

# Legislative Journal

MONDAY, FEBRUARY 8, 1982

SESSION OF 1982

166TH OF THE GENERAL ASSEMBLY

No. 12

## SENATE

MONDAY, February 8, 1982.

The Senate met at 2:00 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor William W. Scranton III) in the Chair.

## PRAYER

The Chaplain, the Reverend Mr. J. RICHARD ECKERT, Pastor of the Zion Evangelical Lutheran Church, Penbrook, offered the following prayer:

Let us pray.

Almighty God, You are the source of all human authority, the author of life and the foundation of wisdom. As we gather here we seek Your blessing, Your spirit, Your presence to be with and upon the Members of this Senate of the Commonwealth of Pennsylvania.

Guide them that they may do their work in a spirit of compassion and justice. Help them to use their authority and service to others for the welfare of others.

O God, as we gather, keep us mindful of the blessings that we know in this Nation and in this Commonwealth that we call our home. Help us not to take those blessings for granted but to give You thanks daily for our freedom and our liberty.

We remember those who struggle for freedom throughout this world in Poland, Afghanistan and in Namibia and ask for Your blessing to be upon them.

Give to each of us a vision, a vision of the world and of our Nation and of this Commonwealth, as You would have it be, a place of peace, for each person has the opportunity to reach his or her full potential.

With that vision in mind empower us, O God, that we may bring it one step closer to reality.

Send Your blessing, Your guidance upon us. Amen.

The PRESIDENT. The Chair thanks Mr. Eckert, who is the guest this week of Senator Gekas.

## JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator MOORE, further reading was dispensed with, and the Journal was approved.

## SENATOR MOORE TO VOTE FOR SENATOR CORMAN AND SENATOR LOEPER

Senator MOORE. Mr. President, I request a legislative leave of absence for Senator Corman and Senator Loeper.

The PRESIDENT. The Chair hears no objection and the leaves are granted.

## SENATOR MELLOW TO VOTE FOR SENATOR STOUT

Senator MELLOW. Mr. President, I request a temporary legislative leave of absence for Senator Stout.

The PRESIDENT. The Chair hears no objection and the leave is granted.

## LEAVE OF ABSENCE

Senator MELLOW asked for and obtained leave of absence for Senator O'PAKE, for today's Session, for personal reasons.

## COMMUNICATION FROM THE GOVERNOR

### APPROVAL OF SENATE BILL

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, advising that the following Senate Bill had been approved and signed by the Governor:

**SB 1041.**

## HOUSE MESSAGES

### SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 306** and **1010**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. The bills, as amended, will be placed on the Calendar.

### HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

February 4, 1982

**HB 1349** and **1878** — Committee on Education.

**HB 1813** — Committee on Labor and Industry.

**HB 935** — Committee on Local Government.

February 5, 1982

**HB 1190** — Committee on Consumer Protection and Professional Licensure.

## GENERAL COMMUNICATIONS

### BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled and referred as follows, which were read by the Clerk:

February 4, 1982

Senators GREENLEAF and LOEPER presented to the Chair **SB 1316**, entitled:

An Act amending the act of October 30, 1981 (No. 114), entitled "An act prohibiting political subdivisions or agencies of the Commonwealth from imposing certain quotas on the issuance of citations for certain offenses," further providing for citation requirements and performance evaluations.

Which was committed to the Committee on LOCAL GOVERNMENT, February 4, 1982.

Senators RHOADES, STAPLETON, HELFRICK, LOEPER, LEWIS and REIBMAN presented to the Chair **SB 1317**, entitled:

An Act making an appropriation to the Department of Education for payment of certain State colleges and State-owned university salaries.

Which was committed to the Committee on APPROPRIATIONS, February 4, 1982.

Senators SNYDER, TILGHMAN, STREET, ANDREZESKI, STOUT and ROSS presented to the Chair **SB 1318**, entitled:

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), entitled "Public Welfare Code," further providing for eligibility for public assistance and requiring certain recipients to furnish evidence or registration in the selective service system of the United States.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, February 4, 1982.

Senators FISHER and JUBELIRER presented to the Chair **SB 1319**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for custody of children who attend certain schools.

Which was committed to the Committee on JUDICIARY, February 4, 1982.

Senator TILGHMAN presented to the Chair **SB 1320**, entitled:

An Act declaring and adopting the song "Pennsylvania - Gee! It's Great!" music by Lou Leggieri and lyrics by Henry and Roberta Shaffner, as the State song of the Commonwealth.

Which was committed to the Committee on STATE GOVERNMENT, February 4, 1982.

February 5, 1982

Senators O'CONNELL, HELFRICK, RHOADES, MELLOW, SCANLON and STAPLETON presented to the Chair **SB 1321**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for exclusions from taxation relating to the sale at retail of certain periodicals.

Which was committed to the Committee on FINANCE, February 5, 1982.

Senators O'CONNELL, SINGEL, MELLOW, HELFRICK and RHOADES presented to the Chair **SB 1322**, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," further providing for elections.

Which was committed to the Committee on STATE GOVERNMENT, February 5, 1982.

Senators O'CONNELL, ROMANELLI, STOUT, LOEPER, JUBELIRER, RHOADES, EARLY and SCANLON presented to the Chair **SB 1323**, entitled:

An Act amending the act of November 26, 1978 (P. L. 1309, No. 317), entitled "Public Works Contract Regulation Law," regulating retainage and interest.

Which was committed to the Committee on STATE GOVERNMENT, February 5, 1982.

Senators O'CONNELL and HELFRICK presented to the Chair **SB 1324**, entitled:

An Act amending the act of May 13, 1915 (P. L. 286, No. 177) entitled, as amended, "Child Labor Law," further providing for the employment of children.

Which was committed to the Committee on LABOR AND INDUSTRY, February 5, 1982.

## REPORT FROM COMMITTEE

Senator CORMAN, from the Committee on Local Government, reported, as amended, **HB 1283**.

## SENATE CONCURRENT RESOLUTION

### RECESS ADJOURNMENT

Senator MANBECK offered the following resolution, which was read, considered and adopted:

In the Senate, February 8, 1982.

RESOLVED (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, February 22, 1982 unless sooner recalled by the President Pro Tempore, and when the House of Representatives adjourns this week it reconvene on Monday, February 22, 1982 unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the Secretary of the Senate present the same to the House of Representatives for concurrence.

**SENATOR JUBELIRER TO VOTE FOR  
SENATOR HAGER, SENATOR PRICE AND  
SENATOR STREET**

Senator JUBELIRER. Mr. President, I request a temporary leave of absence, for this vote only, for Senator Hager, Senator Price and Senator Street.

The PRESIDENT. The Chair hears no objection and the leaves are granted.

**CALENDAR**

**SPECIAL ORDER OF BUSINESS**

**SB 495 CALLED UP OUT OF ORDER**

**SB 495 (Pr. No. 1652)** — Without objection, the bill was called up out of order, from page 2 of the Third Consideration Calendar, by Senator JUBELIRER, as a Special Order of Business.

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**SB 495 (Pr. No. 1652)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

**YEAS—46**

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampono
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Helfrick	Lynch	Ross	Wilt
Hess	McKinney		

**NAYS—0**

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**RECESS**

Senator JUBELIRER. Mr. President, I request a recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations to begin immediately in the Rules Committee room to the rear of the Senate Chamber.

Immediately after the meeting of the Committee on Rules and Executive Nominations, Mr. President, I would ask Republican Members of the Senate to report to the first floor caucus room at the call. It is our expectation that we will return to the floor at 3:30 p.m.

Senator SCANLON. Mr. President, I am requesting a Democratic caucus to commence immediately in the Minority caucus room at the rear of the hall.

The PRESIDENT. For the purpose of a meeting of the Committee on Rules and Executive Nominations, to be followed by Republican and Democratic caucuses, and with the expectation of returning to the floor by 3:30 p.m., the Chair declares the Senate in recess.

**AFTER RECESS**

The PRESIDENT. The time of recess having elapsed, the Senate will be in order.

**CONSIDERATION OF CALENDAR RESUMED**

**BILLS ON CONCURRENCE  
IN HOUSE AMENDMENTS**

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 838 (Pr. No. 1589)** — Senator JUBELIRER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 838.

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

**MOTION TO LAY BILL ON THE TABLE**

Senator KELLEY. Mr. President, I move to table Senate Bill No. 838.

The PRESIDENT. Senator Kelley has moved that the Senate lay upon the table Senate Bill No. 838, Printer's No. 1589. That is a motion which is not debatable.

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

(During the calling of the roll, the following occurred:)

Senator LLOYD. Mr. President, I would like to change my vote from "no" to "aye."

The PRESIDENT. The gentleman will be so recorded.

Senator ROMANELLI. Mr. President, I would like to change my vote from "aye" to "no."

The PRESIDENT. The gentleman will be so recorded.

The yeas and nays were required by Senator KELLEY and were as follows, viz:

**YEAS—16**

Bell	Hopper	Loeper	Reibman
Fisher	Jubelirer	Manbeck	Stapleton
Hager	Kelley	Murray	Tilghman
Holl	Lloyd	Pecora	Wilt

**NAYS—33**

Andrezeski	Hess	Messinger	Shaffer
Bodack	Howard	Moore	Singel
Corman	Kusse	O'Connell	Snyder
Early	Lewis	Price	Stampono
Fumo	Lincoln	Rhoades	Stauffer
Gekas	Lynch	Romanelli	Stout
Greenleaf	McKinney	Ross	Street
Hankins	Mellow	Scanlon	Zemprelli
Helfrick			

Less than a majority of all the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the motion to concur in the amendments made by the House?

Senator KELLEY. Mr. President, I am a little bit concerned about the effects of Senate Bill No. 838. If we start considering the constituencies that we serve, we are going to find Pennsylvania exceeds the average of the number of days of hospital stay. We are also going to find the rate of our hospital occupancy per person per 10,000 of population is greater than the average. If we believe we are going to attack this problem by passage of Senate Bill No. 838 in its present form, I think we are all misconstruing the reality of the problem.

I believe we are missing an opportunity by not having public hearings on the effect of doing away with the certificate of need because we somehow believe the certificate of need has given us an avenue of curtailing the high cost of medical health. That is not so. I believe we have to get to the crux of the problem, the effects of the third-party payers and the way providers are being compensated in the Commonwealth of Pennsylvania.

If we make comparative studies of other areas of the country and other health plans, we are going to find out their motivations and methodology of payment, compensation and reimbursement is different from ours. They have less per occupancy per population over 10,000 in hospitals; they have a lesser average of hospital stays and, I think, Mr. President, this is not the avenue in Senate Bill No. 838 in which we can attack the problem. It is only going to intensify the problem.

Mr. President, I would urge my colleagues to vote against it until such time as we can have some total revision of the methodology with which we are handling the pay we give to providers for medical health services.

The PRESIDENT pro tempore. Mr. President, along with everyone else in the Legislature, I have received all kinds of mail and position papers for and against this issue. I would simply like to make two of those a part of the record, and without reading them I would ask they be added to it.

One is a letter from a fellow by the name of Ed Donley, who is the member of the Lehigh Valley Business Conference on Health Care from Lehigh Valley, Pennsylvania. He is actually the chairman of a company called Air Products in that area. I have also received a position paper from the Department of Health. But my comments to the Senate would really be, and I know there are people who are for this legislation and against it, but I would like to remind the Members of the Senate that what has happened here on an issue in which there is no urgency, because the soonest the Federal government can act is next fall, and once again we have seen the House of Representatives usurp the Senate's function. Instead of sending this measure through as a bill which would have hearings or at least a meeting of some committee in the House and then see it referred to the Committee on Public Health and Welfare of the Senate of Pennsylvania for action by the Senate, they have taken a Senate bill and amended it with a wholly different subject and sent it to us on the issue of up or down, concurrence or nonconcurrence.

Speaking as a Member of the Senate and speaking as the elected President pro tempore of the Senate, I very much resent that. We have over the last number of years decided that we will short-circuit the committee system on a couple of matters. We have done it from time to time on appropriation bills on both sides of this aisle; both sides of the Rotunda. We have done it when there has been an emergency, when there has been something which has presented an urgency so far as time is concerned. Neither one of those considerations is present in this case. This is merely an attempt to force something, to squeeze something through the Senate without affording us the opportunity to use the committee system to give us the opportunity to deliberate on all sides of this issue.

Mr. President, for that reason I am going to vote against concurrence and I would be pleased to have those Members who believe in the Senate and in the use of its structures and its committee system vote with me.

The PRESIDENT. The documents will be added to the record.

LEHIGH VALLEY BUSINESS  
CONFERENCE ON HEALTH CARE  
P. O. Box 6001,  
Lehigh Valley, Pennsylvania 18001

January 29, 1982

The Hon. Henry G. Hager  
President Pro Tem  
State Senate  
Main Capitol Office Building  
Harrisburg, Pennsylvania 17101

Dear Merc:

As a follow-up to our telephone conversation of this afternoon, I want to reiterate some of our concerns with Senate Bill No. 838 in its present form. This legislation would tie the abolishing of the State Certificate of Need program to the end of the Federal legislation. There is no question that we all support the free market system being reinstated in health care. However, certain specific mechanisms must be in place before this can be done.

