

# COMMONWEALTH OF PENNSYLVANIA

## Legislative Journal

WEDNESDAY, JUNE 5, 1985

SESSION OF 1985 169TH OF THE GENERAL ASSEMBLY

No. 42

### SENATE

WEDNESDAY, June 5, 1985.

The Senate met at 11:00 a.m., Eastern Daylight Saving Time.

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

### PRAYER

The Chaplain, the Reverend Mr. ROBERT CARLYON, Pastor of St. James Episcopal Church, Schuylkill Haven, offered the following prayer:

Let us pray.

We commend to Thee, O Lord, all who are engaged in the government of this State of Pennsylvania and particularly those who are Members of this Senate. Grant to them integrity of purpose and unflinching devotion to the cause of righteousness. May their legislation be such as will promote our welfare to the succor of the poor, to the relief of the oppressed, to the putting down of social evils, to the redress of social wrongs, and to the glory and good example of all of Your people. Amen.

### JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 4, 1985.

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

### LEGISLATIVE LEAVES

Senator STAUFFER. Mr. President, I would ask for a temporary Capitol leave for Senator Helfrick. I would ask for legislative leaves for Senator Brightbill, Senator Fisher and Senator Rhoades who are attending the Environmental Resources Committee tour in South Carolina.

Senator LINCOLN. Mr. President, I would request legislative leaves for Senator Andrezeski, Senator Lynch and Senator Musto who is also attending the environmental conference in South Carolina.

The PRESIDENT. I have requests for the following leaves: a temporary Capitol leave for Senator Helfrick; legislative leaves for Senator Brightbill, Senator Fisher, Senator

Rhoades, Senator Andrezeski, Senator Lynch and Senator Musto. Are there any objections? Hearing none, those leaves are granted.

### LEAVES OF ABSENCE

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

Senator LINCOLN asked and obtained leave of absence for Senator WILLIAMS, for today's Session, for personal reasons.

### 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:

June 4, 1985

Senators KELLEY, ANDREZESKI and LYNCH presented to the Chair **SB 932**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," reducing the sales and use tax to 5 1/2%.

Which was committed to the Committee on FINANCE, June 4, 1985.

Senators HELFRICK, GREENLEAF, MADIGAN, WILT, BRIGHTBILL, SHUMAKER, PECORA, SHAFFER, FISHER, SALVATORE and ANDREZESKI presented to the Chair **SB 933**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing that persons convicted of driving under the influence or related charge be ordered to pay certain costs relating to blood testing.

Which was committed to the Committee on JUDICIARY, June 4, 1985.

### DISCHARGE RESOLUTION

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

In the Senate, June 5, 1985.

## A PETITION

To place before the Senate the nomination of Dr. Robert C. Wilburn as a member of the Board of Directors, Higher Education Assistance Agency.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Dr. Robert C. Wilburn, Pittsburgh, Pennsylvania, as a member of the Board of Directors, Higher Education Assistance Agency, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Edward P. Zemprelli  
J. William Lincoln  
Robert J. Mellow  
James E. Ross  
Francis J. Lynch

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

## CALENDAR

## HB 694 CALLED UP OUT OF ORDER

**HB 694 (Pr. No. 792)** — Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator STAUFFER.

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

**HB 694 (Pr. No. 792)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 27, 1925 (P. L. 319, No. 180), entitled "An act relating to the destruction of cancelled or unused bonds or other evidences of indebtedness of this Commonwealth," further providing for the destruction of canceled bonds or other evidences of indebtedness.

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	Hess	Madigan	Salvatore
Armstrong	Holl	Mellow	Scanlon
Bell	Hopper	Moore	Shaffer
Bodack	Howard	Musto	Shumaker
Brightbill	Jones	O'Pake	Singel
Corman	Jubelirer	Pecora	Stapleton
Early	Kelley	Peterson	Stauffer
Fisher	Kratzer	Reibman	Stout
Fumo	Lewis	Rhoades	Tilghman
Greenleaf	Lincoln	Rocks	Wenger
Hankins	Loeper	Romanelli	Wilt
Helfrick	Lynch	Ross	Zemprelli

## 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 without amendments.

## RECESS

Senator STAUFFER. Mr. President, at this time I request a recess of the Senate for the purpose of a Republican caucus to convene in the Rules Committee room. I might indicate, Mr. President, that I expect this to be a brief caucus. Following that, I would ask that the Members have lunch, and I would expect we will reconvene promptly at 1:30 p.m.

