr. Speaker, I would be glad to have the recorder read back my response. I do not recall it verbatim, but I think a "yes" or a "no" answer would have been insufficient, and if you would like me to repeat in essence my remarks, I would be glad to do that.

Mr. GOEBEL. Well, Mr. Speaker, if you care to repeat yourself, you go right ahead, but, in simplistic terms, could somebody actually keep their kid out of a swimming class because they feel it is immoral for them to expose themselves in front of other people? Is that a "yes" or a "no"? I think that is a pretty simple question.

Mr. CUNNINGHAM. Mr. Speaker, there is not a single right that we have under law that cannot be abused if you cite a preposterous hypothetical or point to an isolated incident, and I am not suggesting for a moment that— In fact, let me respond in this way: The postulation of bizarre hypotheticals I do not think in any way invalidates the necessity of our recognizing this inherent right, and I am sure that both you and I and everybody in this chamber could stand here all day and generate hypothetical situations that would constitute an abuse of this right.

The point I am making is, my assumption is that the parents of this Commonwealth are responsible and will exercise this right in a responsible way. Anybody who disagrees with that assumption, I imagine, would be well served by opposing the amendment. My offer of the amendment is a function of my confidence in the judgment of our parents.

Mr. GOEBEL. So then if I quite understood your answer, that was "yes," or was it "no"? So anyway, what I am trying to illustrate is that almost anything could be cited as being immoral, and it could lead to chaos in the schoolrooms. In here we have 203 members, and a lot of times we have 203 different opinions on one subject, and if we have 9,000 students in a school, you could have 4,000 different opinions of parents saying something is objectionable. Is this not actually the duty of the school directors to set the policy of the educational process within a school district so that we do have a good, moral educational system that is for everyone's best interest? Is this not where it is screened and not on the parental level?

Mr. CUNNINGHAM. Mr. Speaker, let me answer your question by reducing this whole thing to its simplest essence. The essential question we are dealing with here is, does the state ultimately have the right to take away from parents the ability of those parents to control the spiritual and moral upbringing of their children? That to me is a very Orwellian concept, and I think ultimately when we reach the point that we believe that the state should have primacy in deciding what is spiritually and morally acceptable for our children, regardless of what the parents of those children think, I believe we have reached a very sorry state of affairs, and there are no more emotional examples of this and no more intensely debated examples of this than the examples I gave you, and if you believe that the example I have given you is somewhat implausible, let me tell you that regardless of how anybody here feels about homosexuality, which is a very controversial issue, we have school districts in a state of these United States in which homosexuality is being taught to elementary and junior high school children as a viable alternative lifestyle, an acceptable, legitimate way of approaching sexual orientation. Now, that may or may not be a valid notion, but in point of fact, I think the parents of our children have some rights in the determination of whether their children will or will not be exposed to these kinds of doctrines, and I think it is insulting to the parents of the Commonwealth to even tacitly allege that they are going to irresponsibly make these kinds of judgments. I do not think it is up to the state to pass judgment on how responsible parents are being in determining what is spiritually and morally acceptable or objectionable for their children. I think it is the responsibility of the state to stay out of those areas of education, and where the state, either inadvertently or by design, interjects itself into those areas, I think it is the primary right of the parent to withhold his child from any exposure to those materials. I am simply asking for a statutory recognition of a right that I believe is an inherent, inalienable right.

Mr. GOEBEL. Mr. Speaker, I would respond to that by saying that I do not know of any school districts that teach spiritual things in a religious sense. They may expose students to different religions in some classes; I am not sure about it. We do not even have prayer in the public schools anymore. So I think more what you are talking about, from listening to you, Mr. Speaker, I think you are talking on

social problems. You are talking homosexuality; you are talking abortion; you are talking things that are more, I think, social problems than religious and spiritual. I think you are trying to tie in two things when you do not really mean to tie in two things. Could you give me the name of a school district that teaches that homosexuality is an acceptable way of life? Can you actually give me that school district's name?

Mr. CUNNINGHAM. Mr. Speaker, the state to which I am referring is California, and the school district involved is in the San Francisco area.

Again, there is an enormous inclination on my part to reiterate what I just said. I am not going to do that, but what I am going to say is, it is the primary right of parents to make these kinds of judgments. If they believe that abortion and homosexuality are contrary to the gospel of Christ and they are Christians, or contrary to Judaism and they are Jews, it should be their prerogative to shield their children from the state inculcation of those values. Thank you, Mr. Speaker.

Mr. GOEBEL. I would then, to wind up my interrogation, just like to say that I would put my faith and trust in the elected school directors in Pennsylvania. They are elected by the people to set the policy to provide the educational goals. These people are responsible elected people, and I think that before they would put a policy into a school system that would say that homosexuality, for instance, is an acceptable way of life, they would have to come from a community in which a majority of the persons would think that way. I do not think we have that in Pennsylvania. I do not think we have to worry about it. This is not California; it is not San Francisco. I think we have good school systems the way they are, and my faith and trust will stay with the school directors. I would oppose this amendment.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Hutchinson.

Mr. A. K. HUTCHINSON. Would Mr. Cunningham answer another question of mine?

The SPEAKER. The gentleman indicates that he will. Mr. Hutchinson may proceed.

Mr. A. K. HUTCHINSON. Do you know what the definition of "WADM" is in the school subsidy?

Mr. CUNNINGHAM. Mr. Speaker, I did not understand the gentleman's question. I am sorry.

Mr. A. K. HUTCHINSON. Do you know what the definition of the abbreviation "WADM" is in the school subsidy code?

Mr. CUNNINGHAM. Mr. Speaker, I think it is weighted and it is part of the—

The SPEAKER. Weighted average daily membership.

Mr. A. K. HUTCHINSON. If all these children are going to get out of these classes that you are talking about, is it going to hurt the local school district's subsidy money from the state?

Mr. CUNNINGHAM. No, Mr. Speaker, because these children are not being withdrawn from school. They are

simply being withdrawn from a specific portion of a specific curriculum. That might mean 2 minutes; it might mean 10 minutes; it might mean half of that class period, but it does not mean withdrawal from school by any stretch of the imagination.

Mr. A. K. HUTCHINSON. Do you think it has anything to do with the subsidy code, particularly in a gym class or a swimming class, if they do not want to go to the whole class?

Mr. CUNNINGHAM. Mr. Speaker, this has absolutely nothing to do with the kind of withdrawal from school that would impact the school subsidy rights of the school district involved. That is not correct.

Mr. A. K. HUTCHINSON. Do you know that for a fact?

Mr. CUNNINGHAM. I am telling you, as the maker of this amendment, that it is not my intention that this be the case, nor do I believe that any even remotely reasonable reading of the amendment would lead someone to make that suggestion.

Mr. A. K. HUTCHINSON. Would Mr. Hayes or Mr. Gallagher answer that question for me?

The SPEAKER. Will the gentleman, Mr. Gallagher, permit himself to be interrogated? The gentleman, Mr. Gallagher, indicates that he will. Mr. Hutchinson may proceed.

Mr. A. K. HUTCHINSON. Were you not listening, Mr. Gallagher?

Mr. GALLAGHER. I was listening and trying to read the School Code.

Mr. A. K. HUTCHINSON. Well, his amendment hurts the subsidy figures of local schools.

Mr. GALLAGHER. It could, if, say, a whole class decided to be out for a whole day. It could.

Mr. A. K. HUTCHINSON. How about part of the day?

Mr. GALLAGHER. It depends on the parents. Under his amendment, basically the parents could amass the size that they do not want to be in that school that day and lose a whole day. That is a state

Mr. A. K. HUTCHINSON. Well, how about the periods? Does that have something to do with it?

Mr. GALLAGHER. No, not for a period; no.

The SPEAKER. The Chair recognizes the lady from Susquehanna, Miss Sirianni. For what purpose does the lady rise?

Miss SIRIANNI. Mr. Speaker, the weighted average daily membership is based upon the homeroom membership, not upon each class membership. So if the student comes in to the homeroom in the morning, he is automatically counted.

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

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

The SPEAKER. The gentleman indicates that he will. Mr. Cowell may proceed.

Mr. COWELL. Mr. Speaker, I would like to discuss with you the limits on the right to withdraw from a program or course without prejudicing academic standing.