At present, we are involved in several groups developing specific plans to replace the current system. One of those is Governor Thornburgh's Health Care Cost Containment Task Force. Thirteen individuals have been asked to participate in this by the Governor. We are currently involved in in-depth discussions to make recommendations to the Governor concerning a systematic program to contain the escalating cost of health care in Pennsylvania. These recommendations are to be given to the Governor on March 19, 1982. The very language of Senate Bill No. 838 could be a possible recommendation. However, at this time it would be inappropriate for any of us to speculate what the final recommendations will be.

It is our concern that to pass legislation abolishing the Certificate of Need at this time is premature and runs counter to what we are attempting to do through the Task Force. We are concerned that enactment of Senate Bill No. 838 now would jeopardize the Commonwealth's ability to bring about a systematic program to help contain the cost of health care in Pennsylvania. If not addressed systematically, there could be an enormous surge of capital expenditures throughout the Commonwealth.

At the very least, consideration of this legislation by the Senate should be delayed until after our recommendations are presented to the Governor.

Thank you for your consideration of this matter.

Best wishes.

Sincerely,  
Ed

DEPARTMENT OF HEALTH POSITION  
ON SENATE BILL NO. 838  
(PRINTER'S NO. 1589)

I. Evolution of Pennsylvania's Health Planning System

Health planning activities within Pennsylvania have developed over a twenty-year period. The following is a brief overview of how the system evolved:

In the early 1960's, voluntary hospital planning agencies were formed by business and civic leaders, primarily to discourage major philanthropic support for poorly planned hospital capital projects.

With the passage of amendments to the Public Health Services Act in 1966, a network of "comprehensive health planning agencies" was established with Federal financial support to coordinate areawide health planning efforts throughout the State.

In 1973, pursuant to amendments to the Social Security Act, Pennsylvania signed a contract with the Federal government to administer a "Section 1122" capital expenditure review program for health care facilities. Capital expenditures which exceeded \$100,000 or changed bed capacity or health services were reviewed by the local comprehensive health planning agencies and approved or disapproved by the Department of Health. (Disapproval resulted in nonpayment of Federal depreciation and interest expenses related to the capital expenditure.)

Partly in recognition of supply-induced demand in health care, the Federal government embarked upon a major health planning program in 1974 through the passage of the National Health Planning and Resources Development Act. The act created and funded region-wide Health Systems Agencies (HSAs) as successors to the local comprehensive health planning agencies, and funded State Health Planning and Development Agencies (e.g., the Department of Health) to coordinate State health planning activities. In order to receive certain Federal public health service monies, all States were required to adopt a Certificate of Need (CON) review program for proposed health care facility capital expenditures and new health services. Pennsylvania enacted a CON statute, Act 48, in July, 1979, which was subsequently amended by Act 136 in July, 1980. After regulations to implement the program were reviewed by a newly created advisory body, the Health Care Policy Board, they were finalized and CON reviews began in August, 1980. Health care facilities are now required to obtain a Certificate of Need if they (a) construct or establish a new facility; (b) make a capital expenditure in excess of \$600,000; (c) make a capital expenditure related to an increase in bed capacity of more than ten beds or ten per cent of the total capacity; or (d) initiate a new service which is related to a capital expenditure or has an annual operating expense greater than \$250,000.

II. Assessment of Certificate of Need

Certificate of Need programs like the one we enacted are designed to moderate the rate of increase in health care costs by restricting the supply of institutional health services and capital investment. Although the cost-effectiveness of CON can be described in terms of approval rates, trends in acute and long term care beds per capita, and changes in levels of hospital plant assets per bed, performance is best reflected by things that did not happen (or did not get built), or by things that happened in a

qualitatively better or more responsive (faster or slower) way than might otherwise have happened. It is very difficult to estimate and integrate these latter factors into a common evaluation methodology like multiple regression analysis. Even if such factors could be incorporated in a regression equation, the results of this type of analysis would not be appropriate for at least four or five years after the introduction of a CON program. (Since all projects under construction when the CON process begins are exempt from review, and because the construction of major projects takes several years to complete, the effect of investment decisions made prior to CON increases costs during the early years of the program and therefore reduces CON-generated cost savings.)

An alternative method to assess CON programs is to speculate whether capital and service intensity would increase in the absence of CON. The American Hospital Association (AHA) addressed this issue through a recent survey of 3,400 hospitals. Extrapolating nationally, the AHA concluded that approximately sixty-four per cent of hospitals have expansion plans, and of these facilities, twenty-one per cent indicated that they have dropped or postponed their expansion plans primarily due to the necessity for CON or Section 1122 approvals. Such results imply that the CON process has prevented a large number of expensive and unnecessary capital investments from being made and, therefore, has produced substantial cost savings since additional operating expenses (personnel, depreciation and interest) were not incurred.

Although we have not performed a survey of the expansion plans of Pennsylvania hospitals and long term care facilities, the experience to date under the CON program indicates that if bed need and service limitations are not enforced—either through CON, effective reimbursement constraints, or a new reimbursement system—a significant increase in capital expenditures and new services will occur throughout the State. We base this conclusion on the following assumptions:

Health care facilities will continue to react in a rational manner to the cost-based reimbursement incentives in the financing system. The incentives are structured so that capital expansion and the creation of new service capacity will (a) increase patient load through physician retention and recruitment; (b) generate an increase in total revenues since additional operating costs will be reimbursed by third party payors; and (c) insulate facility cash flow problems through the collection of more depreciation and interest reimbursement. For these reasons, whether an institution is financially sound or moving toward insolvency, the reimbursement incentives are to get bigger and more sophisticated. Financially sound institutions want to grow to improve their competitive position, and marginal institutions need to grow in order to survive.

High interest rates for tax exempt bonds and low bond ratings will not prevent hospitals from financing major expenditures in the next two to three years. Most bond feasibility studies mention possible third party payment changes (e.g., Medicare and Medicaid) which will limit reimbursement, but they implicitly acknowledge that unless reimbursement is limited from all sources (Medicare, Medicaid, Blue Cross, commercial insurance, and self-pay patients), hospitals can merely shift costs from one payor to the next. It is unlikely that all or most payors will implement effective capital reimbursement constraints which will curtail tax exempt bond financing (e.g., nonpayment or grossly inadequate payment for depreciation and interest expenses.)

Although the business community is growing more concerned about rising health care costs, it is doubtful that individual employers or employer coalitions will use leverage in the next few years to effectively cause their insurers (usually Blue Cross) to measurably restrain capital and service expansion. To be successful, major reductions in Blue Cross reim-

bursement would have to be coupled with similar cutbacks by other third party payors for provider spending to be significantly reduced. As mentioned, such action is not probable.

Implementation of a State-level prospective reimbursement system to replace cost-based reimbursement is probably not politically feasible within the next two to three years. As demonstrated in other States (e.g., Maryland, New Jersey), a properly designed prospective reimbursement program eliminates cost shifting among third party payors and provides incentives for health care facilities to minimize capital and service growth. The States which utilize this type of system rely heavily on CON decisions to decide whether capital expenditures should be reimbursed.

### III. Interest Group Reaction to Certificate of Need

The major interest groups which support CON are Blue Cross, the commercial insurers, the Pennsylvania Medical Society, and business. All four groups share our concerns about keeping capital and service constraints on health care facilities at least until necessary reimbursement changes can be made. Blue Cross, in a November 1981 statement to the Governor's Task Force on Health Care Cost Containment, very clearly expressed their concern:

It is essential to strengthen, not weaken, health planning and Certificate of Need. Appropriate, community-based planning that involves major community forces (providers, third-party payors, major purchasers such as industry), backed by effective Certificate of Need laws, can reduce both costs and volume. They reduce costs by preventing capital expenditures that are not needed for genuine productive capacity but that, if built, would have to be paid for. They restrict the volume of services because facilities not built or equipment not purchased do not require generating a patient load to support them.

There is little or no need for new facilities and services in the Commonwealth at this time. In some areas, indeed, we need a methodology to close or convert unneeded acute care beds. Nevertheless, without effective planning and CON, we will experience significant capital expenditures for duplicative or unnecessary construction and equipment. The day when economic competition can replace regulation is a long time away, and in the meantime we cannot afford the cost of unrestrained "competition" as to services, facilities, and equipment.

This concern is shared by commercial insurers because as capital and service intensity increase, the rise in hospital costs is disproportionately paid for by the commercials since they generally cannot negotiate cost-based discounts like Blue Cross. The hospital charges they reimburse are approximately fifteen per cent to twenty-five per cent greater than the costs which Blue Cross reimburses.

Although not yet as vocal as Blue Cross and the commercial insurers, our perception is that businesses throughout the State oppose the lifting of CON controls unless strong reimbursement sanctions for unnecessary expenditures can be substituted. The employers actively involved in health planning (e.g., Alcoa, Air Products, Bell of PA) realize the magnitude of capital and service development problems in the health care industry. We think most Pennsylvania employers would agree with the position of the Washington Business Group on Health (WBGH) regarding the elimination of CON. As expressed in WBGH testimony to the National Council on Health Planning and Development:

If you remove current constraints and tell the hospitals that in a few years economic competition will keep them under control or they will be faced with a new wave of governmental regulations, then you are providing clear incentives to build now, regardless of need.

Even the Pennsylvania Medical Society (PMS), which has historically supported voluntary initiatives to reduce health care costs, perceives the necessity to currently retain Certificate of Need. As reflected in the minutes of its November, 1981 Board of Trustees meeting, PMS adopted the position to support the CON structure in Pennsylvania in the short-term, while seeking fundamental changes in the present cost-based reimbursement system that will effectively address the problem in the long-term. We sense that this action signals a growing recognition by physicians that if institutions like hospitals and nursing homes continue to consume a larger share of the reimbursement dollar, less money will be available to pay physicians in offices and other outpatient settings.

In contrast to those interest groups which support CON, the only major opposition to the program is from the Hospital Association of Pennsylvania (HAP). Although HAP has an extensive history of support for the Federal health planning program, an April 1981 policy statement calls for repeal of Certificate of Need in Pennsylvania because CON "represents inflexible and inappropriate Federal dominance, and creates an unworkable review program for the Commonwealth." We agree with HAP that some Federal CON requirements are unnecessary, but we do not feel that the review program is unworkable. Although the process requirements are more complex than the previous Section 1122 program, the type of review issues which have been considered, the manner in which the reviews have been conducted, and the time frames for project decisions are all very similar to the Section 1122 process that operated successfully for seven years.

It appears that the primary reason for HAP's recent opposition to Certificate of Need may be the anti-competitive impact of the program. CON does erect entry barriers for new providers and services, and to some degree it does insulate inefficient health care facilities. In a market system with effective price competition, CON would be unnecessary. However, it is doubtful that price competition can develop rapidly enough in the short-run (e.g., through the establishment of different alternative delivery networks like HMOs) to have a restraining effect upon health care costs. As mentioned earlier, elimination of CON in the current reimbursement environment will encourage both efficient and inefficient facilities to expand their capital and service intensity.

We fully support long-run changes in the delivery system which will promote price competition, but realize that if the system is to shift to a competitive mode where primary and outpatient care are emphasized and only two hospital beds per 1,000 population are needed, it is imprudent to expand and intensify the inpatient component of today's delivery system which is already above four hospital beds per thousand population.

### IV. Recommendation Regarding Senate Bill No. 838

Senate Bill No. 838 would repeal the Certificate of Need program if the Federal mandatory requirement for States to have CON programs was deleted. Aside from our judgment and that of others about the necessity for the program to continue, we feel that any legislative action regarding CON at this time would be premature, for several reasons:

The Governor's Task Force on Health Care Costs has been recently organized and has not yet had the opportunity to address this issue. It would be appropriate for any legislative action to be delayed until the Task Force has submitted its recommendations to the Governor.

Due to the recent surfacing of the bill as amended (January 20, 1982) and the importance of judiciously considering major legislation, the opportunity should be given for all parties to have ample time to convey their viewpoints to their Legislators. A rapid resolution of this issue is unnecessary.

Since we do not know what changes will occur to the State CON requirements and program funding levels as described

in the National Health Planning and Resources Development Act (which is up for reconsideration in the summer), action at this point in time may preclude or forestall any State options which might evolve. For example, if Federal funding is substantially curtailed, we will be forced to consider significant modifications to the CON program (such as the review of only very major expenditures.) When the Federal legislative changes are made, all interest groups will be in a better position to debate program options, including discontinuance or phase-out.

In summary, we recommend nonconcurrency of the bill in the Senate in order to await Federal legislative changes and recommendations from the Governor's Task Force on Health Care Cost Containment before taking any action on the issue.