Senator ZEMPRELLI. Mr. President, I would ask for a Democratic caucus to convene immediately. We will, of course, join the Majority when they return to the floor.

The PRESIDENT. For the purpose of Republican and Democratic caucuses which will convene immediately, the Republican caucus will convene in the Rules Committee room at the rear of the Chamber, the Chair declares the Senate in recess.

## AFTER RECESS

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

## LEGISLATIVE LEAVES

Senator STAUFFER. Mr. President, I would like to request a temporary Capitol leave for Senator Shumaker and a legislative leave for Senator Shaffer who has been called back to western Pennsylvania to deal with the tornado disaster in his Senatorial district.

The PRESIDENT. Is there an objection to a legislative leave for Senator Shaffer and a temporary Capitol leave for Senator Shumaker? Hearing none, those leaves are granted.

## CONSIDERATION OF CALENDAR RESUMED

## SB 806 CALLED UP OUT OF ORDER

**SB 806 (Pr. No. 1103)** — Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator STAUFFER.

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

**SB 806 (Pr. No. 1103)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 22, 1978 (P. L. 1160, No. 273), entitled "Historic Preservation Act," imposing restrictions on the commission with respect to the refusal to accept certain gifts, devises or bequests.

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—47**

Andrezski	Holl	Mellow	Scanlon
Armstrong	Hopper	Moore	Shaffer
Bell	Howard	Musto	Shumaker
Bodack	Jones	O'Pake	Singel
Brightbill	Jubelirer	Pecora	Stapleton
Corman	Kelley	Peterson	Stauffer
Early	Kratzer	Reibman	Stout
Fisher	Lewis	Rhoades	Tilghman
Fumo	Lincoln	Rocks	Wenger
Greenleaf	Loeper	Romanelli	Wilt
Helfrick	Lynch	Ross	Zemprelli
Hess	Madigan	Salvatore	

**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.

**LEGISLATIVE LEAVES CANCELLED**

The PRESIDENT. The Chair notes the return to the floor of Senator Helfrick and Senator Shumaker whose Capitol leaves will be cancelled.

**LEGISLATIVE LEAVE**

Senator ZEMPRELLI. Mr. President, I would request a temporary Capitol leave on behalf of Senator Scanlon.

The PRESIDENT. Is there an objection to a temporary Capitol leave on behalf of Senator Scanlon? The Chair hears none. That leave is granted.

**CONSIDERATION OF CALENDAR RESUMED**

**HB 207 CALLED UP OUT OF ORDER**

**HB 207 (Pr. No. 1637)** — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator STAUFFER.

**BILL OVER IN ORDER TEMPORARILY**

**HB 207 (Pr. No. 1637)** — The Senate proceeded to consideration of the bill, entitled:

An Act to facilitate vehicular traffic within and across the Commonwealth by providing for the construction, reconstruction, improvement, operation and maintenance of toll roads and the conversion of existing toll-free roads to toll roads in Pennsylvania; conferring powers and imposing duties on the Pennsylvania Turnpike Commission; providing for membership on the Pennsylvania Turnpike Commission; authorizing issuance of turnpike revenue bonds, notes or other obligations of the commission, payable solely from revenues of the commission, including tolls, or from such other funds as may be available to the commission for that purpose, to pay the costs of such toll roads including the acquisition and other costs of toll-free roads and for

refunding purposes; providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted by this act; providing for the collection of tolls for the payment of such bonds, notes or other obligations, and for the cost of maintenance, operation and repair of the toll roads including toll-free roads converted to toll roads; making such turnpike revenue bonds, notes or other obligations exempt from taxation; constituting the same legal investments in certain instances; requiring suits against the commission to be brought in the courts in which such actions may be brought against the Commonwealth; prescribing conditions on which toll roads shall be turned over to the Department of Transportation; providing for grade separations, grade changes, relocations, restorations and vacations of public roads and State highways affected by the toll roads; providing for the purchasing or condemnation of land and procedure for determining damages in condemnation; granting certain powers and authority to municipalities and agencies of the Commonwealth to cooperate with the commission; conferring powers and imposing duties on the Department of Transportation; authorizing the Secretary of Transportation to enter into negotiations with the United States Department of Transportation, the Federal Highway Administration or any other Federal agency regarding the conversion of toll-free highways constructed in the Commonwealth using Federal funds to toll roads; and authorizing the Secretary of Transportation to enter into agreements on behalf of the Commonwealth and the commission with the United States Department of Transportation, the Federal Highway Administration or any other Federal agency with respect to obtaining Federal funds for resurfacing, restoring, rehabilitating or reconstructing toll roads in Pennsylvania.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator KELLEY. Mr. President, I would respectfully ask that we go over this bill temporarily. I have ordered some amendments, and they are not down from the Legislative Reference Bureau.