First of all, do I understand that the right for a parent to withdraw his or her child would be an absolute right and would be exercised only by a written statement, using the moral or religious objection as the reason, but it would be absolute within those bounds?

Mr. CUNNINGHAM. That is correct, Mr. Speaker.

Mr. COWELL. Secondly, when we speak of withdrawing, could you refine that a little bit more in your mind or in your legislative intent? When you say "withdraw," do you mean to take out of the school, to take home, or to take out of that classroom to put in another section of the building? What do you mean by "withdraw"?

Mr. CUNNINGHAM. Mr. Speaker, it means simply return to a study hall, for instance, I think would be a very reasonable way of withdrawing the child logistically.

Mr. COWELL. On the other hand, if there was a more substantial objection to a portion of a program or a substantial portion of a course, would it be possible, in your mind, for a parent to withdraw the student from the school building completely for a period of time?

Mr. CUNNINGHAM. Mr. Speaker, there is absolutely no necessity unless the material is being broadcast over the loudspeaker system in the school to remove the child from the entire school building simply because there is a portion of a course being taught in a given classroom that the parents of that child believe to be spiritually unacceptable or morally unacceptable. That does not reasonably necessitate withdrawal from school; merely removal from the classroom environment.

Mr. COWELL. Okay, Mr. Speaker, that leads to my next final point. You used the word "course" and you have cited a portion of a course several times during the interrogations that have gone on, but the actual amendment which you offered uses the words "program or course of study," and this entire chapter of the School Code, chapter 37, uses the words "program or course of study" with great regularity. How broadly would you define "program"? For instance, kindergarten is defined as a total program, not just a course.

Mr. CUNNINGHAM. Mr. Speaker, I find it very, very difficult to imagine that very many parents are going to define the entire kindergarten experience as morally unacceptable to them. Again, it would be possible, I suppose, to argue that some parents some place are going to find some preposterous and bizarre aspect of the school experience to be spiritually or morally objectionable. That is possible. We have 12 million people in Pennsylvania, and I am not prepared to say that somebody some place at some time is not going to behave in a way that is inexplicable. All I am saying is that the broad mass of Pennsylvania parents are responsible, mature parents who have unquestionably the ability to exercise this right in a way that is consistent with the well-being of the child.

Mr. COWELL. Well, Mr. Speaker, I would remind you that we apparently are into this whole discussion because of some bizarre thing that is going on in San Francisco,

California, rather than any specific instance of a problem or an alleged problem in Pennsylvania. So it is not too far out in left field to be concerned about what individuals or groups of individuals might do here in the Commonwealth, because this is the reality we will be dealing with. Is it possible, Mr. Speaker, that, again, as you anticipate the problem or try to deal with the problem where individuals have moral or religious objections, is it possible that some person or some families might object to, for instance, a program or a course of study that involves the study of foreign cultures, perhaps Communist cultures, if you will?

Mr. CUNNINGHAM. Mr. Speaker, I would like to give a very, very concrete example, because we seem to be getting mired down in specific examples. I think abortion is an outstanding example, because we have right now organizations, such as Planned Parenthood, who are doing everything in their power to get into the public schools under any possible guise to socialize children on the issue of abortion, to inculcate and instill in children values that will legitimize and favorably dispose them toward the concept of abortion, to remove the stigma, to undermine any parental influence that would discourage and negatively present the issue of abortion to children. That is a very excellent example that we have got to deal with right now, and regardless of our views on the issue of abortion, there are reasonable people on both sides of that question, and many, many reasonable people see it as a spiritual, religious issue. They believe that an unborn baby is a human being and they believe that terminating its existence is murder. Now, that is a very clear spiritual moral problem about which many, many parents are concerned.

Mr. COWELL. Mr. Speaker, with all due respect, you are not answering my question. You are talking about abortion and the amendment does not speak to the issue of abortion. It speaks to programs and courses of study and religious and moral objections to programs and courses of study. My question was, is it possible, under the terms of your amendment, for a parent or a group of people to object to the study of foreign cultures because there might be Communist cultures or foreign cultures of one sort or another included in that program of study?

Mr. CUNNINGHAM. Mr. Speaker, I apologize for repeating myself, but I am being asked the same questions over and over. It is possible for some parent some place at sometime in Pennsylvania to view anything as being spiritually or morally anathema. We could sit here and recite virtually endless hypotheticals in that regard. It is my assumption that the average Pennsylvania parent is responsible and is not going to be going off on bizarre tangents. To assume otherwise is to assume that the state is somehow more knowledgeable and more wise in parental upbringing than are the parents themselves, and I am not prepared to make that assumption.

Mr. COWELL. Mr. Speaker, I would disagree with your characterization of parents who might object to the study of Communist cultures as bizarre. I think that there may be many parents in this Commonwealth who would have that

kind of objection, and I am asking you, is it reasonable to assume that there may be parents in Pennsylvania with children enrolled in public schools who would have such an objection and is it reasonable to assume that some of those parents might exercise the right that you would give them?

Mr. CUNNINGHAM. Mr. Speaker, I did not characterize that particular hypothetical as bizarre. I said that it is possible to postulate all kinds of bizarre hypotheticals. Mr. Speaker, what I am not prepared to do is substitute my judgment for the judgment of the parents of this Commonwealth.

Mr. COWELL. Mr. Speaker, I know of many parents who probably would object, if they had the opportunity to object, to the study of certain foreign cultures as a part of a high school world cultures class. Is it your intention to give those parents the opportunity to withdraw their students from that world cultures program or course with your amendment?

Mr. CUNNINGHAM. What I am saying, Mr. Speaker, is that I do not believe that it is the right of the state to substitute its judgment for parental discretion as regards matters spiritual and moral.

Mr. COWELL. Mr. Speaker, you ducked again. What was your answer to my question?

Mr. CUNNINGHAM. Mr. Speaker, I have answered your question as best I know how.

Mr. COWELL. Mr. Speaker, may I make a brief comment, please?

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

Mr. COWELL. Thank you. Mr. Speaker, I can only interpret the unwillingness or the inability of the maker of the amendment to answer the several interrogations specifically to suggest that this amendment, although his intention may focus on abortion, as he has indicated several times, is very broadly stated; and it would give parents the legal right simply by sending a letter to the superintendent and saying, I do this on a basis of moral or religious convictions to pull a kid out of a gym class, as was suggested by Mr. Hutchinson, to pull a kid out of a biology class because you do not like some of those pictures in a book, to pull a kid out of history class because you do not like to study the Crusades because my side lost, to pull a kid out of a foreign cultures class because you are studying about Communist countries. I think that it is too broadly stated; it is an open-ended proposition; it is going to lead to abuse. This whole thing seems to be coming about because of something that is going on in the one school district in California; that was the one example that was cited, but we are going to have far too many instances of potential abuse in this Commonwealth if we adopt this. I understand the motivation of the gentleman. I think there might be a better way of accomplishing that without giving an open-ended right to every parent in the Commonwealth or for persons in loco parentis, however broadly that might be interpreted, to simply pull kids out of a class, perhaps for entire term, without comprising the academic standing or progress of

that child. I think that is much too far, much further than is necessary to accomplish the legitimate end that has been addressed by the maker of the amendment. I think there is a better way of approaching this, but in the meantime I think we should reject this amendment.

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

Mr. ZELLER. Mr. Speaker, you do not have to go to California; you can stay right in your own area; so do not worry, California is not alone on this. As a matter of fact, abortions is one phase of this abuse. Let us get into the business of WADM. Mr. Speaker, is it not correct that private school children are included in the public schools when they send in their numbers of population because of the fact that potentially, possibly, they could come into the school district? So that has nothing to do with it. Now, when you get down to real brass tacks, Mr. Goebel said—Let me explain. In other words, he said—that he does not see any problems presently, but let me explain a movie that we knocked out. And one individual came to me and said, well, we can do it locally and you can get rid of it, so why do you need this bill? But, I will tell you, it was difficult. The movie was called "Thursday's Child," and it is shown in Pennsylvania.