Senator FISHER. Mr. President, I am going to vote to concur in the House amendments to Senate Bill No. 838 but for reasons other than those stated by the gentleman from Lycoming, Senator Hager. I do not believe the mere fact that the House, perhaps, may have usurped the Senate's opportunity to review this by inserting the amendments is grounds enough to reject it.

Mr. President, I do think the amendments themselves raise a very serious question in the whole area of health care and the containment of health costs.

Mr. President, I am going to vote for the amendments, concurring in the House amendments, but I would hope this Body, together with the House prior to the time when the actual repealer of the certificate of need language goes into effect at the end of September of 1982, would examine other alternatives to try to attack the very difficult problem facing Pennsylvania and the rest of the Nation on the containment of health costs in future years. I think this is a very serious problem. It may be the most difficult problem facing Pennsylvania in the 1980's and I would respectfully request this Chamber, together with the others, cooperate with the Committee on Public Health and Welfare to come up with some alternative prior to October 1, 1982.

Senator SCANLON. Mr. President, without delving into the merits of the amendments placed in Senate Bill No. 838 by the House, I just feel compelled to comment on the reasons given by the President pro tempore that he was going to vote against it, that the House had the temerity to take a Senate bill and put strange language into it.

Last Wednesday night, late at night, the leadership on the other side of the aisle had the temerity to take a House bill, notwithstanding the fact that there is an existing Committee of Conference on the subject reapportionment, they tried to take a House bill and put a reapportionment plan in it.

Mr. President, I think it all depends on whose ox is being gored.

The PRESIDENT pro tempore. Mr. President, the difference is, in that case the House of Representatives knew what we were doing and it was done with their concurrence. In this case it was just something done in one heck of a hurry to slip something through the Senate. That was not the purpose with the last bill.

Senator SCANLON. Mr. President, that merely proves there were some meetings between the Republican leadership of the House and Senate on reapportionment to our exclusion.

And the question recurring,  
Will the Senate agree to the motion?

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

YEAS—37

Bell	Hess	McKinney	Shaffer
Bodack	Hopper	Mellow	Singel
Corman	Howard	Messinger	Snyder
Early	Jubelirer	Moore	Stampone
Fisher	Kusse	O'Connell	Stauffer
Fumo	Lewis	Rhoades	Stout
Gekas	Lincoln	Romanelli	Street
Greenleaf	Loeper	Ross	Wilt
Hankins	Lynch	Scanlon	Zemprelli
Helfrick			

NAYS—12

Andrezeski	Kelley	Murray	Reibman
Hager	Lloyd	Pecora	Stapleton
Holl	Manbeck	Price	Tilghman

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

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

SENATE NONCONCURS IN HOUSE AMENDMENTS

**SB 937 (Pr. No. 1605)** — Senator JUBELIRER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 937, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

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

FINAL PASSAGE CALENDAR

BILL ON FINAL PASSAGE

**SB 700 (Pr. No. 1117)** — And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

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

YEAS—36

Andrezeski	Holl	Mellow	Ross
Bell	Howard	Messinger	Scanlon
Bodack	Jubelirer	Moore	Singel
Early	Kelley	Murray	Stampone
Fisher	Lewis	Pecora	Stapleton
Greenleaf	Lincoln	Price	Stout
Hager	Lloyd	Reibman	Street
Hankins	Loeper	Rhoades	Tilghman
Helfrick	McKinney	Romanelli	Zemprelli

NAYS—13

Corman	Hopper	Manbeck	Snyder
Fumo	Kusse	O'Connell	Stauffer
Gekas	Lynch	Shaffer	Wilt
Hess			

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**THIRD CONSIDERATION CALENDAR**

**BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 125 (Pr. No. 2857)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

**YEAS—49**

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampono
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Hankins	Lynch	Romanelli	Wilt
Helfrick	McKinney	Ross	Zemprelli
Hess			

**NAYS—0**

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**HB 230 (Pr. No. 2744)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

**YEAS—49**

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampono
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Hankins	Lynch	Romanelli	Wilt
Helfrick	McKinney	Ross	Zemprelli
Hess			

**NAYS—0**

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**BILLS OVER IN ORDER**

**SB 491 and 631** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**BILL ON THIRD CONSIDERATION AMENDED AND RECOMMITTED**

**SB 730 (Pr. No. 769)** — Considered the third time,

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

Senator PECORA, by unanimous consent, offered the following amendments:

Amend Title, page 1, line 31, by striking out "prohibiting" and inserting: authorizing the prohibition of

Amend Sec. 1 (Sec. 10.1), page 2, lines 6 through 11, by striking out "it shall be unlawful for any person to smoke a" in line 6, and all of lines 7 through 11, and inserting: an authority may by regulation prohibit or restrict smoking of cigars, pipes, cigarettes or other devices used to smoke, or eating or drinking on any or all public conveyances owned or operated by the authority, including, but not limited to, buses, street railway cars, light rail vehicles, commuter rail trains and inclines.

Amend Sec. 1 (Sec. 10.1), page 2, line 12, by striking out "Subsection" and inserting: Regulations promulgated pursuant to subsection

Amend Sec. 1 (Sec. 10.1), page 2, line 22, by striking out "the" and inserting: any

Amend Sec. 1 (Sec. 10.1), page 2, line 22, by inserting after "prohibitions": or restrictions

Amend Sec. 1 (Sec. 10.1), page 2, line 26, by inserting after "of" and: any regulations promulgated pursuant to

Amend Sec. 1 (Sec. 10.1), page 2, line 28, by striking out "of" and inserting: not to exceed

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

Senator ROMANELLI. Mr. President, I rise to oppose the amendments. It is my understanding that what these amendments do is delegate to the Allegheny County Port Authority the right to impose penal sanctions. I think that is an abrogation of the right of this Legislature; I think it is unconstitutional. I do not think the authority lies with this Legislature to delegate that authority to an Authority. I think it belongs in the Legislature and I think the amendments should be opposed. I would ask my colleagues for a "no" vote.

Senator STAUFFER. Mr. President, I rise to support the amendments of the gentleman from Allegheny, Senator Pecora, and would like to point out to the Members that the bill as it appears before us, Senate Bill No. 730, would make it illegal for someone to have a drink of water, someone to eat a candy bar, perhaps, as well as a whole host of other possible offenses that could appear under the bill as it is before us.

Mr. President, I do not think we in this Senate are in a position to make the judgment as to what kind of problems the Port Authority of Allegheny County may be having with



people eating, drinking, smoking or whatever, and therefore it would be impossible for us to make a judgment as to what kind of action should be made illegal. I think the proper thing for us to do is what the gentleman from Allegheny, Senator Pecora, is proposing that we do, in that we give the Port Authority the right to establish regulations and perhaps in establishing those regulations they can determine that something as mundane as eating a candy bar is no problem but that they cannot open up a lunch box and have a meal on the train or whatever.

So for that reason I think the amendments are well-intended, I think it will serve a good purpose and I would recommend an affirmative vote.

Senator ROMANELLI. Mr. President, if the problem was as simple as my colleague, the gentleman from Chester, Senator Stauffer, makes it, the Port Authority would not be seeking this relief. The problem is severe. We at the Allegheny County Port Authority estimate that it costs the taxpayers of this Commonwealth \$500,000 a year to replace burned seats, cut seats, litter from fast food establishments that are left on the buses, not to say the untold amount of suits that are entered into with the Port Authority by people's clothes being stained; just one host of continual problems with eating, drinking and smoking on buses. All we are asking is that we can police this effort by making it a summary conviction which is the duty of this Legislature, not the duty of the Port Authority. I would again ask for a "no" vote.

Senator BELL. Mr. President, when the gentleman from Allegheny, Senator Romanelli, said this was unconstitutional, I searched my mind as to whether we have a precedent. I can assure the gentleman there is a precedent because this same type of authority, although it is not for eating, drinking, spitting on the floor, has been so delegated to the Turnpike Commission, which is also an authority or commission of the State. We have delegated to them the power to set up regulations and if we violate a regulation of the Turnpike Commission the State Police will lock us up for it.

And the question recurring,  
Will the Senate agree to the amendments?

The yeas and nays were required by Senator PECORA and were as follows, viz:

YEAS—25

Bell	Holl	Manbeck	Shaffer
Corman	Hopper	Moore	Snyder
Gekas	Howard	O'Connell	Stauffer
Greenleaf	Jubelirer	Pecora	Street
Hager	Kusse	Price	Tilghman
Helfrick	Loeper	Rhoades	Wilt
Hess			

NAYS—24

Andrezeski	Kelley	Mellow	Scanlon
Bodack	Lewis	Messinger	Singel
Early	Lincoln	Murray	Stampone
Fisher	Lloyd	Reibman	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	McKinney	Ross	Zemprelli

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

On the question,

Will the Senate agree to the bill on third consideration, as amended?

MOTION TO LAY BILL ON THE TABLE, AS AMENDED

Senator JUBELIRER. Mr. President, I move that Senate Bill No. 730, Printer's No. 769, as amended, be tabled.

The PRESIDENT. Senator Jubelirer moves that the Senate table Senate Bill No. 730, as amended. The motion is not debatable.

On the question,

Will the Senate agree to the motion?

Senator ROMANELLI. Mr. President, I oppose the motion and would ask for a roll call vote.

Senator JUBELIRER. Mr. President, would the gentleman accept the same roll call?

The yeas and nays were required by Senator JUBELIRER and Senator ROMANELLI and were as follows, viz:

YEAS—18

Bell	Hager	Jubelirer	Pecora
Corman	Helfrick	Kusse	Price
Fisher	Hess	Manbeck	Rhoades
Gekas	Holl	Moore	Snyder
Greenleaf	Howard		

NAYS—31

Andrezeski	Lincoln	O'Connell	Stapleton
Bodack	Lloyd	Reibman	Stauffer
Early	Loeper	Romanelli	Stout
Fumo	Lynch	Ross	Street
Hankins	McKinney	Scanlon	Tilghman
Hopper	Mellow	Shaffer	Wilt
Kelley	Messinger	Singel	Zemprelli
Lewis	Murray	Stampone	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the bill on third consideration, as amended?

It was agreed to.

The PRESIDENT. Senate Bill No. 730 will go over in its order, as amended, on third consideration.

Pursuant to Senate Rule XI, the bill was recommitted to the Committee on Transportation.

BILLS OVER IN ORDER

SB 754 and 755 — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1107 (Pr. No. 1610) — Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—49

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampone
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Hankins	Lynch	Romanelli	Wilt
Helfrick	McKinney	Ross	Zemprelli
Hess			

NAYS—0

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**SB 1135 (Pr. No. 1651)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—44

Andrezeski	Holl	Manbeck	Shaffer
Bell	Hopper	Mellow	Singel
Corman	Howard	Messinger	Snyder
Early	Jubelirer	Moore	Stampone
Fisher	Kusse	Murray	Stapleton
Fumo	Lewis	O'Connell	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Romanelli	Tilghman
Hankins	Lynch	Ross	Wilt
Helfrick	McKinney	Scanlon	Zemprelli

NAYS—5

Bodack	Kelley	Pecora	Rhoades
Hess			

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**SB 1138 (Pr. No. 1345)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

YEAS—49

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampone
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Hankins	Lynch	Romanelli	Wilt
Helfrick	McKinney	Ross	Zemprelli
Hess			

NAYS—0

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER

**SB 1200** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 1218 (Pr. No. 2858)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—49

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampone
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Hankins	Lynch	Romanelli	Wilt
Helfrick	McKinney	Ross	Zemprelli
Hess			

NAYS—0

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**SB 1230 (Pr. No. 1506)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

YEAS—49

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampono
Fisher	Kusse	O'Connell	Stapleton
Fumo	Lewis	Pecora	Stauffer
Gekas	Lincoln	Price	Stout
Greenleaf	Lloyd	Reibman	Street
Hager	Loeper	Rhoades	Tilghman
Hankins	Lynch	Romanelli	Wilt
Helfrick	McKinney	Ross	Zemprelli
Hess			

NAYS—0

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**SB 1261 (Pr. No. 1558)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

YEAS—48

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Corman	Howard	Messinger	Singel
Early	Jubelirer	Moore	Snyder
Fisher	Kelley	Murray	Stampono
Fumo	Kusse	O'Connell	Stapleton
Gekas	Lewis	Pecora	Stauffer
Greenleaf	Lincoln	Price	Stout
Hager	Lloyd	Reibman	Street
Hankins	Loeper	Rhoades	Tilghman
Helfrick	Lynch	Romanelli	Wilt
Hess	McKinney	Ross	Zemprelli

NAYS—1

Bodack

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

**SB 1262, HB 1437 and 1875** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 1889 (Pr. No. 2787)** — Considered the third time,

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

Senator HESS. Mr. President, I ask unanimous consent to offer amendments to House Bill No. 1889.