Senator STAUFFER. Mr. President, I wonder if there are other amendments to House Bill No. 207 that could be considered with the hope that by the time those amendments were considered, the gentleman from Westmoreland, Senator Kelley, would have his in hand, as a matter of expediting our schedule.

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

Senator STAUFFER. Mr. President, I would suggest, as we wait for the amendments of the gentleman from Westmoreland, Senator Kelley, to arrive on the floor, that we temporarily go over House Bill No. 207.

The PRESIDENT. Without objection, House Bill No. 207 will go over in its order temporarily on third consideration.

**HB 136 CALLED UP OUT OF ORDER**

**HB 136 (Pr. No. 1625)** — Without objection, the bill was called up out of order, from page 2 of the Third Consideration Calendar, by Senator STAUFFER.

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

**HB 136 (Pr. No. 1625)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," shifting the burden of proof from vendors to the Department of Revenue on questions concerning the utilization of exemption certificates; eliminating the split second quarter for filing of sales tax returns; reducing the personal income tax rate; permitting the equitable adjustment of taxes and penalties; revising the provisions relating to net loss carryover; adding a definition of "taxable year"; providing a processing exemption for computer software from the capital stock and franchise tax; providing an investment credit; eliminating tentative payments for corporate net income taxes and requiring the prepayment of estimated taxes; reducing tentative tax payments for the capital stock and franchise tax; providing an unemployment compensation interest fund tax; changing the time period within which petitions for refunds may be filed; and making repeals.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator FUMO. Mr. President, we have amendments to this bill. We have one here now, and we are waiting for two others. If the Majority Leader will allow us to wait for those amendments when they come down, we will be prepared to argue the first one now, if we could do that.

Senator STAUFFER. Mr. President, I would suggest that we go ahead with the amendment that is available in the hope that the other amendments will arrive by the time the debate has been completed.

FUMO AMENDMENT I

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

Amend Sec. 4 (Sec. 302), page 6, line 10, by striking out "TWO AND TWO-TENTHS" and inserting: two and one-tenth

On the question,

Will the Senate agree to the amendment?

Senator FUMO. Mr. President, this amendment would lower the personal income tax for Pennsylvanians to 2.1 percent which was the number that we, in the Democratic caucus, put forth in our budget plan. We feel there is more than enough revenue available to give the taxpayers of Pennsylvania this tax break. The current bill only brings that personal income rate down to 2.2 percent, which is even higher than the Governor proposed most recently at 2.15 percent. We think in the interest of cutting taxes, in the spirit of what Governor Thornburgh started many months ago, with our agreement, that we have to give back as much as we reasonably can as long as we continue to be fiscally responsible.

There are those in the House who have put forth a proposal which lowers it to 2 percent flat, but do not trigger that until January. This would allow this to be triggered now. There is

enough money and there is enough money to continue this program years into the future. I would urge the adoption of this amendment, Mr. President, by my colleagues today.

Senator BELL. Mr. President, the gentleman from Philadelphia, Senator Fumo, sat through quite a few of the hearings of the Committee on Appropriations, and during those hearings it was very clear that the Commonwealth this past year received \$3.2 billion of federal money. I know everybody in this room is familiar with the fact that the federal budget does not have to be adopted before, perhaps, January. Their fiscal year ends October 1st, but they have a friendly little statute which lets them continue using last year's figures. No one in their right, or wrong, mind in this country today can tell us how much money we are going to get for the operation of the State of Pennsylvania from the federal government until that federal budget is adopted.

This tax rate the Majority party is putting forth is one that can be adopted and still not endanger the Commonwealth in the event the cutback of state funds from the federal government is 10 percent or \$320 million. May I remind everybody in this room that if we make a mistake, let us make it a conservative mistake because come January 1st when the feds finally get down to work and adopt a budget, and we know where we can go and where we are not going, we can again lower this tax if it is at all feasible. In the meantime we are playing numbers games if anybody thinks he can outguess what is happening in Washington.