Now, let me tell you a little story about "Thursday's Child," if Mr. Speaker will allow. This is a movie that shows two boys walking down the street, hand in hand, doing window shopping, and a little smooch every once in a while, a little caress. And all of a sudden you find them before the counselor in school, and the counselor says, How long have you been going together? Then they explained to each other how they attracted one another, and there is nothing wrong with this. Now, they are showing the rest of the children that this is ordinary. There is nothing wrong with this. And they show that as a movie that was shown in a local county right next—and I will mention it—it was Montgomery County, in the school district. We went down there and we battled and we got rid of it. But it took a long time to get rid of that lousy movie, but we got rid of it. But the thing is they are doing it. And that is that so-called glorified education commission down here who thinks that they know it all and they are going to push this on you.

Now, let me also mention, for the benefit of others who may doubt this is going on, let us get back to California. They have a course out there approved by the state that allows self expression. And a boy will get in front of the class and masturbate and show the rest of the children there is nothing wrong with it, that you have to have self expression. Now isn't that beautiful? In other words, some of you people think it is not going on. Well, I have news for you. If you are going to let these so-called state-directed school commissions push this stuff down your you-know-what, I have news for you, it is about time we stand up and put a foot in the door, a foot in the door to send them a message. Now, well, you people think, oh, they will not do a thing like that, never. Well, you have your tongue in your

cheek and you are daydreaming. It is happening. It is happening now. And, again, it is a question of whose side you are on. It is as very simple as that. So I feel Mr. Cunningham has a very good point. Let's not just stop at abortions. It is all the way through the whole gamut. But you have to have this so-called self expression. And we have got to have, also, jobs for school teachers. We have to get them in all phases so that we do not lose employment. And they dream up all these fancy studies that they have got to shove down your children's throats. That is what is going on. That is the bottom line. And if you think it is not happening, it is happening. So it is a question, again, whose side you are on. Are you on the side of the children and parents or are you on the side of this education commission and others? That is the question. This is constitutionality and all that stuff. That is gobbledygook. That is stuff you are trying to push down us here to say that we are wrong. We cannot stop that. We have to allow that self expression. Baloney. It is about time we put a stop to it.

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

Mr. McVERRY. I will be very brief. I rise in opposition to the Cunningham amendment, and if I were to speak at length, I would like to echo the words of Mr. Cowell, because I think he stated it as clearly as it possibly can be stated. Mr. Cunningham, I think, argued best against his own amendment when he stated you could recite virtually endless hypotheticals whereby parents could come to the schools attempting to take their children out of one program or one course or another. And in that respect I think you are opening a Pandora's box and you will wreak havoc on local school districts. If you want to address the issue of teaching abortion in schools, then address the issue of teaching abortion in schools. If you want to address homosexuality or masturbation, then address those and make an amendment that says you are not allowed to teach those things in our public schools. But to say that with a broad sweeping brush a parent can pull a child out of any course because they are morally or philosophically objectionable or religiously objectionable is just too broad, and I urge the rejection of the Cunningham amendment.

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

Mr. GALLAGHER. Mr. Speaker, I think that we have debated this for almost a good hour at least. I think it is unfortunate that the gentleman has brought experiences or messages from other parts of the world here and forgets what we have here in our School Code. We have a curriculum by law, and it speaks of things like English, spelling, and reading and development and remedial reading and writing, arithmetic, science, geography, history of the United States and Pennsylvania, civics, safety education, health, physiology, physical education, environmental education, music and art.

Now I do not know if that really says that we are teaching abortion or homosexuality. It does not speak of anything like that, but it is nice to throw those kinds of

ingredients into people's minds and make them think that that is what our School Code allows to be taught in our schools in Pennsylvania. And I do not know of any school district, elected school boards, that would allow such things like that to be taught in their school districts in Pennsylvania. California, that is different, but do not bring California in here right now, unless you want to join them. But you better go and join them. Maybe you can help them out there. But all we want to do is to give them the basics, you know, the 3 R's. And somebody, I am sure, could find there is something morally wrong with learning English or mathematics or reading, depending on the book they give them to read, I am sure of that. I am sure of that. But I think Mr. Cunningham, unfortunately, must have read some terrible story of something that happened to somebody in another part of the world and it is not happening here.

I would like to see what would happen, Mr. Speaker, if on the section under our present School Code called the display of the United States flag, suppose somebody morally feels that the United States Flag should not be displayed. Under your amendment the parents could say, I do not like that flag anymore. I do not want my kid to see it. I do not want my kid to be in a classroom to understand what the United States flag is all about. The national flag, the patriotism, what patriotism is, that is part of our School Code. Maybe we will have parents saying that we are mad at the United States because of what happened around the world and we do not want to be part of that, and we are going to send a memo to the superintendent and tell him we do not want to be part of that program, which is a program every week, one period on patriotism of the United States. And then they have to teach United States history from the beginning of the revolution in the United States until the present time, and also Pennsylvania history. They might have to teach about the coal miners where they were hit over the heads by the company men and talk about the depression and all those terrible things. And some parents might find that morally wrong. But that is what we have been teaching in Pennsylvania. I think that your amendment goes too far away. It is like a young man who is afraid to open the door of the closet because he does not know what is there. We have elected school directors from that community and they certainly know their community and they are not going to allow these terrible things that you fantasize are going to happen in Pennsylvania. And they do not need an amendment of your context to protect them and their school directors. I think there are men and women school directors in our districts who know the districts very well and know how to handle the curriculum that is the law, and they will not allow such things to happen. So I urge the members to oppose this amendment.

The SPEAKER. The Chair recognizes the gentleman from Clarion, Mr. Wright.

Mr. D. R. WRIGHT. I really wish that I had something to add to this debate, and really all that I have to say is something that I feel compelled to say because I am trou-

bled about this amendment and I am troubled about my own vote. On the one hand, I believe that it is necessary for us, to the extent that it is possible, to return the public schools to the parents to give some parental control over the educational system. And for that reason, I guess I am going to be compelled to vote for this amendment, but I am troubled by the arguments that are presented as if there were some kind of conspiracy afloat in this Commonwealth to undermine the tender and fragile minds of our youth. I think if that is a problem—and it is a problem that has been asserted and not proved. If that is a problem—then the gentleman, Mr. Cunningham, should indeed bring that before the Education Committee. There should be some investigation of those problems so that we can deal with them. I am a little bit nonplussed that we have to deal with these kinds of issues here in the committee of whole rather than dealing with them more specifically and more deliberately in the committee structure. I am not sure these problems exist, and if they do exist, I think it is incumbent upon those who believe they exist to bring them before the appropriate committees of this House of Representatives. Thank you, Mr. Speaker.

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

Mr. CUNNINGHAM. Mr. Speaker, there is only one thing worse than a government that thinks it is smarter than the people it governs, and that is a government that thinks it is morally superior to the people it governs. And I submit that in this amendment we are saying that we as a government are not morally superior to the people we govern; that it is the inalienable right of parents to decide what is morally acceptable and morally objectionable as regards the upbringing of their children, and I urge the adoption of the amendment.

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

The following roll call was recorded:

YEAS—72

Alden	Gallen	Lynch, E. R.	Smith, L. E.
Armstrong	Gannon	McClatchy	Spencer
Arty	Geist	Mackowski	Spitz
Civera	George, C.	Micozzie	Swift
Clark, M. R.	Goebel	Miller	Taddonio
Cochran	Gruppo	Mowery	Taylor, E. Z.
Cornell	Hagarty	Noye	Taylor, F.
Cunningham	Halverson	Perzel	Telek
DeMedio	Hasay	Peterson	Thomas
DeVerter	Hayes, Jr., S.	Phillips	Trello
DiCarlo	Helfrick	Pitts	Vroon
Dietz	Honaman	Pratt	Wass
Dorr	Johnson, E. G.	Reed	Wenger
Durham	Kanuck	Ritter	Wright, D. R.
Fischer	Klingaman	Salvatore	Yahner
Foster, W. W.	Kowalyszyn	Scheaffer	Yohn
Foster, Jr., A.	Lehr	Schweder	Zeller
Freind	Levi	Smith, E. H.	Zwilk

NAYS—95

Anderson	Duffy	Lescovitz	Punt
Austin	Fee	Letterman	Pyles
Belardi	Fisher	Levin	Rasco
Bennett	Fryer	Lewis	Rodgers
Berson	Gallagher	Livengood	Ryan