RECESS

Senator ZEMPRELLI. Mr. President, this is an extremely important bill and the Democratic caucus has not caucused on the amendments. That is not to suggest there is anything wrong with them, but it is a matter of concern to certain Members. I would ask for a recess of the Senate for the purpose of a very short Democratic caucus.

The PRESIDENT. For the purpose of a caucus of the Democratic Party, the Chair declares the Senate in recess.

AFTER RECESS

The PRESIDENT. The time of recess having elapsed, the Senate will be in order.

The Senate has before it, House Bill No. 1889, Printer's No. 2787. Senator Hess has asked for unanimous consent to offer amendments.

Senator ZEMPRELLI. Mr. President, there is an objection to the amendments of the gentleman from York, Senator Hess.

The PRESIDENT. There is no objection to the gentleman offering the amendments?

Senator ZEMPRELLI. No, Mr. President, none whatsoever to offering the amendments. There is an objection to the substance of them.

HESS AMENDMENTS

Senator HESS, by unanimous consent, offered the following amendments:

Amend Sec. 2 (Sec. 115), page 5, by inserting between lines 5 and 6:

(c) Requirements for approval. — A Pennsylvania bank holding company may acquire control of an institution only pursuant to a plan authorized by resolution of at least a majority of the board of directors of the institution to be controlled and by a resolution adopted by the shareholders entitled to cast at least two-thirds of the votes which all shareholders are entitled to cast thereon. No bank holding company or any of its affiliates or subsidiaries shall acquire either through legal or fiduciary ownership, more than ten percent of the equity securities of another institution.

Amend Sec. 2 (Sec. 115), page 5, line 6, by striking out "(C)" and inserting: (d)

Amend Sec. 2 (Sec. 115), page 5, line 17, by striking out "(D)" and inserting: (e)

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

Senator HESS. Mr. President, over the last several weeks and for some of us for many years, this issue of Statewide banking has been debated and we come down to this final bill which is now before us. I can respect with a great deal of admiration both sides and I think I can argue on economic grounds both sides of the issue.

Times have changed and the banking industry faces new forms of competition and I am sympathetic to that. I recently received a letter from the Secretary of Banking, Mr. McEnteer, in which he outlined for me several of the positive aspects of the proposal now before us and I agree with him. In

particular, I agree, and if those of us have that little synopsis with us, paragraph nine on page 2, in which he states, "A bank can only prosper if the community it serves prospers. To insure this the cooperation of the management, directors, stockholders and the customers is necessary." Then underlined he states, "An unfriendly takeover is a self-defeating proposition." I know we all have different definitions for "unfriendly takeovers." My amendments only apply to that form of takeover under the holding company concept. The amendments would allow a bank holding company through a tender offer to acquire a controlling interest in another bank only with the approval of the board of directors and the shareholders of the bank, to be acquired under the same rules which would exist for mergers and consolidations.

Mr. President, one of the primary reasons for these rules that exist today is to prevent disruptive, unfriendly takeovers. Certainly if these rules are good for mergers and consolidations they should also be good for bank holding company accusations.

Senator KUSSE. Mr. President, I rise to oppose the amendments. I think these are an unwarranted restriction on the right of people to carry on private transactions. I see no reason why it should require a two-thirds vote of the shareholders or that the majority of the board would have to approve this. I trust that my colleagues will vote against the amendments.

Senator HOLL. Mr. President, the Committee on Banking and Insurance which considered this bill considered several amendments. I was handed these amendments before the Committee on Banking and Insurance voted on the bill. I did approach the proponents of these amendments and asked if, with the adoption of these amendments, they would support the bill, and to this day I have not received the answer.

Mr. President, to me it appears this is some kind of move to kill the bill. We do have information from attorneys, learned in the law, who tell us these amendments are unconstitutional; that in their opinion the courts would find them to be unconstitutional because we are denying a stockholder the right, as the gentleman from Warren, Senator Kusse, said, to sell his stock under certain circumstances. In my opinion this will not improve the bill or improve the law and I am asking for a negative vote.

Senator BELL. Mr. President, as I listened in caucus and now on the floor, I wondered if some consortium of people, money people, come in and they start buying up stock and they get fifty-one per cent and I happen to be one of those who had not sold my stock. I suspect I would get shafted.

Mr. President, I would like to make it as difficult as possible to prevent taking advantage of minority stockholders. I am going to support the gentleman from York, Senator Hess, on House Bill No. 1889.

Senator HESS. Mr. President, with due respect to the gentleman from Warren, Senator Kusse, as I stated before, this issue has been argued for many years and we know what direction we are going in for different reasons over those six years. I do not remember ever hearing of any court case of Section 1603 of the Banking Code and I said it is the exact

same wording as provided for mergers and consolidation. If it were unconstitutional or if somebody thought it possibly could have been, I am sure that test would have been taken to court.

Mr. President, I just feel that what we have operated under prior to this time for mergers and consolidations is certainly acceptable within this State when we talk about holding companies and a new approach to banking in Pennsylvania.

Senator FISHER. Mr. President, I think, though, in response to the comments by the gentleman from York, Senator Hess, that there is a big difference between an acquisition and a merger and consolidation. We are talking here about any acquisition by a holding company and just as the gentleman from Delaware, Senator Bell, indicated, I could be one of those fifty-one per cent shareholders or myself or others, or my family could be a fifty-one per cent shareholder. Without the consent of two-thirds of the shareholders, we would not be able to sell our stock. I think that is wrong.

In addition to that, Mr. President, I think there is language in the Uniform Commercial Code that governs all securities. It would say a restriction like this on the alienability of securities would be an unreasonable restraint without guidelines. I do not see any guidelines in the amendments of the gentleman from York, Senator Hess, and, accordingly, I would urge a rejection of the amendments.

Senator ZEMPRELLI. Mr. President, just an additional comment. Although the amendments look somewhat innocuous when it talks in terms of two-thirds of the votes which the shareholders are entitled to cast thereon, conceivably that could represent less than five per cent of the ownership of the bank, meaning to say that ninety-five per cent of the ownership could be in the hands of persons who are much less than two-thirds of the number of stockholders that exist.

For that reason, Mr. President, the requirement in this instance, with respect to holding companies as compared to consolidation, is extremely prohibitive and a disadvantage to a great many people who might be the small people who try to be protected by the gentleman from Delaware, Senator Bell, who would favor the holding company concept who would be disadvantaged because of a disproportionate number of people that would go to make up the two-thirds.

As I suggest, Mr. President, it looks innocuous at first, but in application it is conceivable that a greater number of people representing a very fractional interest in an institution could control the fate of that institution, and that is undemocratic.

And the question recurring,  
Will the Senate agree to the amendments?

The yeas and nays were required by Senator HESS and were as follows, viz:

## YEAS—15

Bell	Hopper	Mellow	Snyder
Corman	Howard	Messinger	Stapleton
Gekas	Kelley	Moore	Wilt
Hess	Manbeck	Shaffer	

## NAYS—34

Andrezski	Holl	Murray	Scanlon
Bodack	Jubelirer	O'Connell	Singel
Early	Kusse	Pecora	Stampono
Fisher	Lewis	Price	Stauffer
Fumo	Lincoln	Reibman	Stout
Greenleaf	Lloyd	Rhoades	Street
Hager	Loeper	Romanelli	Tilghman
Hankins	Lynch	Ross	Zemprelli
Helfrick	McKinney		

Less than a majority of all the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the bill on third consideration?

## STAUFFER AMENDMENTS

Senator STAUFFER, by unanimous consent, offered the following amendments:

Amend Sec. 3, page 5, line 27, by striking out "(a),"

Amend Sec. 3 (Sec. 903), page 5, line 30; page 6, lines 1 through 28, by striking out all of said lines and inserting: \* \* \*

Amend Sec. 3 (Sec. 903), page 7, line 14, by striking out the bracket before "an"

Amend Sec. 3 (Sec. 903), page 7, line 14, by striking out "'] a branch"

Amend Bill, page 7, lines 20 through 30; page 8, lines 1 through 30; page 9, lines 1 through 30; page 10, lines 1 through 7, by striking out all of said lines on said pages

Amend Sec. 5, page 10, line 8, by striking out "5" and inserting: 4

Amend Sec. 6, page 10, line 10, by striking out "6" and inserting: 5

Amend Sec. 6 (Sec. 905), page 10, lines 20 through 22, by striking out "would be consistent with" in line 20, all of line 21 and "103" in line 22

Amend Sec. 7, page 10, line 30, by striking out "7" and inserting: 6

Amend Sec. 8, page 11, line 2, by striking out "8" and inserting: 7

On the question,

Will the Senate agree to the amendments?

Senator STAUFFER. Mr. President, I hope I can have the attention of the Members to consider these amendments because I think House Bill No. 1889 presents a serious dilemma to many of us and I believe that perhaps with the adoption of these amendments they may help to clear things, at least for many of us.

Mr. President, there have been many problems in the banking industry of which we have all been made aware, and I think there is a clear recognition that there needs to be some changes in order to permit the banking industry to face competition and to move forward into a future which has changed very drastically from what the economic climate had been in the past. House Bill No. 1889 presents two separate and diverse approaches to dealing with the problems of the banking industry. Number one, it proposes that banks be permitted to branch throughout the Commonwealth without any attention to the contiguous county line boundary system that has been in place up to this point. Secondly, House Bill No. 1889 proposes that multi-bank holding companies be permitted.

In analyzing those two concepts I found it extremely difficult to get objective information because it seems the only information that has been disseminated has been from those who are supportive of the legislation, who are beneficiaries of House Bill No. 1889 or those who feel they would be negatively affected and who are the opponents. As far as objective analysis, it has been very difficult to come by, and in analyzing the question I have come to the conclusion that we really gain nothing to help the people of Pennsylvania by permitting statewide branching. All we gain by that concept is to permit banks to move at will throughout the Commonwealth much like chain stores which would open branches. There are plenty of banks existing in all sixty-seven counties of the Commonwealth so banking facilities are certainly not in want as far as the people of the Commonwealth are concerned.

Mr. President, I have come to the conclusion that there is really nothing to be gained by the branching concept and my amendments would propose to delete that from the bill and leave in the legislation the second part which would be the multi-bank holding company concept. We have become very aware of the fact that many of the large chain store operations, Sears Roebuck, if you will, many of the brokerage houses are becoming involved in operations which are definitely in the realm of banking. In order to compete with this new type of competition and in order to have more flexibility for a more efficient operation of our banking system, there is need for an expansion of the banking privileges. I believe the multi-bank holding company principles that are outlined in House Bill No. 1889 will provide the mechanism to provide the kind of dynamic competition that we need. I believe if we take that step at this time we will have made a major step forward in reforming banking in Pennsylvania and I think it will accomplish all we really need to accomplish without going to the extent of adding the other concept of the branch banking throughout the State.

It is on that basis, Mr. President, that I present the amendments and would ask for their support.

Senator ZEMPRELLI. Mr. President, I listened to the remarks of the gentleman with interest because in part he is correct and in part it is unfortunate that the gentleman has not viewed some of the reports that have been issued with respect to the whole concept of branching. I was chairman of the Committee on Business and Commerce a number of years ago in 1974 when branch banking was brought in a bill that would allow branch banking throughout Pennsylvania. We conducted hearings throughout the State. As I say now and as I said then, it is basically a banker's bill and fundamentally we are speaking in terms of an issue that has very little concern among the public. Actually there are no charismatic qualities to a branching bill.

Interestingly enough, Mr. President, the Philadelphia Federal Reserve issued a very significant report and investigation relating to the issues that the gentleman raises. Since that time there have been some very significant events take place in the industry due to the pressures of the local economy that gave rise to whether or not we had exercised good judgment back in 1974 in not going the branching route. There were

several banks that were teetering in their portfolios to such an extent that disaster could have resulted and because of the restrictiveness of contiguous county banking, there may not have been a bank large enough to acquire that institution. Mr. President, that is one of the reasons why expanding the parameters of banking within the State would have an advantage.

Secondly, Mr. President, in response to the concern of the gentleman and his statement that there is no advantage, the degree of sophistication that can be offered to the business people of his community in the form of advanced pension plans and the like that go together with today's business that can be provided by sophisticated banking, needs to have the ability of those kinds of banks that can supply those services moving out into that area. Banks are as different as different kinds of business ventures. We found the rural banks were basically those that were into making mortgages and they should be preserving those. There is a degree of sophisticated service that comes from the larger banks. Banking will always be a matter of convenience and service to put aside the apprehensions of those who believe that the larger banks are going to come in and swallow them up.

Mr. President, what I am suggesting is, in an age where we talk daily about business practices that are international in nature, it seems rather funny that we would be sitting here talking much in line with what was thought about the Maginot Line during World War II as to its invincibility. It was outmoded. The concepts of contiguous county banking are outmoded. Business communities do not move by the antiquated county lines. The need to keep the economy of this Commonwealth moving forward is to bring in innovative practices in the industry. Certainly there are those who would want it to be statewide branching, and I would support statewide branching. It is pragmatically political to know that that concept will not fly in this General Assembly at this time.