Senator STAUFFER. Mr. President, I would ask for a "no" vote on the gentleman's amendment. I would point out that the effect of his amendment would be to reduce revenues to the Commonwealth by an additional \$110 million. What we have proposed in House Bill No. 136 is a reduction in the personal income tax that can take effect on July 1, not January 1 of next year. We can give immediate tax relief to the degree we believe is possible.

Echoing what the gentleman from Delaware, Senator Bell, has said, no one has the crystal ball that can tell us what the future may bring. Not only do we have the federal situation that the gentleman from Delaware, Senator Bell, addressed, but we do not know what the other needs and demands of this Commonwealth will be. I think this past weekend was a perfect illustration of that when northwestern Pennsylvania was devastated with a tornado of which we do not know what the fiscal consequences will be and probably will not know for some time.

We do not know what tomorrow may bring, so rather than be foolish and to cut lower than is reasonable, it is our belief that we should follow a prudent course, a careful course. We also recognize that we are going to be here next year again. We will take another look at the fiscal picture at that time, and we can carefully decide what we are able to do.

On that basis, I would recommend we reject this amendment and do not engage in the game of one-upmanship.

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Chester, Senator Stauffer.

The PRESIDENT. Will the gentleman from Chester, Senator Stauffer, permit himself to be interrogated?

Senator STAUFFER. I will, Mr. President.

Senator KELLEY. Mr. President, the gentleman makes great sense, especially when he refers to the events of the last week, and he said we do not know yet the fiscal and economic implications of that occurrence. Therefore, if that is the case, would the gentleman explain why we would be suggesting a reduction in the tax at all from its current rate of 2.35 percent for which the gentleman and others voted to reduce it to 2.2 percent? I cannot understand, especially when he talks about the rainy day concept. It does not make sense. Is the gentleman arguing we should not just be against this amendment but amend it so there is no change at all? I do not understand the conclusion of the gentleman's remarks.

Senator STAUFFER. Mr. President, what I am suggesting is that we can accommodate the tax cut we are proposing in House Bill No. 136, but I am further suggesting that to go beyond that puts us in danger of not being able to accommodate the types of situations that may present themselves as a result of the events of last weekend. I am confident we will have a sufficiency of revenue under the tax plan we have proposed. I am suggesting further that to try and go deeper than that is where you flirt with danger and where the problem can arise.

Senator KELLEY. Mr. President, the gentleman is a genius. He started off in his first remarks and said he was dealing with an unknown factor. In fact, if it is an unknown factor of the devastation that was caused by the occurrence of last weekend, we may find it necessary to raise and increase taxes for this Commonwealth above the current rates. What is so automatic and what gives the gentleman such capacity, dealing with an unknown factor, to say that with which he is dealing now is substantial enough to okay it but be against the gentleman's amendment?

Senator STAUFFER. Mr. President, the answer to that is an easy one. We can use good judgment. Perhaps the gentleman is right. Maybe in hindsight at some time in the future we will decide we should not have cut the taxes at all, but using the best judgment we have, using the best fiscal information we have, analyzing the situation as best we can, we believe it is prudent and that we can move the tax package that is before us and still accommodate the needs that this Commonwealth will present.

Senator KELLEY. Mr. President, I respect the gentleman's prudence of judgment. I more respect the wisdom in the amendment.

Senator FUMO. Mr. President, just in answer to some of the issues that have been raised, the gentleman from Delaware, Senator Bell, tells us that to go to 2.1 percent would probably endanger the Commonwealth's fiscal stability. I assume by that he means by his argument that to go below 2.2 percent would do that, but I do not think he fully understands the remark when he talks about that because the Governor himself, of whom I know the gentleman from Delaware, Senator Bell, would be a strong defender, said we

should go to 2.15 percent, and I am sure the gentleman would not have us believe the Governor of this Commonwealth would endanger the fiscal responsibility of the Commonwealth.