Bittle	Gamble	McCall	Serafini
Bowser	Gatski	McMonagle	Seventy
Brown	Geesey	McVerry	Shadding
Burd	George, M. H.	Madigan	Shupnik
Burns	Gladeck	Manderino	Sieminski
Caltagirone	Goodman	Manmiller	Sirianni
Cappabianca	Grabowski	Michlovic	Stairs
Cessar	Gray	Milanovich	Steighner
Chess	Grieco	Moehlmann	Stewart
Cimini	Hoeffel	Mrkonic	Stuban
Clark, B. D.	Hutchinson, A.	Murphy	Wachob
Cole	Hutchinson, W.	Nahill	Wargo
Coslett	Irvis	Novak	White
Cowell	Itkin	O'Brien, B. F.	Wilson
DeWeese	Knight	O'Donnell	Wilt
Davies	Kolter	Petrarca	Wright, Jr., J.
Dawida	Kukovich	Piccola	Zitterman
Dininni	Lashinger	Pistella	Zord
Dombrowski	Laughlin	Pott	

NOT VOTING—23

Beloff	Harper	Mullen	Rocks
Borski	Johnson, J. J.	O'Brien, D. M.	Schmitt
Cohen	Jones	Oliver	Williams
Donatucci, R.	McIntyre	Pucciarelli	
Dumas	McKelvey	Richardson	Seltzer,
Earley	Maiale	Rieger	Speaker
Giammarco			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

REMARKS ON VOTE

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

Mr. WILSON. Mr. Speaker, I was inadvertently voted in the negative on the Sirianni amendment, 5873. I would like the record to be corrected to show that I would have voted in the affirmative.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

CONSIDERATION OF HB 1671 CONTINUED

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

Mr. CUNNINGHAM offered the following amendments:

Amend Sec. 1 (Sec. 3702), page 327, line 3, by striking out "shall" and inserting may

Amend Sec. 1 (Sec. 4702), page 387, line 5, by striking out "shall" and inserting may

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

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

Mr. CUNNINGHAM. Mr. Speaker, again, this amendment simply returns us to current law, making kindergarten permissive rather than mandatory in the Commonwealth. This has been the case traditionally. The new school code

bill before us would make kindergarten mandatory. Most of the overwhelming majority of school districts have kindergarten today, in any event.

I believe that what we are dealing with here is essentially a local issue. I think it is essentially the right of local people to decide whether they are going to have kindergarten or not. We are faced with declining birth rates that are going, I think, to dictate a retreat from many of the kindergarten offerings that we currently have in place in many of our school districts. It is not unreasonable to argue that the effort to make kindergarten mandatory will end up providing a springboard in an effort to further lower the mandatory education age to end up compelling our school districts to teach programs for children who are even pre-kindergarten.

It seems to me again, we have heard a great deal of very laudatory observations on the wisdom of local school boards. I appreciate that. I was a little bit surprised to hear some of those arguments a few moments ago, but I hope that the confidence we have in local school boards still obtains and that we will defer to them as regards the issue of kindergarten locally. Thank you, Mr. Speaker.

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

Mr. FREIND. I rise to support this amendment, and not so much from the philosophical grounds.

It is true that this amendment would only affect about six school districts which right now do not provide kindergarten. But where the present situation in the code requiring kindergarten could have a significant impact is this: If in fact the code passes the way it is right now and kindergarten is required to be offered by every school district, then each school district will be required also to provide transportation for public school kindergarten students, and, because of Act 372, they will also be required to provide transportation for nonpublic school kindergarten students. Right now, because it is "may" instead of "shall" in the present law, we are not forced or obliged to provide kindergarten if a school district chooses not to. I think we should leave it at "may." I think Mr. Cunningham's amendment is a good one and I would ask for your support for it.

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

Mr. GALLAGHER. Mr. Speaker, I rise to oppose the amendment. The amendment was similarly offered in the committee and was decided by the committee that it shall be mandatory in Pennsylvania that they have kindergarten offered to all; "shall be offered." So it does not mean that they have to be there, but it is offered to the parents of all children between the ages of 5 and 6 years and may be offered to the children between the ages of 4 to 5 years. It does say that in Pennsylvania we shall have kindergarten being offered; not that they have to be there. It is offered to the parents, and to bring the children there between the ages of 5 and 6 years of age. So you can be misled by the fact that he thinks it is mandatory because you say it is "shall." They shall offer, offer kindergarten programs. It

does not mean that they have to have this, that the children have to go. It does mean that the district has to provide it, to offer it to the parents, to offer it. If the parents do not want to send their children there, they do not have to send them there for kindergarten. Now they shall offer. Read a little further. If you read any further, you will find that it says, "A kindergarten program shall be offered to all children between the ages of 5 and 6 years." And "may be offered," again, "may be offered to the children between the ages of 4 and 5 years of age." I think it is redundant at this point. There are only six districts in the entire state that do not have kindergarten, and I think it behooves us to reject this amendment and maintain the system and include those other six districts into the fold in having kindergarten. Thank you.

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

Mr. DUFFY. Mr. Speaker, I would like to ask Mr. Gallagher a question.

The SPEAKER. The gentleman, Mr. Gallagher, indicates that he will stand for interrogation. Mr. Duffy may proceed.

Mr. DUFFY. Mr. Speaker, does this mean that the six school districts in Pennsylvania that do not have kindergartens today will be forced to offer their youngsters a kindergarten? Is this right?

Mr. GALLAGHER. Yes, this is correct. If it is adopted, those six districts that do not provide "shall"—when this becomes law—"shall offer" to the children of the ages of 5 and 6. They "shall" do it; they "shall offer" it to them. If there are enough people in that district that want kindergarten, they will then provide it. There has to be enough kids to want it to be able to do it.

Mr. DUFFY. I have one school district that does not have kindergarten. Do you realize that it is going to cost this school district \$250,000 a year to put forth this kindergarten program? Now do you not feel that the people in that area there should have the right to go into it if they so desire and not be forced into it?

Mr. GALLAGHER. No, it is just like any other district. Unfortunately, you have one district that does not have it. They would have to offer it. It would cost them a certain amount of money, but they will be subsidized by the state like every other school district is subsidized for their kindergarten. I do not know if it is going to be that figure you mentioned that is going to be the total cost and how much of that cost is going to be subsidized by the state. But they would have to offer that to the children between the ages of 5 and 6.

It is just like when the kids are between the ages of 6 and 7, they have to go to elementary school; whether they want to or not they have to go. Now this is going a little further, saying that for the six in the whole state who do not have kindergarten, we are providing that they shall offer a kindergarten program, and they shall, when they do that, be subsidized by the state for their normal share for kindergarten like every other school district. I do not think it will cost you as much as your district thinks it will.

Mr. DUFFY. Well, I think it is about time, when we have people go forth on election day and elect school board directors, that they tell their school systems what they would so desire. I think it is about time that we left them decide what they want in their own school districts.

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

Mr. CUNNINGHAM. Mr. Speaker, I have no remarks.

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

Mr. COWELL. Mr. Speaker, what we are really talking about is equal opportunity, equal education opportunity, for kids who happen to live in five or six districts of the Commonwealth.

It is all well and good to argue that those local school districts and the people who live in those districts ought to have an opportunity to make a decision about whether or not to offer kindergarten programs, if we think that kindergarten is just something extra that is nice to have around. But if we accept the fact, accept the argument, that a kindergarten program is an integral part of a system of basic education, we ought to ensure that every youngster in the Commonwealth has an opportunity to take advantage of a kindergarten program. That is what the language of the school code bill does right now. The Cunningham amendment proposes to take that opportunity away from a couple thousand kids who live in only five or six communities of the Commonwealth.

I think that if we put any particular grade on the ballot in most school districts and we said, should we do away with the first grade, there are not really that many families in a particular district that have kids in the first grade and chances are we might decide to do away with it. Or if we decided to do away with any particular aspect of the program of basic education, chances are a decision might be made to do away with it. But we should not make a judgment, not an education judgment, on that basis.