Mr. President, there is another interesting facet to this which I think all of us should be aware of. I repeat by saying that banking and branch banking is a banker's bill. Some number of years ago there were over 1,300 different branches in the Commonwealth of Pennsylvania. By the route of merger and consolidation that number is down to somewhere between 300 and 400, as I understand and I could stand to be corrected, but not more than that. What I am suggesting is, because of the very restrictive nature of what we in the General Assembly have done, we have forced banking into another mechanism of acquiring the same avenue of result.

Mr. President, these are all of the reasons why I believe we here in Pennsylvania should take a more progressive innovative approach to this particular industry, and to suggest that it is bicontiguous is only a slight move in the right direction and should be offered as an alternative to the multi-holding company concept. I would be opposed to this legislation because it keeps us in the medieval ages with respect to banking in Pennsylvania.

Mr. President, I would ask for a "no" vote on the amendments.

Senator BELL. Mr. President, as I listened to the very persuasive and polished presentation by the silver voiced songbird from Allegheny, I think the gentleman did not go far enough. Down my way people do not respect State boundaries. Why stop at county boundaries? If we are going to fall into this trap, we might as well abolish everything we have to do with the State of Pennsylvania. I am one of those old-time people and I was thinking as the Minority Leader spoke of the old expression that "Money creates power, power corrupts and absolute power is absolute corruption."

The word corruption does not mean thievery, it does not mean dishonesty, it means trampling on the rights of people. Corruption as meant by the person who wrote that expression many, many decades ago, means that a little person meant absolutely nothing. As we create these massive super corporations, the right of the individual goes down the drain.

Senator HOLL. Mr. President, these amendments offered by the gentleman from Chester, Senator Stauffer, would eliminate one of the two basic features of House Bill No. 1889, one concept being the holding concept and the other branching. This would eliminate the branching. Under this statute, if it is adopted, banks would be permitted to open branches in counties which are bicontiguous or two counties away, two from their home office for the eight years after the passage of the law. For the first four years after passage banks in communities with populations with less than 15,000 would be protected against branching from outside banks and then in the next four years that home office protection would apply to communities with less than 10,000 population. Then for the next four years like-minded banks would be permitted to join together in a holding company that would control.

What we are saying here is that it is not a drastic change as was the case a number of years ago when statewide banking ran into difficulty. It is a gradual phase-in over an eight year period and it is substantially sound because it is not an all-at-once statewide banking proposal which could be objected to.

I have, as I am sure all the Members of the Senate have, received many letters on this matter. Here is one from West Reading, Pennsylvania, by R. M. Palmer Company, signed by the president.

"At present, Pennsylvania is the only major industrial state in the Northeast that has not modernized its banking laws. Failure to do so has impeded development of industrial, small business and agricultural sectors of Pennsylvania's economy, and has deprived many consumers of the benefits of competition for their savings.

"Also, current law puts Pennsylvania's commercial banks at a disadvantage when competing with non-bank institutions and out-of-state banks. H.B. 1889 would allow our commercial banks to compete without geographic restriction to the same extent such restrictions are now imposed on their competitors."

Here is one from Lancaster, Pennsylvania, Raub Supply Company, signed by George Hartman, Chairman of the Board, and he says the same thing. One from Norristown, saying essentially the same thing, "In closing, to help bring about a modern banking structure..."

We have these letters from Chester, from Delaware County. I think I have received more from Delaware County than any other county. Nevertheless, I would urge a negative vote.

Senator ZEMPRELLI. Mr. President, I did not mean to speak a second time, however, I did feel compelled to address myself to the remarks made by the gentleman from Delaware, Senator Bell, because apparently I have given the wrong impression. Let me capsulize on what I am saying as to the progression of what has happened.

In my judgment, Mr. President, the largest banking institution in the State does not have a license and that is the brokerage firm of Merrill Lynch. That is a classic form of banking, it is international in scope, certainly national in scope. Mr. President, I am also impressed by the fact that out-of-state banks such as Citicorp have spent \$90 million promoting a credit card sale to circumvent the laws of this Commonwealth on the limitation of interest. I cannot put my head in the sand about these conditions that exist, and much as I used the illustration of the Maginot Line, I believe that by maintaining contiguous boundaries we have an answer to the problems that exist in the world about us as they would reflect this business community and how it operates. It is not a condition of our making but certainly one that we need to address ourselves to if we are going to stay abreast of what our commitment has been for years and years and years in this General Assembly, and that is a strong and viable banking system both at the Federal and State level. In doing so we need to take the wraps off of our eyes, understand what is happening in that community and address ourselves to those problems as they exist today.

From 1974 to today the same banks that were opposed to branching are now for it, not always for the purest of reasons. Others waited until they could be merged and consolidated, not always for the purest of reasons. These are artificial conditions to correct the situation and I say, Mr. President, there are other conditions existing out there today where banking has become so much different in the last ten years that require we expand these horizons so that one bank can compliment another in possible acquisition within regions. We need to take the wraps off, at least as far as the State lines are concerned. I would like to say something in support of what the gentleman from Delaware, Senator Bell, has said, namely, why stop at State lines? I frankly feel the day is coming where we will not be stopping at State lines but I would say to the gentleman, from what I understand at this particular moment, it would be to the State of Pennsylvania's tremendous disadvantage to allow out-of-state banks to come in. There may be a parity someday. It has to do with the size of banks to a great deal and that is why at this present time I do not support that move. I wish to say to the gentleman that I would monitor the situation because it very well may be I would want to join him in legislation that would also allow for that condition to exist in keeping with the general program and thesis and philosophy as, at least, I understand the industry.

Senator KUSSE. Mr. President, it is always a pleasure to join the distinguished Minority Leader in urging our col-

leagues on both sides of the aisle to cast a vote that will indeed help insure that Pennsylvania is taking a progressive step forward in the field of finance. I join the gentleman in urging a negative vote on these amendments.

And the question recurring,  
Will the Senate agree to the amendments?

The yeas and nays were required by Senator STAUFFER and were as follows, viz:

#### YEAS—10

Bell	Moore	Snyder	Stauffer
Kelley	Shaffer	Stapleton	Street
Messinger	Singel		

#### NAYS—39

Andrezeski	Helfrick	Loeper	Rhoades
Bodack	Hess	Lynch	Romanelli
Corman	Holl	McKinney	Ross
Early	Hopper	Manbeck	Scanlon
Fisher	Howard	Mellow	Stampono
Fumo	Jubelirer	Murray	Stout
Gekas	Kusse	O'Connell	Tilghman
Greenleaf	Lewis	Pecora	Wilt
Hager	Lincoln	Price	Zemprilli
Hankins	Lloyd	Reibman	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

#### MESSINGER AMENDMENT

Senator MESSINGER, by unanimous consent, offered the following amendment:

Amend Sec. 2 (Sec. 115), page 4, by inserting between lines 28 and 29:

(iii) Any institution controlled by a bank holding company shall so disclose the name of the holding company on its letterhead, advertisements and all other documents utilized in transacting business with the public.

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

Senator MESSINGER. Mr. President, my amendment simply states that any institution controlled by a bank holding company shall so disclose the name of the holding company on its letterhead, advertisements and all of their documents utilized in transacting business with the public. This is simply a right-to-know amendment. People who are doing business should know what holding company owns the bank.

Senator FISHER. Mr. President, basically what the amendment of the gentleman from Lehigh, Senator Messinger, would do may at first seem very harmless but let us think about what would happen here and whether or not it is a provision that needs to be required in the law.

If a bank holding company acquires a certain number of shares of which it has control, and that could be as little as twenty-five per cent as I understand it, that holding company would have to be identified in all the material. I do not think that is a necessary requirement. What we are going to have is a subsidiary of that holding company. A bank would be a legal

subsidiary of that holding company. We have subsidiaries in the law in many different places and there is no requirement in other aspects of the law that just because a legal entity is owned or controlled partially by someone else that that identified information be contained. I think if we just tried to utilize a little common sense here, I know in my own mind when I see letterheads, I see it frequently, both in this business and others, where it comes from ABC Corporation and then it has a long list showing "subsidiary of" so on and so forth. In my own mind I frequently wonder who am I responding to. I think in the case of this banking provision that to require a holding company's name be included does not make any sense. It does not make any more sense to require that than it does to require that Mellon Bank and a F. D. Jones, shareholder, if he is a controlling shareholder, be contained in all identifying information. I do not think it makes sense. I think it is just unduly harassing the banks in this Commonwealth and I would urge a negative vote on the amendment of the gentleman from Lehigh, Senator Messenger.

Senator HOLL. Mr. President, in my opinion as the gentleman from Allegheny, Senator Fisher, said, this is an innocuous amendment. However, they do clutter records and they do clutter transactions which these companies are going to be subjected to. Furthermore, they will amend the bill and will delay the action on the bill tonight, a very important piece of legislation will be delayed if the amendment is adopted.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator MESSINGER and were as follows, viz:

YEAS—15

Bell	Kelley	Moore	Stapleton
Bodack	Lloyd	Shaffer	Stauffer
Corman	Manbeck	Singel	Stout
Hess	Messenger	Snyder	

NAYS—34

Andrezeski	Holl	McKinney	Romanelli
Early	Hopper	Mellow	Ross
Fisher	Howard	Murray	Scanlon
Fumo	Jubelirer	O'Connell	Stampono
Gekas	Kusse	Pecora	Street
Greenleaf	Lewis	Price	Tilghman
Hager	Lincoln	Reibman	Wilt
Hankins	Loeper	Rhoades	Zemprelli
Helfrick	Lynch		

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

GUESTS OF SENATOR TIM SHAFFER  
PRESENTED TO SENATE

Senator SHAFFER. Mr. President, the hour is growing late but I am constrained to make the following remarks. I have just noticed that two very distinguished constituents of mine are in the gallery, Mr. William Lutz, who is the President of the Butler Chamber of Commerce and Mr. Jack Arthurs, who I think is known to most Members of this Body as a former

Member of the General Assembly. Mr. President, I would like them to be recognized.

The PRESIDENT. Will the Senate please give these gentlemen its traditional warm welcome?

(Applause.)

And the question recurring,  
Will the Senate agree to the bill on third consideration?

FUMO AMENDMENT

Senator FUMO, by unanimous consent, offered the following amendment:

Amend Sec. 2 (Sec. 114), page 3, line 28, by striking out "UNLAWFULLY"

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

Senator FUMO. Mr. President, if my colleagues would look at page 3 of House Bill No. 1889, specifically line 28, they will find inserted in there an innocuous word which certainly appears to be proper and the word is "unlawfully." My amendment would delete that word for the following reasons. If my colleagues would recall, some time ago the Philadelphia banks decided it would be much more profitable to move their credit card operations to the State of Delaware so they can circumvent our usury laws. The Attorney General prevailed upon them and got them to refrain from doing that. However, in committee, amendments were inserted into the bill, into the language this Senate adopted previously concerning this issue and the word "unlawfully" was inserted. It appears innocuous but a closer analysis reveals the following. The language now reads, "The Treasury Department shall not deposit any Commonwealth funds in a financial institution subject to this act that..." and then "unlawfully" was inserted, "...does not conform to the finance charge limitations in the Act of October 28, 1966...known as the 'Goods and Services Installment Sales Act.'"

Mr. President, I submit the reason why some of the special interests inserted the word "unlawfully" there was because I do not think they would ever intend to do something blatantly illegal. However, in an attempt to keep Commonwealth funds on deposit which are very lucrative, they would always be able to say, "Well, the Federal law allows us to move our service corporation to Delaware and, therefore, the Federal law allows us to circumvent the usury laws and charge whatever we want on credit card sales in that State." Certainly then that makes it "lawful" but it certainly strikes at the heart of the reason why we wanted this language in here in the first place. We know the Federal laws allow it. That is one of the problems we have. I think it is the promise of this General Assembly to set the interest ceilings if this General Assembly decides it is in the best interests of the citizens of the Commonwealth to raise the amount that can be charged on credit cards, certainly we have the right to do that. I think unless we remove this particular word we are then going to allow these huge banks to move their corporate headquarters elsewhere which also does not help us from an economic standpoint and thereby they would then be able to charge exorbitant interest



rates which we do not want them to charge because we have a law in place that prevents that.

Mr. President, I happen to support House Bill No. 1889, regrettably because of the fact that the Federal laws have placed us in a position where we must enact this kind of legislation. However, I would hope we would be able to maintain some type of control over the amount of interest that we allow consumers to be charged on credit card purchases.

Mr. President, I would urge a "yes" vote on this amendment to remove that one particular word.

In closing I would like to say in our haste to pass this bill, and I recognize and I can see the votes—I can see someone has done a lot of homework—but I would hope in our haste to pass this legislation, we would not deprive ourselves of the right to regulate the amount of interest that we are going to charge on consumer credit.