We are not going one-upmanship on this amendment, Mr. President. What we are saying here is that there is this year probably at least \$330 million in surplus, and to squirrel away \$110 million, as the Majority would have us do in this particular piece of legislation, is not fair to the citizens of the Commonwealth and certainly does not follow the logical conclusion of the Majority in what they put forth in their ideas. If we should be worried about the people and the result of the tornadoes and if that number is real, then we should not—I believe as the gentleman from Westmoreland said—lower taxes at all. The Majority is not saying that. They are saying we should lower them to where we want to lower them and then we will hide behind the red herring of the tornadoes. That is why we cannot let the citizens of the Commonwealth have this extra \$110 million, we have to worry about the poor people in Erie. I share the concern for those people in that area, but it is not a \$110 million problem because we do not know what the problem is. The Majority Leader tells us we do not exactly know what that is. The same way he is picking numbers out of the air saying that 2.2 percent is "good judgment," using his subjective reasoning to come up with that number, we have come up with a number of 2.1 percent. I submit that our reasoning is better because we know the money is there. What better to do with it than to return it to the people who put it there in the first place?

When the gentleman from Delaware, Senator Bell, talked about the cuts at the federal levels, we waited until the United States Senate, controlled by his Majority party again, gave us the worst case scenario on Pennsylvania taxpayers before we picked the number of 2.1 percent, because we know in the Democratically controlled House they are not going to stick it to Pennsylvania, so we have seen the worst in the Republican Senate. We can easily plan on 2.1 percent. If Ronald Reagan, the Republican President of this country, has his way we are all in big trouble. One-tenth of one percent, five-tenths of one percent is not going to solve the problem. We are all going to have to come back here and raise this tax substantially on Pennsylvania taxpayers. If Ronald Reagan gets his way with his latest tax reform program, Pennsylvanians are going to have it stuck to them again, and we will have to come back again and worry about it.

I say thank God for a Democratic House that is going to bring some sense to that in Washington. I do not share the total concern of the gentleman from Delaware, Senator Bell, because I know also the Governor does not. We raised this in meetings with the Governor. What about the federal cut-backs? He said we do not have to worry about that right now, so if he does not have to worry about it with his direct line to Ronald Reagan, and I am telling you we do not have to worry about it with my direct line to Congressman Gray, we probably do not have to worry about it this year. Maybe we will prevail and we will not have to worry about Ronald Reagan at

all next year, so we will be over this crisis. In the meantime, the indisputable fact is that we have more than enough money to lower the personal income tax to 2.1 percent and we should do it. It is the height of hypocrisy to say we can only go to 2.2 percent, we cannot go to 2.1 percent when, in fact, we probably have the money to go to 2.05 percent. That is what this debate is about. It is whether or not the Majority will pick a number out of the air and say this is good government, this is good judgment.

I recognize the Majority will have its way, and everything they do is good, but that does not make it good in the eyes of the populace of this state. That does not make it good on the balance sheet. The numbers will speak for themselves. If they want to withhold the tax break from the citizens of the Commonwealth of this state, let them do it, but let it be on their conscience. We have, at least, put forth the case for taxpayers in Pennsylvania to have their taxes lowered to the rate that we can do it at and not have to squirrel away taxpayer money because they want to do it that way.

Mr. President, I would urge an affirmative vote on this amendment if we are really about cutting taxes and not playing games.

Senator BELL. Mr. President, I think there is a little difference between Governor Thornburgh and myself. I am not a lame duck.

Frankly, I think any reduction of taxes at this time is wrong, and you Democrats are more wrong than we are, because the gentleman from Philadelphia, who became a Member of the Legislature instead of a member of the Congress, should realize that we have some problems ahead of us. I was through all those hearings of the Committee on Appropriations and missed only a few. I will say that some other people's record was not as good as mine for attendance. I have not heard the gentleman mention that \$100 million judgment entered in Commonwealth Court for the axle tax. I have not heard the gentleman bring up a Mr. Coleman, a lawyer from Philadelphia, who says that SEPTA needs a billion dollars and it is going to have to come from the state. I have not heard the gentleman from Philadelphia talk about the pleas that are coming, at least to me, from my boroughs and townships in my city as to what is to be done in case revenue sharing is cut back. I have not heard the gentleman from Philadelphia talk about the pay raise that AFSCME has to receive, and it has to be a fair pay raise, not 2 percent. I think their figure of 7.5 percent is fairer than 2 percent. It has to be given to them or you are going to have them hit the bricks on July 1st. I have not heard the gentleman from Philadelphia mention what was brought out in the hearings of the Committee on Appropriations, that the feds are talking about cutting out of WIC, which means women, infants and children, about 40 million bucks. I have not heard the gentleman from Philadelphia talk about the feds who are talking about cutting out, I think it is called the Heat Supplement, of \$120 million. I have not heard him say anything about the \$30 million that the feds are talking about denying SEPTA for the commuter rail lines.