The question is: Is it an important part of the system of basic education? I think most educators agree that it is. Certainly the Department of Education agrees that it is because the current language of the code reflects the recommendation of the Department of Education. In fact, if you ask most parents in the Commonwealth, parents who have children that are 5 years old and eligible for a kindergarten program, their answer is yes. Because if you look through most of the communities of the Commonwealth, when parents have an opportunity to take advantage of a kindergarten program, in overwhelming numbers they do. I know that for certain because I have two youngsters who have just completed a kindergarten program. They are in the first and second grade now and I had a chance to see what is happening there on a firsthand basis.

I think that Mr. Cunningham may be correct when he said earlier that current circumstances might dictate a retreat—those were his words, “dictate a retreat”—from kindergarten programs in some communities. That might well occur. Where we are going to have smaller number of

families who have a stake in a kindergarten program, some people might decide that, well, they do not really count because there are so few of them. We should reject that kind of thinking though if we accept the fact that kindergarten is an integral part of the system of basic education. I believe it is. I think educators feel that it is and I think parents across the State who have had a chance to take advantage of it have confirmed that by enrolling their children in a kindergarten program. It is a basic program, a basic opportunity, that should be made available to every youngster in the Commonwealth. We should, therefore, defeat the Cunningham amendments.

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

Mr. TADDONIO. Mr. Speaker, I find it rather unusual to think that, in this day and age of high inflation and of decreasing school subsidy or limited school subsidy, we are actually talking about mandating a tax increase on certain school districts. We are not talking about a small tax increase. For the school district I represent this would amount to 4 mills. That is after the state subsidy that the gentleman from Bucks had mentioned. The cost per pupil in our district would be \$570. I want to say one thing: In our district, anyone who wants to go to private kindergarten goes. There are private kindergartens. Just look at the difference in the cost. The cost of private kindergarten tuition is \$180. The cost of public is \$570. There is something the matter there.

I think that our school board probably has more PhD's on it than a number of other school boards across the Commonwealth, and they have decided time and time again that public kindergartens would not be worth the investment; that the people are being served the way it is now.

Furthermore, I would like to point out a recent study of 1979 from Brigham Young University, which has not fewer than 756 references. The conclusion of that study is that research shows that delayed schooling with acceleration at a later age is more effective and potentially less damaging mentally, socially and emotionally than early school entrance. Formal training and cognitive tests during early childhood sometimes improve intellectual functioning, but such induced learning is likely, one, to be limited in scope; two, to lack permanence; and, three, to be of little benefit to the child in later learning and achievement. In fact, earlier than usual former learning is often detrimental to later learning. Specific training to solve problems does not generally become effective until about the fourth grade.

Mr. Speaker, I submit to you that perhaps we ought to go slow with kindergarten; with studies like this that are coming out that raise questions over the value of it, plus the fact that everybody seems to be getting along pretty well with the situation the way it is, I see no reason to change, jump off the bridge, and mandate it to these other school districts. My goodness, local control is one of the primary concepts that we try to preach around here, and here we are trying to usurp that and force this on all the other six school districts just because there are only six. I think that

is a job that the local people ought to do and that is something that ought to be left up to the local people. I see no reason to adopt mandatory kindergarten.

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

Mr. ZELLER. Mr. Speaker, here again we have the lack of consistency. On the last amendment from Mr. Cunningham, in regard to the so-called moral issue, we heard the same people use the same rhetoric in regard to the local school boards can handle that, and the folks back home go to the school board and straighten them out, and you get everything all straightened out, but now they say you should not do that when it comes to kindergarten. We shall; you have got to do it.

Everyone here voted for HB 1, Mr. Taddonio's bill, who said that when you force an area into doing something, you had better provide the money. You do not provide all of it; you know you do not, when it comes to kindergarten. You do not provide it all. So, therefore, here again, and my good friend that got up here and talked about it, from Allegheny County, certainly you are going to be forced. That is why you should leave it as "may." But here is the kicker. Here is the real kicker, and watch this one. In there they have kindergarten for 4-year-olds, but that is only "may." And when they get this thing in, if they defeat the Cunningham amendment and they have "shall" for 5, then they are going to come back with their sweet amendment later on. Well, we have "shall" for 5; why not "shall" for 4? We have to create more jobs, you know, because the Pennsylvania State Education Association is losing school teachers and with the kind of population problems, we have got to create jobs. So let us get it down to 3 and 2. Why not get them right from the cradle? What the heck. Let us get a lot of jobs out of here. My goodness, we will have what you call a first-class babysitting operation in our schools. Let us not stop there, Mr. Speaker. Let us have it all the way down the line. Let us get those jobs moving. My goodness. You know that I do not go along with that.

So, therefore, if you get the "shall" for the 5-year-olds and force these school districts into it, next it is going to be 4. And they are going to have a sweet little day with you. So do not let them shove this one down you. By all means that is the angle, and you know it. The whole thing is, and I know the PSEA. By the way, I should not say that because it will probably get the votes in here on us, because they take good care of folks at election time, you know. So you have got to watch this, because this is jobs again. Therefore, use your own good judgment as to your campaign. I am going to vote for Mr. Cunningham's amendment, and let us get on with it and not allow them to force the district into something that you said on the last amendment we should let the school boards decide locally on those moral issues. But this we should not. Is that not double talk?

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—121

Alden	Freind	Lehr	Salvatore
Anderson	Fryer	Letterman	Scheaffer
Armstrong	Gallen	Levi	Schweder
Arty	Gamble	Lewis	Serafini
Austin	Gannon	Livengood	Seventy
Belardi	Gatski	Lynch, E. R.	Sieminski
Bennett	Geesey	McCall	Sirianni
Bittle	Geist	McVerry	Smith, E. H.
Bowser	George, C.	Mackowski	Smith, L. E.
Brown	George, M. H.	Madigan	Spencer
Burd	Gladeck	Manmiller	Spitz
Burns	Goebel	Micozzie	Steighner
Caltagirone	Grabowski	Milanovich	Swift
Cessar	Grieco	Moehlmann	Taddonio
Cimini	Gruppo	Mrkonic	Taylor, E. Z.
Civera	Hagarty	Nahill	Telek
Clark, M. R.	Halverson	Novak	Thomas
Cornell	Hasay	Noye	Trello
Coslett	Hayes, Jr., S.	Perzel	Vroon
Cunningham	Helfrick	Peterson	Wenger
DeVerter	Honaman	Phillips	Wilson
DiCarlo	Hutchinson, A.	Pistella	Wright, Jr., J.
Dawida	Hutchinson, W.	Pitts	Yohn
Dietz	Johnson, E. G.	Pratt	Zeller
Dombrowski	Kanuck	Punt	Zitterman
Dorr	Klingaman	Pyles	Zord
Duffy	Knight	Rasco	Zwikl
Durham	Kolter	Reed	
Fisher	Kowalshyn	Ritter	Seltzer,
Foster, W. W.	Kukovich	Rodgers	Speaker
Foster, Jr., A.	Lashinger	Ryan	

NAYS—40

Berson	Fee	Levin	Pott
Borski	Fischer	McMonagle	Pucciarelli
Chess	Gallagher	Manderino	Shadding
Clark, B. D.	Goodman	Michlovic	Stairs
Cochran	Gray	Miller	Stewart
Cole	Hoeffel	Mowery	Stuban
Cowell	Irvic	Murphy	Wachob
DeMedio	Itkin	O'Brien, B. F.	Wass
DeWeese	Laughlin	O'Donnell	Wilt
Davies	Lescovitz	Piccola	Wright, D. R.

NOT VOTING—29

Beloff	Harper	Mullen	Schmitt
Cappabianca	Johnson, J. J.	O'Brien, D. M.	Shupnik
Cohen	Jones	Oliver	Taylor, F.
Dininni	McClatchy	Petrarca	Wargo
Donatucci, R.	McIntyre	Richardson	White
Dumas	McKelvey	Rieger	Williams
Earley	Maiale	Rocks	Yahner
Giammarco			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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?