Senator HOLL. Mr. President, the Committee on Banking and Insurance placed this amendment in the bill at the request of the Treasurer of the Commonwealth. It was considered very carefully and the word "unlawfully" was considered and it was placed there for an obvious reason. I believe in the essence of saving time we should vote "no" on this amendment.

And the question recurring,  
Will the Senate agree to the amendment?

**The PRESIDING OFFICER (D. Michael Fisher) in the Chair.**

(During the calling of the roll, the following occurred:)

Senator JUBELIRER. Mr. President, I would like to change my vote from "no" to "aye."

The PRESIDING OFFICER. The gentleman will be so recorded.

The yeas and nays were required by Senator FUMO and were as follows, viz:

**YEAS—20**

Andrezeski	Hess	Messinger	Singel
Bell	Jubelirer	Moore	Stapleton
Bodack	Kelley	Reibman	Stauffer
Early	Lloyd	Romanelli	Stout
Fumo	McKinney	Shaffer	Zemprelli

**NAYS—29**

Corman	Hopper	Manbeck	Ross
Fisher	Howard	Mellow	Scanlon
Gekas	Kusse	Murray	Snyder
Greenleaf	Lewis	O'Connell	Stampono
Hager	Lincoln	Pecora	Street
Hankins	Loeper	Price	Tilghman
Helfrick	Lynch	Rhoades	Wilt
Holl			

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

**KELLEY AMENDMENTS**

Senator KELLEY, by unanimous consent, offered the following amendments:

Amend Sec. 2 (Sec. 115), page 4, by inserting between lines 28 and 29:

(iii) No Pennsylvania bank holding company shall control an institution if the holding company and any of its existing affiliates or subsidiary institutions which it seeks to control has a capital to asset ratio of less than six percent.

Amend Sec. 4 (Sec. 904), page 9, lines 3 and 4, by inserting a bracket before "such" in line 3 and after "department," in line 4 and inserting immediately thereafter: a minimum of six percent capital to asset ratio as of the end of the month immediately preceding the filing of an application with the department

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

Senator KELLEY. Mr. President, I would like to invite my colleagues to give serious consideration to the contents and the attachments that were made of a letter presented to each one of us from Jacob C. Lammey which pointed out—and these amendments reflect what was pointed out in that letter—the Federal Deposit Insurance Corporation has set a standard of ratio of deposits. Let me back up, Mr. President. I guess I am a little concerned. I would like to say when I heard the Minority Leader speak today, he talked about a strong and viable banking system and I have heard everyone speak for the bill and not for any of the amendments today. It seems to me there is a unanimity among all of us that we want a strong banking institutional structure in this Commonwealth. We want banking to adjust to the social and financial changes that have taken place in the past laws that are on the books at the present time. I have yet today, Mr. President, to hear anyone speak in terms of the individual recipient users of the banking institutions. Mr. President, these two amendments talk in terms of the stability and the protection of the users, the depositors. No matter what we want to do, we ought to have a requirement of stability of ratio that the capital equity be maintained as a critical element for the adequacy of the capital and the operation of the bank as set forth in the memo we received.

Mr. President, I can only say if we follow the standard as set forth by the Federal Deposit Insurance Corporation which is the protection of the individual person in this country and therefore in this Commonwealth, Secretary McEnteer in response to this memo said we have a different standard in this Commonwealth and there are other standards elsewhere. The FDIC is to protect the individual person and that is why I offer these amendments and I ask everyone to support them.

Senator HOLL. Mr. President, very quickly I would ask for a "no" vote on these amendments. While the proposition advanced by the gentleman from Westmoreland, Senator Kelley, may have merit, I think they should be placed into a separate bill and be considered fully because they have great implications. Therefore, Mr. President, I would urge my colleagues to vote "no."

Senator ZEMPRELLI. Mr. President, not having had the advantage of hearing the amendments of the gentleman discussed in caucus, I wonder if the gentleman would submit to interrogation. I am not sure I fully understand his amendments.

Mr. President, may we be at ease for a moment?  
The PRESIDING OFFICER. The Senate will be at ease.  
(The Senate was at ease.)

**The PRESIDENT (Lieutenant Governor William W. Scranton III) in the Chair.**

Senator CORMAN. Mr. President, I do not believe we had these amendments in caucus to discuss them. I would like to be at ease until I examine the amendments.

The PRESIDENT. The Senate will be at ease.  
(The Senate was at ease.)

And the question recurring,  
Will the Senate agree to the amendments?

The yeas and nays were required by Senator KELLEY and were as follows, viz:

YEAS—5

Hess	Messinger	Shaffer	Stapleton
Kelley			

NAYS—43

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Singel
Corman	Howard	Moore	Snyder
Early	Jubelirer	Murray	Stampone
Fisher	Kusse	O'Connell	Stauffer
Fumo	Lewis	Pecora	Stout
Gekas	Lincoln	Price	Street
Greenleaf	Lloyd	Reibman	Tilghman
Hager	Loeper	Rhoades	Wilt
Hankins	Lynch	Romanelli	Zemprelli
Helfrick	McKinney	Ross	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

It was agreed to.

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

On the question,  
Shall the bill pass finally?

Senator STAPLETON. Mr. President, now that all the amendments that were offered were defeated, I would like for the record to state my reasons for my opposition in light of the fact that the district I represent is largely agricultural and I must look at the possible effects of House Bill No. 1889 as far as my constituents are concerned. The loss of local control over banking policies in our communities will severely curtail the availability of credit for consumers, small businesses, agricultural and municipal purposes. Certainly there is less local control over bank policies and the tendency for local deposits to be shifted to areas of more concentrated population, thereby decreasing the availability of lendable funds in local communities. The number of banking organizations within the State decreases, thereby decreasing the competition within the State. Most important from my standpoint there is an almost immediate decline in the proportion of loans going to rural and agricultural borders.

For this reason, Mr. President, I cannot vote for legislation which favors loss of local control over banking policies because I firmly believe it is in my constituents' best interest that such local controls remain intact. Statewide banking, particularly the multi-bank holding company provision will certainly destroy the existing and well-functioning, independent community banks in Pennsylvania.

Senator BELL. Mr. President, when I first ran into House Bill No. 1889, and I did sit through part of the public hearing on it, the thought in my mind was, does this open an opportunity for foreign money consortiums to come in and control the banking interests and banking institutions of Pennsylvania? I am very much afraid of such a thing. I know we as a country have had our financial assets bled dry by the Arab oil countries, the OPEC nations. Whereas ten, fifteen years ago when the Democratic floor leader was pushing the statewide banking bill, we had plenty of capital in this country, that is not true today. I will not go into mentioning names—it takes too much time of this Senate. I know one of Pennsylvania's best corporations that was taken over by a Canadian corporation laid off 350 people last week and they are reevaluating the operation of this Pennsylvania corporation.

Mr. President, I have seen this happen in other fields and I am very fearful that this can happen in Pennsylvania. I have examined this bill and I have asked some of its proponents if such could happen under this bill where Asiatic financial consortiums such as the Hong Kong and Shanghai money could get its nose into Pennsylvania's banking and take over. I know a little bit about corporate holdings. They have one corporation owned by a parent corporation owned by another corporation and about ten corporations behind it where we find the money is coming from.

From examining this bill, Mr. President, it is obvious there is an expression on page 4, line 21, "No bank holding company other than a Pennsylvania bank holding company may control an institution." It does not say who would own the bank holding company. It does not say that other corporations, a Swiss corporation, financed with Arab money could possibly hold the stock of a holding company which would hold the bank holding company right down to the Pennsylvania banks.

Mr. President, I see there is a reference on line 7, page 4, as to what a bank holding company is. I am not too satisfied that this closes the barn door. I am going to vote for this bill because I certainly hope this concern of mine is addressed by the House committee. Apparently the homework has been done very well by somebody, as previously was stated. This bill is going to sail through here tonight. But ten years from now when a consortium of Asiatic or Arab money comes out into the front through a series of holding companies down to controlling the banks, and when a Governor candidate is exceptionally well-heeled with money and maybe some of it will come from political contributions from one of these sources, my colleagues will know what I meant when I said earlier, "Money creates power, power creates corruption, absolute power creates absolute corruption," because I think unless this bill is very clearly amended over in the House, it is

an open invitation for outside money to come in. I think when that happens, the rights of people are going to disappear.

Senator HOLL. Mr. President, for the purposes of my findings on legislative intent of House Bill No. 1889, nowhere here is it the intent to permit the takeover of any Pennsylvania bank by any out-of-state or out-of-country financial group. I would like to add, Mr. President, that this legislation is the product of years of effort and much work on the part of many people and public hearings. Every effort was made to consider all suggestions. It has the support of the Department of Banking, the Governor's Task Force and, of course, the majority of the banks in Pennsylvania.

Mr. President, I urge an affirmative vote.

And the question recurring,  
Shall the bill pass finally?

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

**YEAS—33**

Andrezeski	Helfrick	Loeper	Scanlon
Bell	Holl	Lynch	Shaffer
Early	Hopper	McKinney	Stampone
Fisher	Howard	Pecora	Stout
Fumo	Kusse	Price	Street
Gekas	Lewis	Reibman	Tilghman
Greenleaf	Lincoln	Romanelli	Wilt
Hager	Lloyd	Ross	Zemprelli
Hankins			

**NAYS—16**

Bodack	Kelley	Moore	Singel
Corman	Manbeck	Murray	Snyder
Hess	Mellow	O'Connell	Stapleton
Jubelirer	Messinger	Rhoades	Stauffer

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**RECONSIDERATION OF SB 1135**

**BILL OVER IN ORDER ON FINAL PASSAGE**

**SB 1135 (Pr. No. 1651)** — Senator HOLL. Mr. President, I move that the Senate do now reconsider the vote by which Senate Bill No. 1135, Printer's No. 1651, just passed finally.

Senator MANBECK. Mr. President, I second the motion.  
The motion was agreed to.

And the question recurring,  
Shall the bill pass finally?

Senator HOLL. Mr. President, I move that Senate Bill No. 1135 go over in its order.

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

Senator MELLOW. Mr. President, I object to the motion to put the bill over and ask for a roll call.

**POINT OF ORDER**

Senator HOLL. Mr. President, I rise to a point of order.

The PRESIDENT. The gentleman from Montgomery, Senator Holl, will state it.

Senator HOLL. Mr. President, is this motion debatable?

The PRESIDENT. The motion is debatable on the question of postponement, not on the merits of the bill.

Senator HOLL. Mr. President, not on the bill, but I am trying to get some information from the PUC which I have not been able to receive. I ask if we can have the bill go over one day, I might be able to get the answers.

And the question recurring,  
Will the Senate agree to the motion?

(During the calling of roll, the following occurred:)

Senator EARLY. Mr. President, I would like to change my vote from "aye" to "no."

The PRESIDENT. The gentleman will be so recorded.

The yeas and nays were required by Senator HOLL and Senator MELLOW and were as follows, viz:

**YEAS—28**

Bodack	Hess	Loeper	Rhoades
Corman	Holl	Manbeck	Shaffer
Fisher	Hopper	Moore	Snyder
Gekas	Howard	O'Connell	Stauffer
Greenleaf	Jubelirer	Pecora	Street
Hager	Kelley	Price	Tilghman
Helfrick	Kusse	Reibman	Wilt

**NAYS—21**

Andrezeski	Lincoln	Messinger	Singel
Bell	Lloyd	Murray	Stampone
Early	Lynch	Romanelli	Stapleton
Fumo	McKinney	Ross	Stout
Hankins	Mellow	Scanlon	Zemprelli
Lewis			

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

The PRESIDENT. Senate Bill No. 1135 will go over in its order on final passage.

**SECOND CONSIDERATION CALENDAR**

**BILL OVER IN ORDER**

**SB 77** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

**BILL ON SECOND CONSIDERATION**

**SB 79 (Pr. No. 1631)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILLS OVER IN ORDER**

**SB 330, 349 and HB 536** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**BILL LAID ON THE TABLE**

**HB 562 (Pr. No. 2754)** — The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

**MOTION TO LAY BILL ON THE TABLE**

Senator JUBELIRER. Mr. President, I move that House Bill No. 562, Printer's No. 2754, be laid on the table.

On the question,

Will the Senate agree to the motion?

Senator FUMO. Mr. President, I rise to oppose the motion to table House Bill No. 562.

The PRESIDENT. For the gentleman's information, this motion is not debatable.

Senator FUMO. Mr. President, based upon a discussion with the Majority Leader who assures me if the bill is tabled he will help us get it off the table on or before March 15th, I would withdraw my opposition.

Senator MELLOW. Mr. President, I would like the record to show I am voting "no" on the motion.

And the question recurring,

Will the Senate agree to the motion?

The motion was agreed to.

The PRESIDENT. House Bill No. 562 will be laid on the table.

**BILLS OVER IN ORDER**

**SB 636, 970 and HB 972** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**BILLS ON SECOND CONSIDERATION**

**HB 1030 (Pr. No. 2846) and SB 1073 (Pr. No. 1262)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILL REREFERRED**

**SB 1078 (Pr. No. 1267)** — Upon motion of Senator JUBELIRER, and agreed to, the bill was rereferred to the Committee on Appropriations.