Let us be realistic. I am not Ronald Reagan. I am not Dick Thornburgh. I am a little country boy from Delaware County who has seen people come and go. I am also enough of a country boy to cut through the "BS" that goes around here in political speeches. This state is going to face problems as soon as the feds adopt that budget. If we give them 2 percent off, you give them 3 percent off or .3 percent, we are only talking ten dollars of tax on a \$10,000 income. Why do you not put in a real amendment and wipe out the state personal income tax? There is enough money to cover it. This fiscal year there is a surplus of \$300 million. Have you not dug in and found out what the surplus is for the next fiscal year? The gentleman is Chairman of the Committee on Appropriations for the Democrats. I think if you are playing games, you have not asked for enough of a cut. Frankly, I was brought up to be taught that when I have a gun in my hand I do not shoot until I can see a target.

Senator FUMO. Mr. President, I do not understand the gentleman's logic, and I think his remarks are probably better directed at the Majority Leader than me, although he thinks we ought to go further, so, I guess he is speaking in favor of my amendment. I am lost on the argument, and I did address the federal argument. If, in fact, we are cut a billion dollars, which is about what I estimated, when you add up all those programs, we are going to be back here doing our homework. But I do not understand his logic, and I guess he is voting for my amendment then. I do not know what he is doing.

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

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

Senator SHUMAKER. 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 FUMO and were as follows, viz:

YEAS—21

Andrezeski	Lewis	O'Pake	Scanlon
Bodack	Lincoln	Reibman	Singel
Early	Lynch	Rocks	Stapleton
Fumo	Mellow	Romanelli	Stout
Jones	Musto	Ross	Zemprelli
Kelley			

NAYS—26

Armstrong	Hess	Madigan	Shaffer
Bell	Holl	Moore	Shumaker
Brightbill	Hopper	Pecora	Stauffer
Corman	Howard	Peterson	Tilghman
Fisher	Jubelirer	Rhoades	Wenger
Greenleaf	Kratzer	Salvatore	Wilt
Helfrick	Loeper		

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?

## LEGISLATIVE LEAVE

Senator LINCOLN. Mr. President, Senator Hankins is involved in a meeting in the Annex, and I would request temporary Capitol leave for him.

The PRESIDENT. Temporary Capitol leave was requested for Senator Hankins. The Chair hears no objection. The leave is granted.

And the question recurring,

Will the Senate agree to the bill on third consideration?

## SINGEL AMENDMENT

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

Amend Title, page 1, line 24, by inserting after "FILED;": further providing for special provisions for poverty;

Amend Bill, page 6, by inserting between lines 29 and 30:

Section 5. Section 304(d) of the act, added March 13, 1974 (P.L.179, No.32), is amended to read:

Section 304. Special Tax Provisions for Poverty.—\*\*\*

(d) Any claim for special tax provisions hereunder shall be determined in accordance with the following:

(1) If the poverty income of the claimant during an entire taxable year is [three thousand dollars (\$3,000)] five thousand dollars (\$5,000) or less, the claimant shall be entitled to a refund or forgiveness of any moneys which have been paid over to (or would except for the provisions of this act be payable to) the Commonwealth under the provisions of this article, with an additional income allowance of [twelve hundred dollars (\$1200)] one thousand five hundred dollars (\$1,500) for the first additional dependent and an additional income allowance of [seven hundred fifty dollars (\$750)] one thousand dollars (\$1,000) for each additional dependent of the claimant.

(2) If the poverty income of the claimant during an entire taxable year does not exceed the poverty income limitations prescribed by clause (1) by more than the dollar category contained in subclauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix) of this clause, the claimant shall be entitled to a refund or forgiveness based on the percentage prescribed in such subclauses of any moneys which have been paid over to (or would except for the provisions herein be payable to) the Commonwealth under this article:

(i) Ninety per cent if not in excess of [one hundred dollars (\$100)] two hundred dollars (\$200).

(ii) Eighty per cent if not in excess of [two hundred dollars (\$200)] four hundred dollars (\$400).

(iii) Seventy per cent if not in excess of [three hundred dollars (\$300)] six hundred dollars (\$600).