Miss SIRIANNI offered the following amendments:

Amend Sec. 1 (Sec. 3702), page 327, line 5 by inserting a period after "years"

Amend Sec. 1 (Sec. 3702), page 327, lines 5 and 6 by striking out "and may be offered to children between the ages of" in line 5 and all of line 6

Amend Sec. 1 (Sec. 4702), page 386, lines 28 through 30 by striking out "Children between the ages of four years" in line 28, all of line 29 and "to kindergarten at the discretion of the school district." in line 30

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

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

Miss SIRIANNI. Mr. Speaker, this amendment eliminates the "may" provision for kindergartens for 4-year-olds. I think that at this time with our economy the way it is, it is no time to try to be putting 4-year-olds into the School Code. I do not think our school districts can afford it even though they might like to do it, and I do not think we should put them under the pressure of having to be pressured by parents who want to do it. You know we are not going to be getting as much money from the Federal Government and they are not receiving any increases from the state. So I think we are going to be putting them in a position where people are going to be demanding things that they cannot afford.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. In that the House adopted the previous amendment on kindergartens, I believe that it would be proper for the House to support the Sirianni amendment.

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

Mr. GALLAGHER. Mr. Speaker, Mr. Hayes, that sounds great, but what you are doing is prohibiting any district if they so desire to provide kindergarten from the ages of 4 and 5. Some districts do it now, and the present code is that they may, and you are prohibiting them to do it on their own. This present HB 1671 does not mandate. It just says that it be offered to children between the ages of 4 and 5 years. Your amendment, Mr. Speaker, takes away that right of that school board that they may offer. I oppose that amendment.

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

The following roll call was recorded:

YEAS—111

Alden	Fryer	Levi	Scheaffer
Anderson	Gallen	Livengood	Serafini
Armstrong	Gamble	McCall	Seventy
Arty	Gannon	McClatchy	Sieminski
Austin	Gatski	McVerry	Sirianni
Belardi	Geesey	Mackowski	Smith, E. H.
Bittle	Geist	Madigan	Smith, L. E.
Bowser	George, M. H.	Manderino	Spencer
Burd	Goebel	Manmiller	Spitz
Burns	Grabowski	Milanovich	Steighner
Cappabianca	Grieco	Moehlmann	Swift
Cessar	Gruppo	Mrkonic	Taddonio
Cimini	Hagarty	Novak	Taylor, E. Z.
Clark, B. D.	Halverson	Noye	Telek
Clark, M. R.	Hasay	O'Donnell	Thomas
Coslett	Hayes, Jr., S.	Perzel	Trello
Cunningham	Helfrick	Peterson	Vroon
DeVerter	Honaman	Petrarca	Wass
Dietz	Hutchinson, A.	Phillips	Wenger
Dininni	Hutchinson, W.	Piccola	Wilson

Dombrowski	Irvis	Pitts	Wright, Jr., J.
Dorr	Kanuck	Pratt	Yohn
Duffy	Klingaman	Punt	Zeller
Durham	Knight	Rasco	Zord
Earley	Kolter	Ritter	Zwikl
Fisher	Laughlin	Rodgers	
Foster, W. W.	Lehr	Ryan	Seltzer,
Foster, Jr., A.	Letterman	Salvatore	Speaker
Freind			

NAYS—51

Bennett	Dawida	Levin	Reed
Berson	Fee	Lynch, E. R.	Shadding
Brown	Fischer	McMonagle	Shupnik
Caltagirone	Gallagher	Michlovic	Stairs
Chess	George, C.	Micozzie	Stewart
Civera	Gladeck	Miller	Wachob
Cochran	Gray	Mowery	Wargo
Cornell	Hoeffel	Murphy	White
Cowell	Itkin	Nahill	Wilt
DeMedio	Kowalyszyn	O'Brien, B. F.	Wright, D. R.
DeWeese	Kukovich	Pistella	Yahner
DiCarlo	Lashingier	Pott	Zitterman
Davies	Lescovitz	Pyles	

NOT VOTING—28

Beloff	Goodman	McKelvey	Rieger
Borski	Harper	Maiala	Rocks
Cohen	Johnson, E. G.	Mullen	Schmitt
Cole	Johnson, J. J.	O'Brien, D. M.	Schweder
Donatucci, R.	Jones	Oliver	Stuban
Dumas	Lewis	Pucciarelli	Taylor, F.
Giammarco	McIntyre	Richardson	Williams

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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. R. R. FISCHER offered the following amendments:

Amend Sec. 1 (Sec. 3702), page 327, line 11, by inserting after "education;" energy and

Amend Sec. 1 (Sec. 3702), page 327, line 21, by inserting after "education;" where it appears the first time energy and

On the question,

Will the House agree to the amendments?

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

Mr. R. R. FISCHER. Mr. Speaker, this amendment would provide for a system of energy instruction in Pennsylvania to help our people learn more about energy problems and energy solutions and energy conservation.

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

Mr. GALLAGHER. Mr. Speaker, I would like to interrogate the gentleman, Mr. Fischer, about this amendment.

The SPEAKER. The gentleman indicates that he will stand for interrogation. Mr. Gallagher may proceed.

Mr. GALLAGHER. Mr. Speaker, I agree with you. I think this is an excellent program to inject into the School Code. I just wonder is it morally and religiously okay that we put it in there as curriculum?

Mr. R. R. FISCHER. I think it is, yes.

Mr. GALLAGHER. If you think so, I agree with you, Mr. Speaker, and I urge that we adopt that amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—131

Alden	Dorr	Lescovitz	Serafini
Anderson	Duffy	Levi	Seventy
Armstrong	Durham	Lynch, E. R.	Shupnik
Arty	Earley	McCall	Sirianni
Austin	Fee	McVerry	Smith, E. H.
Belardi	Fischer	Mackowski	Smith, L. E.
Bennett	Fisher	Madigan	Spencer
Berson	Foster, Jr., A.	Manmiller	Stairs
Bittle	Freind	Michlovic	Steighner
Bowser	Gallagher	Micozzie	Stewart
Brown	Gallen	Milanovich	Stuban
Burd	Gamble	Miller	Swift
Burns	Gannon	Moehlmann	Taddonio
Caltagirone	Geesey	Mowery	Taylor, E. Z.
Cappabianca	Geist	Mrkonic	Telek
Cessar	George, C.	Murphy	Thomas
Chess	George, M. H.	Noye	Vroon
Cimini	Goebel	O'Brien, B. F.	Wachob
Civera	Goodman	Perzel	Wargo
Clark, M. R.	Grabowski	Peterson	Wass
Cole	Grieco	Phillips	Wenger
Cornell	Gruppo	Piccola	Wilson
Coslett	Hasay	Pistella	Wilt
Cowell	Hayes, Jr., S.	Pott	Wright, D. R.
Cunningham	Helfrick	Pratt	Wright, Jr., J.
DeMedio	Honaman	Punt	Yahner
DeVerter	Hutchinson, W.	Rasco	Yohn
DeWeese	Itkin	Reed	Zitterman
DiCarlo	Klingaman	Ritter	Zord
Davies	Kowalshyn	Rodgers	Zwilk
Dawida	Kukovich	Ryan	
Dietz	Laughlin	Salvatore	Seltzer,
Dininni	Lehr	Schweder	Speaker
Dombrowski			

NAYS—31

Clark, B. D.	Hutchinson, A.	Lewis	Pitts
Cochran	Irviss	Livengood	Pyles
Foster, W. W.	Kanuck	McMonagle	Scheaffer
Fryer	Knight	Manderino	Sieminski
Gatski	Kolter	Nahill	Spitz
Gladeck	Lashingner	Novak	Trello
Gray	Letterman	O'Donnell	Zeller
Hagarty	Levin	Petrarca	

NOT VOTING—28

Beloff	Harper	McKelvey	Rieger
Borski	Hoefel	Maiale	Rocks
Cohen	Johnson, E. G.	Mullen	Schmitt
Donatucci, R.	Johnson, J. J.	O'Brien, D. M.	Shadding
Dumas	Jones	Oliver	Taylor, F.
Giammarco	McClatchy	Pucciarelli	White
Halverson	McIntyre	Richardson	Williams

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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. LIVENGOOD offered the following amendments:

Amend Sec. 1 (Sec. 3702), page 327, line 16, by inserting after "civics" and government studies

Amend Sec. 1 (Sec. 3702), page 327, line 26, by inserting after "SUBSTANCES." The course of study on civics and government shall be offered in either the junior or senior year for students in the secondary school level.