**BILL ON SECOND CONSIDERATION**

**SB 1092 (Pr. No. 1287)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILLS OVER IN ORDER**

**SB 1093, 1201, 1202 and 1203** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**BILL ON SECOND CONSIDERATION**

**SB 1218 (Pr. No. 1611)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILLS OVER IN ORDER**

**SB 1225, 1226 and 1243** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**BILLS ON SECOND CONSIDERATION**

**SB 1251 (Pr. No. 1645), SB 1252 (Pr. No. 1538) and SB 1263 (Pr. No. 1560)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILL OVER IN ORDER**

**SB 1264** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

**BILLS ON SECOND CONSIDERATION**

**SB 1273 (Pr. No. 1570) and SB 1277 (Pr. No. 1575)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILLS OVER IN ORDER**

**HB 1302, 1582 and 1601** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**BILL ON SECOND CONSIDERATION**

**HB 1632 (Pr. No. 1911)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILL REREFERRED**

**HB 1650 (Pr. No. 2847)** — Upon motion of Senator JUBELIRER, and agreed to, the bill was rereferred to the Committee on Appropriations.

**BILLS OVER IN ORDER**

**HB 1776 and 1850** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

**SURPLUS PROPERTY DISPOSITION PLAN NO. 1 OF 1981, RESOLUTION A, CALLED UP**

Senator JUBELIRER, without objection, called up from page 11 of the Calendar, Surplus Property Disposition Plan No. 1 of 1981, Resolution A, entitled:

Resolved That Surplus Property Disposition Plan No. 1 of 1981 transmitted by the Governor under the Administrative Code of 1929 to the General Assembly under date of December 9, 1981 which is incorporated herein by reference be approved.

On the question,

Will the Senate adopt the resolution?

**SURPLUS PROPERTY DISPOSITION PLAN NO. 1 OF 1981, RESOLUTION A, ADOPTED**

Senator JUBELIRER. Mr. President, I move that the Senate do adopt Surplus Property Disposition Plan No. 1 of 1981, Resolution A.

On the question,

Will the Senate agree to the motion?

QUESTION DIVIDED

Senator LLOYD. Mr. President, I request we divide the question on Surplus Property Disposition Plan No. 1, Resolution A.

The PRESIDENT. The gentleman will state how he wishes the question to be divided.

Senator LLOYD. Mr. President, I would like to remove from consideration or separate the following three parcels of land in Philadelphia County for the purpose of further evaluation as to the impact of the disposition: The Youth Development Center at Front and Luzerne Streets in Philadelphia, the Port of History Museum in Philadelphia County and 915 Corinthian Avenue in Philadelphia County.

Mr. President, all three of these represent the total amount of land in this disposition plan that are within the confines of Philadelphia County and I would ask solely that they be considered separately and that my colleagues in the Senate vote not to dispose of this property at this time until further evaluation regarding its impact can take place.

The PRESIDENT. Pursuant to Senator Lloyd's request, the question on S.P.D.P., Resolution A will be divided. The question then before the Senate is, will the Senate agree to the resolution to dispose of surplus property entitled Port of History Museum, Penns Landing?

Senator PRICE. Mr. President, a number of us from Philadelphia were concerned about this property because of the importance of it in terms of geography along the waterfront and also in terms of the price that it would command if it were sold.

Just this afternoon I talked with the Commerce Director of the City of Philadelphia who, as long as the Department of Property and Supplies and the Budget Director, Secretary Wilburn, are agreeable to giving the City of Philadelphia a chance to decide how this property should be disposed of, and I have confirmed that they are now willing to do that, he is agreeable to have this property included in the authorization plan. In other words, my reading as of now is the City of Philadelphia does not in any way object to this property being included in the disposition plan.

Senator LLOYD. Mr. President, to reiterate on this Port of History Museum disposition, I would ask for a "no" vote, not for the purpose of killing that disposition, but to allow for further evaluation, and would ask all of my colleagues for a "no" vote on this issue.

And the question recurring,

Will the Senate agree to the resolution to dispose of surplus property entitled Port of History Museum, Penns Landing?

The yeas and nays were required by Senator LLOYD and were as follows, viz:

YEAS—26

Bell	Hess	Manbeck	Shaffer
Corman	Holl	Moore	Snyder
Fisher	Hopper	O'Connell	Stauffer
Gekas	Howard	Pecora	Street
Greenleaf	Jubelirer	Price	Tilghman
Hager	Kusse	Rhoades	Wilt
Helfrick	Loeper		

NAYS—23

Andrezeski	Lewis	Messinger	Singel
Bodack	Lincoln	Murray	Stampone
Early	Lloyd	Reibman	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	McKinney	Ross	Zemprelli
Kelley	Mellow	Scanlon	

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

The PRESIDENT. The question then before the Senate is, will the Senate agree to the Surplus Property Disposition Plan as it pertains to 915 Corinthian Avenue?

Senator LLOYD. Mr. President, again on this particular parcel of ground, I would ask for a "no" vote from my colleagues.

Senator JUBELIRER. Mr. President, would the gentleman accept the same roll call?

The PRESIDENT. There being no objection to maintaining the same roll call, the Clerk will call a fast roll.

And the question recurring,

Will the Senate agree to the Surplus Property Disposition Plan as it pertains to 915 Corinthian Avenue?

The yeas and nays were required by Senator LLOYD and were as follows, viz:

YEAS—26

Bell	Hess	Manbeck	Shaffer
Corman	Holl	Moore	Snyder
Fisher	Hopper	O'Connell	Stauffer
Gekas	Howard	Pecora	Street
Greenleaf	Jubelirer	Price	Tilghman
Hager	Kusse	Rhoades	Wilt
Helfrick	Loeper		

NAYS—23

Andrezeski	Lewis	Messinger	Singel
Bodack	Lincoln	Murray	Stampone
Early	Lloyd	Reibman	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	McKinney	Ross	Zemprelli
Kelley	Mellow	Scanlon	

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

The PRESIDENT. The question before the Senate is, will the Senate agree to the Surplus Property Disposition Plan as it pertains to the Youth Development Center of Philadelphia?

Senator LLOYD. Mr. President, again I would ask for a "no" vote and again I would accept the previous roll call.

And the question recurring,

Will the Senate agree to the Surplus Property Disposition Plan as it pertains to the Youth Development Center?

The yeas and nays were required by Senator LLOYD and were as follows, viz:

YEAS—26

Bell	Hess	Manbeck	Shaffer
Corman	Holl	Moore	Snyder
Fisher	Hopper	O'Connell	Stauffer
Gekas	Howard	Pecora	Street
Greenleaf	Jubelirer	Price	Tilghman
Hager	Kusse	Rhoades	Wilt

Helfrick Loeper

**NAYS—23**

Andrezeski	Lewis	Messinger	Singel
Bodack	Lincoln	Murray	Stampone
Early	Lloyd	Reibman	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	McKinney	Ross	Zemprelli
Kelley	Mellow	Scanlon	

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

On the question,

Will the Senate agree to the motion to adopt the remainder of the Surplus Property Disposition Plan No. 1 of 1981, Resolution A?

The yeas and nays were required by Senator JUBELIRER and were as follows, viz:

**YEAS—48**

Andrezeski	Holl	Manbeck	Scanlon
Bell	Hopper	Mellow	Shaffer
Bodack	Howard	Messinger	Singel
Corman	Jubelirer	Moore	Snyder
Early	Kelley	Murray	Stampone
Fisher	Kusse	O'Connell	Stapleton
Gekas	Lewis	Pecora	Stauffer
Greenleaf	Lincoln	Price	Stout
Hager	Lloyd	Reibman	Street
Hankins	Loeper	Rhoades	Tilghman
Helfrick	Lynch	Romanelli	Wilt
Hess	McKinney	Ross	Zemprelli

**NAYS—1**

Fumo

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative, and Surplus Property Disposition Plan No. 1, Resolution A, is adopted.

Ordered, That the Secretary of the Senate inform the Governor accordingly.

**UNFINISHED BUSINESS**

**REPORTS FROM COMMITTEE**

Senator KUSSE, from the Committee on Labor and Industry, rereported, as amended, **HB 617**; reported, as committed, **SB 1301**.

**BILL REREFERRED**

Senator KUSSE, from the Committee on Labor and Industry, returned to the Senate **SB 1315**, as committed, which was rereferred to the Committee on Consumer Protection and Professional Licensure.

**GENERAL COMMUNICATIONS**

**DISCHARGE PETITIONS**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, February 8, 1982.

We, the Senators whose signatures are affixed hereto respectfully request that the Honorable William W. Scranton, III, as presiding officer of the Senate of the Commonwealth of Pennsylvania, place the nomination hereafter set forth before the Senate for a vote pursuant to the provisions of Article IV, Section 8(b) of the Constitution of the Commonwealth of Pennsylvania which provides in part "... The Senate shall act on each executive nomination within 25 legislative days of its submission. If the Senate has not voted upon a nomination within 15 legislative days following such submission, any five members of the Senate may, in writing, request the presiding officer of the Senate to place the nomination before the entire Senate body whereby the nomination must be voted upon prior to the expiration of five legislative days or 25 legislative days following submission by the Governor, whichever occurs first...."

We respectfully set forth the following facts relative to the nomination hereinafter set forth:

1. The nomination was presented to the Senate on December 7, 1981; and
2. The nomination has been before the Senate for a period of time in excess of 15 legislative days.

The nominee in the position is as follows:

Nancy B. Roeder	Member Board of Assistance, Crawford County
	Edward P. Zemprelli
	Eugene F. Scanlon
	Robert J. Mellow
	Francis J. Lynch
	James E. Ross

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, February 8, 1982.

We, the Senators whose signatures are affixed hereto respectfully request that the Honorable William W. Scranton, III, as presiding officer of the Senate of the Commonwealth of Pennsylvania, place the nomination hereafter set forth before the Senate for a vote pursuant to the provisions of Article IV, Section 8(b) of the Constitution of the Commonwealth of Pennsylvania which provides in part "... The Senate shall act on each executive nomination within 25 legislative days of its submission. If the Senate has not voted upon a nomination within 15 legislative days following such submission, any five members of the Senate may, in writing, request the presiding officer of the Senate to place the nomination before the entire Senate body whereby the nomination must be voted upon prior to the expiration of five legislative days or 25 legislative days following submission by the Governor, whichever occurs first...."

We respectfully set forth the following facts relative to the nomination hereinafter set forth:

1. The nomination was presented to the Senate on December 7, 1981; and
2. The nomination has been before the Senate for a period of time in excess of 15 legislative days.

The nominee in the position is as follows:

Thomas P. Greenlee	Member, Pennsylvania Game Commission
	Edward P. Zemprelli
	Eugene F. Scanlon
	Robert J. Mellow
	Francis J. Lynch
	James E. Ross

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, February 8, 1982.

We, the Senators whose signatures are affixed hereto respectfully request that the Honorable William W. Scranton, III, as presiding officer of the Senate of the Commonwealth of Pennsylvania, place the nomination hereafter set forth before the Senate for a vote pursuant to the provisions of Article IV, Section 8(b) of the Constitution of the Commonwealth of Pennsylvania which provides in part "... The Senate shall act on each executive nomination within 25 legislative days of its submission. If the Senate has not voted upon a nomination within 15 legislative days following such submission, any five members of the Senate may, in writing, request the presiding officer of the Senate to place the nomination before the entire Senate body whereby the nomination must be voted upon prior to the expiration of five legislative days or 25 legislative days following submission by the Governor, whichever occurs first...."

We respectfully set forth the following facts relative to the nomination hereinafter set forth:

1. The nomination was presented to the Senate on November 17, 1981; and

2. The nomination has been before the Senate for a period of time in excess of 15 legislative days.

The nominee in the position is as follows:

Richard C. Noble	Member, Board of Trustees, Wernersville State Hospital
	Edward P. Zemprelli
	Eugene F. Scanlon
	Robert J. Mellow
	Francis J. Lynch
	James E. Ross

The PRESIDENT. The communications will be laid on the table.

### CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Thomas Magyarik by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. Frank Zupanic by Senator Bodack.

Congratulations of the Senate were extended to Timothy Scott Wagner by Senator Gekas.

Congratulations of the Senate were extended to Mr. and Mrs. Floyd S. Hanner by Senator Hager.

Congratulations of the Senate were extended to the Reverend Joseph H. Beatty by Senator Hankins.

Congratulations of the Senate were extended to Scott Szczepaniak by Senator Lloyd.

Congratulations of the Senate were extended to Vienna E. Marcelli by Senator Lynch.

Congratulations of the Senate were extended to Mr. and Mrs. Andrew Zikeli by Senator Shaffer.

Congratulations of the Senate were extended to Mr. and Mrs. Clyde Lloyd and to Mr. and Mrs. Joseph Kaizer by Senator Stapleton.