(iv) Sixty per cent if not in excess of [four hundred dollars (\$400)] eight hundred dollars (\$800).

(v) Fifty per cent if not in excess of [five hundred dollars (\$500)] one thousand dollars (\$1,000).

(vi) Forty per cent if not in excess of [six hundred dollars (\$600)] one thousand two hundred dollars (\$1,200).

(vii) Thirty per cent if not in excess of [seven hundred dollars (\$700)] one thousand four hundred dollars (\$1,400).

(viii) Twenty per cent if not in excess of [eight hundred dollars (\$800)] one thousand six hundred dollars (\$1,600).

(ix) Ten per cent if not in excess of [nine hundred dollars (\$900)] one thousand eight hundred dollars (\$1,800).

Amend Sec. 5, page 6, line 30, by striking out "5" and inserting: 6

Amend Sec. 6, page 7, line 23, by striking out "6" and inserting: 7

Amend Sec. 7, page 8, line 4, by striking out "7" and inserting: 8

Amend Sec. 8, page 8, line 12, by striking out "8" and inserting: 9

Amend Sec. 9, page 10, line 18, by striking out "9" and inserting: 10

Amend Sec. 10, page 11, line 20, by striking out "10" and inserting: 11

Amend Sec. 11, page 16, line 10, by striking out "11" and inserting: 12

Amend Sec. 12, page 17, line 5, by striking out "12" and inserting: 13

Amend Sec. 13, page 27, line 15, by striking out "13" and inserting: 14

Amend Sec. 14, page 28, line 19, by striking out "14" and inserting: 15

Amend Sec. 15, page 33, line 15, by striking out "15" and inserting: 16

Amend Sec. 16, page 33, line 22, by striking out "16" and inserting: 17

Amend Sec. 17, page 34, line 9, by striking out "17" and inserting: 18

Amend Sec. 17, page 34, line 11, by striking out "(b)" and inserting:

(b) The amendments affecting section 304(d) shall take effect July 1, 1985.

(c)

On the question,

Will the Senate agree to the amendment?

Senator SINGEL. Mr. President, the amendment I am offering here today would raise the allowable poverty income for purposes of forgiveness of the personal income tax. I think this is a change in the personal income tax structure that is long overdue, as it has not been increased since its inception in 1974. So for eleven years we have had a level of poverty described that has now become obsolete. The truth of the matter is that there have been whole new constituencies of working poor and new poor individuals who earn between \$3,000 and \$5,000 who still are forced to pay their state income taxes. My amendment would simply raise the level of poverty income for forgiveness from the personal income tax from \$3,000 to \$5,000, with upward adjustments based on the number of dependents in a household. The tax forgiveness would range, for example, from 100 percent for an individual earning up to \$5,000 to 10 percent for a family of ten dependents with an income of \$17,300.

Mr. President, I have distributed for all of the Members two charts, one that shows existing poverty tax forgiveness tables at different levels of income and numbers of dependents, and my proposal that would provide for an upwardly adjusted level of income for poverty tax forgiveness. I would recommend all my colleagues take a quick look at that and understand that what we are about here with this amendment is making sure that the very poorest in Pennsylvania are not kicked further by their own state government. There are people out there that simply cannot afford the burden of state taxation. They should not be required to pay it. We are in a position where we have a surplus. We owe these people an upward adjustment because we have not increased it in eleven years. I would ask for a favorable vote on the amendment.

As a side comment, Mr. President, I would point out that this is not the first time we have talked about it on the floor of the Senate, and would call to mind the Journal of the Senate for April 9th, in which the Majority Leader agreed that it was worth considering at that time. To quote his remarks, he commented that raising the poverty level of income exemption was "...an approach that does have merit as part of the consideration of what we should do and will do as part of any tax reduction program that we consider this year."

I submit to the Majority Leader and to all of my colleagues that this is the time, this is the moment in which we are setting policy with regard to personal income taxes for the coming year. This will be our only opportunity to give the working poor in Pennsylvania a real break. I would ask for an affirmative vote on the amendment.

Senator STAUFFER. Mr. President, the gentleman is correct in indicating that I had stated earlier in the Session that this was an idea that was worthy of consideration. I agree that it is an idea that is worthy of consideration. I would point out, however, that it is the subject of a separate piece of legislation, and I would hope that at some point during the current Session the committee will have the opportunity to seriously look at it and seriously debate it. It does represent a \$21 million item as far as revenues are concerned. I do not believe we can or should consider it as part of the tax package we are dealing with today, and on that basis I would ask for a "no" vote on the amendment.