Amend Sec. 1 (Sec. 3702), page 327, line 30 by inserting after "levels." The secretary shall require that the course of study on civics and government be offered in either the junior or senior year for students in the secondary school level.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Armstrong, Mr. Livengood.

Mr. LIVENGOOD. Mr. Speaker, one semester of a course in government would be mandated in either the junior or senior year in high school by this amendment. I ask for support of the amendment.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. I believe that the gentleman's amendment is redundant. If the House would just listen closely, beginning on page 327, line 16, social studies is mandated at the secondary school level, and social studies is to include civics, economics, world history, United States history, and Pennsylvania history. Unless there has been some change in the teaching of social studies in the last few years, I respectively suggest, Mr. Speaker, that we have already provided in HB 1671, in the current printer's number, a course of instruction which does touch upon our government here in Pennsylvania, our government here in America, and it teaches it in a historical sense and also the contemporary sense. and I believe that the gentleman's amendment is redundant and it could beg for a separate course referred to as government studies. I would suggest that the gentleman read that provision I have just alluded to and see if he would not agree to the observations I have just made.

The SPEAKER. The Chair recognizes Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, I would like to allow Mr. Livengood to make a reply to Mr. Hayes, if he wishes.

The SPEAKER. The Chair recognizes Mr. Livengood.

Mr. LIVENGOOD. Mr. Speaker, courses in government are not taught now in every school. It is a course that is decided by the local school district. In the School Code under section B there, it says the Secretary shall designate which ones of the mandated programs or courses of study shall be required, and this amendment says that a course in government will be mandated by the Secretary in either the junior or senior year. This is to guarantee that all students are offered a course in government in either the junior or senior year, one semester of it.

The SPEAKER. The Chair recognizes Mr. Gallagher.

Mr. GALLAGHER. Mr. Speaker, at the top of the page, if you will look at it, it says "A. Mandated programs of courses, the mandated courses of the study are as

follows:....” Then it goes on, Mr. Speaker, and explains, as Mr. Hayes did, what they are supposed to teach in civics and government. Then it goes on further as far as in the junior and the secondary level, which includes the junior and senior years, and throughout the rest of that section they are supposed to teach patriotism, allegiance to the flag, what the code is all about. So I think it might be well if you would consider it as already being there. It is mandated. Each school district has to teach these items. We do have some districts that, for example, in the Penn Hills area, we still do not have fire drills, I do not think. Now, everybody should have a fire drill at least once a month, but they just will not have a fire drill. Every school district is supposed to have one period of patriotism on what allegiance to the flag is all about, and I have yet to find any district that could put up their hands and say, yes, we do teach it every week. That is unfortunate. But that is the law now, to teach what you suggest in your amendment, and it is mandated. I think if you wanted to make sure, because you find that there are areas where they do not, then put a penalty in there that if they do not teach this, you are going to withdraw the subsidy for that period of time. I think you would be able to achieve what you are after, rather than just adding more language here, because it is mandated.

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

The following roll call was recorded:

YEAS—44

Bennett	Fischer	Letterman	Pratt
Bowser	Foster, Jr., A.	Livengood	Reed
Brown	Fryer	Milanovich	Spitz
Caltagirone	George, C.	Murphy	Stairs
Chess	Hoeffel	Novak	Steighner
Clark, B. D.	Hutchinson, A.	O'Brien, B. F.	Stewart
Cochran	Knight	O'Donnell	Vroon
DeMedio	Kolter	Petrarca	Wachob
Dawida	Kowalshyn	Pistella	Wilt
Dombrowski	Laughlin	Pitts	Wright, D. R.
Fee	Lescovitz	Pott	Yahner

NAYS—119

Alden	Freind	Lewis	Schweder
Anderson	Gallagher	Lynch, E. R.	Serafini
Armstrong	Gallen	McCall	Seventy
Arty	Gamble	McClatchy	Shadding
Austin	Gannon	McMonagle	Shupnik
Belardi	Gatski	McVerry	Sieminski
Berson	Geesey	Mackowski	Sirianni
Bittle	Geist	Madigan	Smith, E. H.
Burd	George, M. H.	Manderino	Smith, L. E.
Burns	Gladeck	Manmiller	Spencer
Cappabianca	Goebel	Michlovic	Stuban
Cessar	Grabowski	Micozzie	Swift
Cimini	Grieco	Miller	Taddonio
Civera	Gruppo	Moehlmann	Taylor, E. Z.
Clark, M. R.	Hagarty	Mowery	Telek
Cole	Halverson	Mrkonic	Thomas
Cornell	Hasay	Nahill	Trello
Coslett	Hayes, Jr., S.	Noye	Wargo
Cowell	Helfrick	Perzel	Wass
Cunningham	Honaman	Peterson	Wenger
DeVerter	Hutchinson, W.	Phillips	Wilson
DeWeese	Irvis	Piccola	Wright, Jr., J.
Davies	Itkin	Punt	Yohn
Dietz	Kanuck	Pyles	Zeller
Dininni	Klingaman	Rasco	Zitterman
Dorr	Kukovich	Ritter	Zord

Duffy	Lashinger	Rodgers	Zwicl
Durham	Lehr	Ryan	
Earley	Levi	Salvatore	Seltzer,
Fisher	Levin	Scheaffer	Speaker
Foster, W. W.			

NOT VOTING—27

Beloff	Goodman	McKelvey	Rieger
Borski	Gray	Maiale	Rocks
Cohen	Harper	Mullen	Schmitt
DiCarlo	Johnson, E. G.	O'Brien, D. M.	Taylor, F.
Donatucci, R.	Johnson, J. J.	Oliver	White
Dumas	Jones	Pucciarelli	Williams
Giammarco	McIntyre	Richardson	

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	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 as amended on third consideration?

Mr. POTT offered the following amendment:

Amend Sec. 1 (Sec. 3702), page 327, line 26, by removing the period after “SUBSTANCES” and inserting and shall also include instruction concerning reproductive health education.

On the question,

Will the House agree to the amendment?

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

Mr. POTT. My amendment is a relatively simple amendment and requires school districts to offer instruction concerning reproductive health education. I do not want to get into a long debate on the issue. I think you can see the merits of the issue.

On the question,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—9

Burd	Moehlmann	Pratt	Wachob
Davies	Pott	Ritter	Yahner
Itkin			

NAYS—156

Alden	Foster, W. W.	Letterman	Salvatore
Anderson	Foster, Jr., A.	Levi	Scheaffer
Armstrong	Freind	Levin	Schweder
Arty	Fryer	Lewis	Serafini
Austin	Gallagher	Livengood	Seventy
Belardi	Gallen	Lynch, E. R.	Shadding
Bennett	Gamble	McCall	Shupnik
Berson	Gannon	McClatchy	Sieminski
Bittle	Gatski	McMonagle	Sirianni
Bowser	Geesey	McVerry	Smith, E. H.
Brown	Geist	Mackowski	Smith, L. E.
Burns	George, C.	Madigan	Spencer
Caltagirone	George, M. H.	Manderino	Spitz
Cessar	Gladeck	Manmiller	Stairs
Chess	Goebel	Michlovic	Steighner
Cimini	Goodman	Micozzie	Stewart
Civera	Grabowski	Milanovich	Stuban
Clark, B. D.	Grieco	Miller	Swift
Clark, M. R.	Gruppo	Mrkonic	Taddonio
Cochran	Hagarty	Murphy	Taylor, E. Z.

Cole	Halverson	Nahill	Telek
Cornell	Hasay	Novak	Thomas
Coslett	Hayes, Jr., S.	Noye	Trello
Cowell	Helfrick	O'Brien, B. F.	Vroon
Cunningham	Hoeffel	O'Donnell	Wargo
DeMedio	Honaman	Perzel	Wass
DeVertter	Hutchinson, A.	Peterson	Wenger
DeWeese	Hutchinson, W.	Petrarca	Wilson
DiCarlo	Irvis	Phillips	Wilt
Dawida	Johnson, E. G.	Piccola	Wright, D. R.
Dietz	Kanuck	Pistella	Wright, Jr., J.
Dininni	Klingaman	Pitts	Yohn
Dombrowski	Knight	Punt	Zeller
Dorr	Kolter	Pyles	Zitterman
Duffy	Kowalshyn	Rasco	Zord
Durham	Kukovich	Reed	Zwikl
Earley	Lashinger	Richardson	
Fee	Laughlin	Rodgers	Seltzer,
Fischer	Lehr	Ryan	Speaker
Fisher	Lescovitz		

NOT VOTING—25

Beloff	Gray	Maiale	Rieger
Borski	Harper	Mowery	Rocks
Cappabianca	Johnson, J. J.	Mullen	Schmitt
Cohen	Jones	O'Brien, D. M.	Taylor, F.
Donatucci, R.	McIntyre	Oliver	White
Dumas	McKelvey	Pucciarelli	Williams
Giammarco			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

On the question recurring,

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

Mr. CHESSE offered the following amendment:

Amend Sec. 1 (Sec. 3701), page 327, line 30, by removing the period after "levels" and inserting but in no event shall he require more than two years of physical education at the secondary school level.