Congratulations of the Senate were extended to Mr. and Mrs. Andrew Weaver and to Mr. and Mrs. Russell H. Martin by Senator Stout.

Congratulations of the Senate were extended to Dr. T. Lewis Soles by Senator Zemprelli.

### BILLS ON FIRST CONSIDERATION

Senator JUBELIRER. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

**SB 1301 and HB 1283.**

And said bills having been considered for the first time,

Ordered, To be printed on the Calendar for second consideration.

### PETITIONS AND REMONSTRANCES

Senator FUMO. Mr. President, this past weekend I had occasion to visit the northeastern area of our State and noticed to my amazement that the roads there are no better than they are in Philadelphia, in fact, they are quite worse. I traveled to Meshoppen, Mehoopany, Mountaintop, Wilkes-Barre and Scranton in the northeastern region. I left Harrisburg with four hubcaps on my car, I returned with none. I lost one in Wilkes-Barre, one in Scranton and two on Route 81, Mr. President, all this despite the fact that the current Administration has had the benefit of hundreds of millions of dollars more for road repair than previous Administrations. The condition is intolerable and a disgrace.

While I traveled on Route 81 Friday night, the road was a sheet of glass and nowhere to be found was there a PennDOT crew placing salt. In fact, as I traveled northbound, I looked into the southbound lane and found another car traveling northbound sliding along in a southerly direction. There were at least four or five jackknifed trailers. Traffic could not proceed at a rate faster than ten to fifteen miles an hour and it was quite dangerous. There was no salt, the hazardous conditions continued.

In trying to find my way around the great northeastern section of our State, I had occasion to try and stay on certain routes and you would be amazed at the difficulty incurred in traveling Route 81 northbound trying to tie on to Route 11 and 6. Mr. President, you must go through the City of Scranton and unless there is a policeman on duty, I submit you will not find your way. The way in which our roads are marked are hideous or should I say the way in which they are not marked. Mr. President, I bring this to your attention because I understand you are a resident of that fair city. I do not think it is the city's fault, but rather the fault of PennDOT. Ironically, in my journey throughout the region, I was fortunate to have with me a tourist map. On many occasions I looked at that wonderful sentence, or should I say phrase, that told me I had a friend in Pennsylvania. With friends such as Governor Thornburgh and PennDOT, a tourist to this State does not need any enemies whatsoever. It is appalling that we should attempt to attract visitors to our State only to have them either get lost or have their lives

placed in jeopardy or their property damaged severely by the horrendous condition of our roads.

Mr. President, it is my sincere belief that at some point in time the Governor will make good on his promise he made four years ago when he was running that he was going to straighten out the problems in PennDOT that were there because the previous Administration was corrupt and inept. If we follow his logic, the current Administration must be even more corrupt and/or more inept because of the increased vast amounts of money that we have given it to straighten out this condition.

Mr. President, originally I only thought, given my parochial view from the City of Philadelphia, that it was just Philadelphia that was shortchanged and, quite frankly, I was suspicious because I thought maybe there were more Democrats in Philadelphia than there were Republicans. But when I traveled to the little town of Mehoopany, Pennsylvania, where I submit there are many, many more Republicans than there are Democrats, their roads are no better than ours.

Mr. President, I sincerely hope when the Governor campaigns for election this time and makes to the citizens of Pennsylvania an accounting of his past accomplishments or lack thereof, that he will address the condition of the roads in Pennsylvania and perhaps if he is reelected, the roads will get better, but I do not know how.

The PRESIDENT. Without making light of the gentleman's misfortune and if it were the Chair's privilege, which in this instance it is not, to respond to the gentleman, he would merely like to remark and express the joy of northeastern Pennsylvania for having recouped four hubcaps from the City of Philadelphia among the many thousands it has lost over the years. It is a small beginning, but we have great hope.

Senator MANBECK. Mr. President, when my colleague, the gentleman from Philadelphia, Senator Fumo, got up to speak, I was impressed with the way he started out, but he sort of covered the waterfront. There are many questions to be answered. When the gentleman talks about losing hubcaps, I have never lost a hubcap unless I was speeding and we do have speeding laws in the State of Pennsylvania. Concerning Route 80, which is a corridor that carries the illegal vehicles across the northern part of the State from all over the United States to the waterfront in Philadelphia, where Shapp refused to weigh the trucks and there is evidence they have apprehended trucks that had over 100,000 pounds on them, that is unbelievable, no wonder they are busted up. Mr. President, I understand this Administration is planning to construct scales and to see that the trucking industry is going to comply with the rules and regulations of the highway, but it seems to me when we had the independent truckers strike, Shapp got in bed with them and refused to enforce the laws.

When the Pittsburgh and Philadelphia people begin to talk about highways, I am somewhat amazed because they were the very people that voted to give no funds for the enforcement of emission control. I have just recently read that the Federal government now refuses to fund the projects that are located in those three particular areas that were named in the emission control decree which the former Governor signed

without any debate or without filing any objection to it. Our former Governor signed a decree of consent and here we are stuck now and we have seventy projects in those three particular areas that cannot be funded and that hurts me. It hurts me because I travel in those areas and those bridges that need so badly to be built are stalled because the majority of the House and the Senate refused to supply the funds to enact the emission control law. Here we are, we are playing the same game by not passing the inspection bill which all the people of the State of Pennsylvania want and that amazes me at the intelligence of the Members of the General Assembly that they cannot see through the Federal government's rules and regulations.

Senator HANKINS. Mr. President, it is not very often that the Senate has the opportunity to solve a serious problem before it really starts. That is the case today. I have here a bill that I will introduce, a bill to encourage ride-sharing arrangements in Pennsylvania. If more people used carpools or bus pools to get to work, millions of gallons of gasoline would be saved every day. The Federal Highway Administration estimates that commuter traffic could be cut by as much as thirty per cent. One major reason in Philadelphia is the proposed closing of the Schuylkill Expressway for badly needed repairs. When that happens, the traffic jams which result will be unbelievable. As all of us know, there is a great problem that exists presently. There are mornings and evenings that we are jammed completely for twenty minutes or an hour before we can get into Philadelphia. By introducing this legislation now, we can get commuters into carpools, cut down on the number of cars using the highways and expressways each day and contribute to the solution of a problem. Everyone should realize the advantage of carpooling. Why do more people not use this method of transportation? Because many State laws indirectly discourage these arrangements. My bill would exempt ride-sharing from Workmen's Compensation laws and from common carrier designation of the Vehicle Code. Ride-sharing profits would be exempt from State income taxes. Carpooling would also be exempt from municipal license and taxes. Overtime and minimum wage laws, PUC regulations, applying to the commercial vehicles and employee's liability would be limited.

For these reasons, the title of the bill is "Act to Remove Legal Impediments to Ride-Sharing Arrangements."

Mr. President, I ask my colleagues if any one of them would join in being sponsors of this bill to save energy as well as funds of the State. I would also ask any potential cosponsors to stop at the office if they wish to sign on this piece of legislation which I think will relieve some of the problems in the coming days when the expressway, if it is to be repaired, would help alleviate some of the problems.

Senator ZEMPRELLI. Mr. President, I have a very short response. I do not want anybody to get excited, but I feel it is absolutely necessary to respond to the remarks of my dear friend, the gentleman from Lebanon, Senator Manbeck, as they would relate to auto emissions.

Mr. President, that was a bipartisan override of the Governor's veto and I would reaffirm the wisdom of that override



for a number of reasons. Last evening when I was traveling home in western Pennsylvania, the car in front of me, in traveling at an ordinary speed, had kicked up ashes which were the residue of previous ice storms that caused such a cloud of smoke and dust that it was unbelievable, and my immediate response was that here we are concerned about the miniscule auto emission impact upon the environment and nobody concerns themselves about this one element. I would believe the degree of damage from that pollution, from that condition that exists all over western Pennsylvania is far more severe than the impact of auto emission. The tragedy of what the gentleman from Lebanon, Senator Manbeck, has referred to is the worst form of legislative extortion. To suggest to the Commonwealth of Pennsylvania that it should be denied a proportionate share of millions of dollars because we in our wisdom have elected not to fund a ludicrous program, in my judgment is exactly that—legislative extortion. I resent it and I would hope there is a lot more to be said about the fact that the Federal government would hope to withhold funds from the Commonwealth because of its unwillingness to fund a ridiculous proposition to the expense of everybody in this Commonwealth or at least fourteen counties of this Commonwealth.

Mr. President, I would conclude by simply saying I am proud to both reaffirm my vote affirmatively on the motion to deny or the bill to deny and to vote for the override of the veto. Amen.

## COMMUNICATION FROM THE GOVERNOR

### APPROVAL OF SENATE BILL

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, advising that the following Senate Bill had been approved and signed by the Governor:

**SB 562.**

## HOUSE MESSAGES

### HOUSE ADOPTS REPORT OF COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives informed the Senate that the House has adopted Report of Committee of Conference on **SB 919**.

### HOUSE NONCONCURS IN SENATE AMENDMENTS TO HOUSE BILL

The Clerk of the House of Representatives informed the Senate that the House has nonconcurred in amendments made by the Senate to **HB 1039**.

The PRESIDENT. The bill will be placed on the Calendar.

### HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILLS

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 1334** and **1627**.

## GENERAL COMMUNICATION

### INTERSTATE FISHERIES MANAGEMENT PLAN FOR THE STRIPED BASS

The PRESIDENT. The Chair lays before the Senate the Interstate Fisheries Management Plan for the Striped Bass. (See Appendix for report.)

## BILLS SIGNED

The PRESIDENT (Lieutenant Governor William W. Scranton III) in the presence of the Senate signed the following bills:

**SB 919, HB 22, 497, 1334 and 1627.**

### COMMITTEE OF CONFERENCE APPOINTED ON SB 937

The PRESIDENT. The Chair announces, on behalf of the President pro tempore, the appointment of Senators FISHER, CORMAN and ZEMPRELLI as a Committee of Conference on the part of the Senate to confer with a similar committee of the House (if the House shall appoint such committee) to consider the differences existing between the two houses in relation to Senate Bill No. 937.

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

## ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

TUESDAY, FEBRUARY 9, 1982

9:30 A.M.	PUBLIC HEALTH AND WELFARE (to consider Senate Bills No. 603, 1187, 1240; House Bill No. 1969)	Room 460, 4th Floor Conference Rm., North Wing
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2:30 P.M.	CONFERENCE COMMITTEE on Senate Bill No. 16	Room 281
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WEDNESDAY, FEBRUARY 10, 1982

9:00 A.M.	APPROPRIATIONS (to consider the Consumer Advocate's 1982-1983 Budget)	Senate Majority Caucus Room
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9:30 A.M.	JUDICIARY (to consider Senate Bills No. 120, 128, 233, 557; House Bills No. 50 and 752)	Room 461, 4th Floor Conference Rm., North Wing
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## MONDAY, FEBRUARY 15, 1982

7:30 P.M. ENVIRONMENTAL Heritage Rm. A,  
to RESOURCES AND ENERGY Holiday Inn,  
9:00 P.M. (Public Hearing on Meadville, Pa  
Senate Bill No. 1210)

## TUESDAY, FEBRUARY 16, 1982

9:30 A.M. ENVIRONMENTAL Holiday Inn,  
RESOURCES AND ENERGY Meadville, PA  
(Public Hearing on  
Senate Bill No. 1210)

## WEDNESDAY, FEBRUARY 17, 1982

10:00 A.M. EDUCATION (to consider Room 461,  
House Bill No. 1300) 4th Floor  
Conference Rm.,  
North Wing

## MONDAY, FEBRUARY 22, 1982

10:00 A.M. AGING AND YOUTH Senate Majority  
(Public Hearing on Caucus Room  
Senate Bill No. 1194)

## TUESDAY, FEBRUARY 23, 1982

12:30 P.M. URBAN AFFAIRS AND Room 459,  
HOUSING (Agenda to be 4th Floor  
announced at a later Conference Rm.,  
date) North Wing

## THURSDAY, FEBRUARY 25, 1982

TRANSPORTATION (Public California State  
Hearing on House Bill College,  
No. 1394) California, PA.

## WEDNESDAY, MARCH 10, 1982

9:30 A.M. CONSUMER PROTECTION Room 461,  
AND PROFESSIONAL 4th Floor  
LICENSURE (Public Conference Rm.,  
Hearing on Senate North Wing  
Bill No. 954)

**AJOURNMENT**

Senator JUBELIRER. Mr. President, I move that the Senate do now adjourn until Tuesday, February 9, 1982, at 10:15 a.m. Eastern Standard Time. I would remind the Members we will be going in at 10:15 a.m., and that there is a Joint Legislative Session at 10:45 a.m. to hear the Governor's budget message. I would urge all Members to be here at 10:15 tomorrow morning.

The motion was agreed to.

The Senate adjourned at 7:53 p.m., Eastern Standard Time.