On the question,

Will the House agree to the amendment?

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

Mr. CHESSE. Mr. Speaker, when we were first debating this bill, really 6 months ago when it came out of committee, I went to the principals in my district and asked them what things needed to be done with the bill, and the biggest complaint, surprisingly, was on the requirement for physical education, 4 years in the secondary schools. They felt that since in so many cases, especially in the junior and senior year, the students were going to the classes and really not participating, that it was a waste of time and money; that the facilities could be better used if they had smaller classes in the gym classes. So this amendment would only say that 4 years of physical education not be required; that 2 years could be required and the other 2 years would be optional. So if a student wants to go to gym class all 4 years through school, he can do so and get credit for it, but he would not be required to take 4 years of phys ed.

The SPEAKER. The Chair recognizes Mr. Gallagher.
Mr. GALLAGHER. Mr. Speaker, you indicated that you feel they require too many years of it. Is that correct?

Mr. CHESSE. Right.

Mr. GALLAGHER. Well, I have no personal objections to it. I think Mr. Chess is right. Mr. Chess had the advantage of being in the Marine Corps for 3 months and he knows that 3 months of physical training was enough, and I hope they provide the same thing in the school district.

The SPEAKER. The Chair recognizes Mr. Hayes.

Mr. S. E. HAYES. Did the gentleman, Mr. Gallagher, say he supports this amendment?

Mr. GALLAGHER. Yes, Mr. Speaker.

The SPEAKER. That is Gaston; what does Alphonse say?

Mr. S. E. HAYES. If you are not careful, Mr. Speaker, we are going to put into the School Code that there is in every school district a course on how to properly care for cats, because it is obvious that when you were a young Representative you erred and put in a bill that accrued to your detriment for quite a while. Do you recall those days, sir?

The SPEAKER. Vividly. For the members of the House who do not know to which he is referring, I had the opportunity many, many years ago to put in legislation that would license cats. If any of the members would like to get their names before the public, I still have copies of that original legislation.

The Chair recognizes Mr. Hayes on the amendment.

Mr. S. E. HAYES. I have already stated I yield to the wisdom of the House.

On the question,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—49

Anderson	Dombrowski	Letterman	Ritter
Austin	Fryer	Livengood	Schweder
Bennett	Gallagher	Manderino	Seventy
Berson	Gatski	Michlovic	Steighner
Brown	George, M. H.	Milanovich	Stewart
Burns	Grabowski	Mrkonic	Stuban
Caltagirone	Hoeffel	Murphy	Trello
Chess	Hutchinson, A.	Novak	Wilson
Clark, B. D.	Irvis	O'Brien, B. F.	Wright, D. R.
Cochran	Knight	O'Donnell	Wright, Jr., J.
Cowell	Kolter	Petrarca	Zeller
DeWeese	Kowalshyn	Pratt	Zwikl
DiCarlo			

NAYS—112

Alden	Freind	Lewis	Salvatore
Armstrong	Gallen	Lynch, E. R.	Scheaffer
Arty	Gamble	McCall	Serafini
Belardi	Gannon	McClatchy	Shupnik
Bittle	Geesey	McMonagle	Sieminski
Bowser	Geist	McVerry	Sirianni
Burd	Gladeck	Mackowski	Smith, E. H.
Cappabianca	Goebel	Madigan	Smith, L. E.
Cessar	Gray	Manmiller	Spencer
Cimini	Grieco	Micozzie	Spitz
Civera	Gruppo	Miller	Stairs
Clark, M. R.	Hagarty	Moehlmann	Swift
Cornell	Halverson	Mowery	Taddonio
Coslett	Hasay	Nahill	Taylor, E. Z.

Cunningham	Hayes, Jr., S.	Noye	Telek
DeMedio	Helfrick	Perzel	Thomas
DeVerter	Honaman	Peterson	Vroon
Davies	Hutchinson, W.	Phillips	Wachob
Dawida	Itkin	Piccola	Wargo
Dietz	Johnson, E. G.	Pistella	Wass
Dininni	Kanuck	Pitts	Wenger
Dorr	Klingaman	Pott	Wilt
Duffy	Kukovich	Punt	Yohn
Durham	Lashingner	Pyles	Zitterman
Earley	Laughlin	Rasco	Zord
Fischer	Lehr	Reed	
Fisher	Lescovitz	Rodgers	Seltzer,
Foster, W. W.	Levi	Ryan	Speaker
Foster, Jr., A.	Levin		

NOT VOTING—29

Beloff	Giammarco	Maiale	Rocks
Borski	Goodman	Mullen	Schmitt
Cohen	Harper	O'Brien, D. M.	Shadding
Cole	Johnson, J. J.	Oliver	Taylor, F.
Donatucci, R.	Jones	Pucciarelli	White
Dumas	McIntyre	Richardson	Williams
Fee	McKelvey	Rieger	Yahner
George, C.			

EXCUSED—12

Barber	Hayes, D. S.	Polite	Street
Brandt	Knepper	Rappaport	Sweet
Greenfield	Pievsky	Rhodes	Weidner

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

HB 1671 PUT ON THIRD CONSIDERATION POSTPONED CALENDAR

The SPEAKER. The Chair recognizes the majority whip. Mr. S. E. HAYES. Mr. Speaker, I move that HB 1671 be again placed on the third consideration postponed calendar.

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.

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

HB 1162;
HB 2254;
HB 2255; and
SB 881.

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

WELCOME

The SPEAKER. The Chair welcomes to the balcony 40 employes from ARMCO, from Butler and Beaver Counties, who are here today as the guests of the gentlemen from Butler and Beaver Counties.

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.

ADDITIONS AND DELETIONS OF COSPONSORS

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, in accordance with the rules, I am submitting a list of additions and deletions of sponsors of bills.

ADDITIONS

HB 442, Micozzie, 66; HB 1011, Micozzie, 66; HB 1631, Micozzie, 66; HB 2118, Micozzie, 66; HB 2387, Micozzie, 66; HB 2448, Harper, 97; HB 2448, Salvatore, 165; HB 2489, Vroon, 178.

DELETIONS

HB 1977, Seventy, 155; HB 2244, Seventy, 155; HB 2340, Oliver, 202; HB 2340, Richardson, 152; HB 2340, Barber, 170.

COMMUNICATION

Commonwealth of Pennsylvania
Governor's Office
Harrisburg
May 1, 1980

Honorable H. Jack Seltzer
Speaker, House of Representatives
139 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Mr. Speaker:

The enclosed Annual Report to the General Assembly is forwarded to you in compliance with Act 225 of 1974. A copy has also been forwarded to the Honorable Martin L. Murray, President Pro Tempore of the Senate.

This Annual Report indicates changes in Annual Leave, Sick Leave, Leaves of Absence With Pay, and Holiday policies for Commonwealth employes. These changes were approved by the Executive Board in accordance with the powers delineated in Sections 222(b), 222(c), 709(e) and 709(e.1) of the Administrative Code of 1929, as amended by Act 225 of 1974.

Members of my staff or myself are available to discuss any information included in the Annual Report.

Sincerely,
Robert C. Wilburn
Secretary
Executive Board

(Copy of report is on file with the House journal clerk.)

ADJOURNMENT

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

Mr. McVERRY. Mr. Speaker, I move that this House do now adjourn until Tuesday, May 13, 1980, at 11 a.m., e.d.t.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 5:05 p.m., e.d.t., the
House adjourned.