Senator SINGEL. Mr. President, if I may, I wonder if the Majority Leader, the gentleman from Chester, Senator Stauffer, would submit to a very brief interrogation?

The PRESIDENT. Will the gentleman from Chester, Senator Stauffer, permit himself to be interrogated?

Senator STAUFFER. I will, Mr. President.

Senator SINGEL. Mr. President, I appreciate the comments and the lukewarm support that seems to be coming through here, but I am wondering, Mr. President, if the gentleman could tell me if, in fact, there will be a serious effort to consider this legislation sometime in the near future?

Senator STAUFFER. Mr. President, I will give the gentleman a very definite yes. I do want to take a very serious look at this, and I do want the committee to examine it carefully and to have very serious discussions on it. There have been a lot of things happening, as the gentleman knows, that have taken a lot of our attention, and we have, unfortunately, up to this point not had the time to get into this issue as deeply as I believe we should. I am very sincere and serious in indicating that I do believe this is an issue that should be addressed in this Session.

Senator SINGEL. Mr. President, I have one further question. Can the gentleman indicate to me whether or not the legislation will, at some point, be before the Committee on Appropriations and receive a fair hearing?

Senator STAUFFER. Mr. President, obviously, I am not Chairman of the Committee on Appropriations and cannot speak for the chairman, but I can indicate it will be my recommendation that the matter receive a very serious consideration and be brought before the committee.

Senator SINGEL. Mr. President, I appreciate the gentleman's recommendation and I accept that in good faith, and I look forward to working with him to make sure it is considered.

However, the amendment is before us, we have the opportunity to do it now, and I would suggest to him and to all of my colleagues that we could save the time and the paperwork and move ahead with relief for the working poor right now. The truth of the matter, Mr. President, is that we have had time for an in-depth manipulation of our Tax Code to benefit businesses and to benefit all kinds of other interests. We have had time to do an extensive revision and I think we should find in our hearts and in our deliberations the time to take care of the needy in this state, too, and I think we should do it now.

Senator STAUFFER. Mr. President, just an addendum to the response I gave the gentleman in his interrogation, I would also point out that, obviously, a proposal of this type has serious Committee on Finance implications so it is necessary that we involve the Chairman of the Senate Committee on Finance, as well as the Chairman of the Committee on Appropriations, in examining a concept of this type. That is the reason I do not believe we can deal with the issue today. I think we have to get more people involved in looking at the issue and making the determination of exactly where we should go with it.

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

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

#### YEAS—22

Andrezski	Kelley	O'Pake	Scanlon
Bodack	Lewis	Reibman	Singel
Early	Lincoln	Rocks	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	Mellow	Ross	Zemprelli
Jones	Musto		

#### NAYS—26

Armstrong	Hess	Madigan	Shaffer
Bell	Holl	Moore	Shumaker
Brightbill	Hopper	Pecora	Stauffer
Corman	Howard	Peterson	Tilghman
Fisher	Jubelirer	Rhoades	Wenger
Greenleaf	Kratzer	Salvatore	Wilt
Helfrick	Loeper		

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 AMENDMENT I

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

Amend Title, page 1, line 14, by striking out "PERSONAL INCOME" and inserting: sales and use

Amend Bill, page 2, by inserting between lines 4 and 5:



Section 1. Section 202 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended September 9, 1971 (P.L.437, No.105) and October 4, 1978 (P.L.987, No.201), is amended to read:

Section 202. Imposition of Tax.—(a) There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined herein, within this Commonwealth a tax of [six] five per cent of the purchase price, which tax shall be collected by the vendor from the purchaser, and shall be paid over to the Commonwealth as herein provided.

(b) There is hereby imposed upon the use, on and after the effective date of this article, within this Commonwealth of tangible personal property purchased at retail on or after the effective date of this article, and on those services described herein purchased at retail on and after the effective date of this article, a tax of [six] five per cent of the purchase price, which tax shall be paid to the Commonwealth by the person who makes such use as herein provided, except that such tax shall not be paid to the Commonwealth by such person where he has paid the tax imposed by subsection (a) of this section or has paid the tax imposed by this subsection (b) to the vendor with respect to such use. The tax at the rate of [six] five per cent imposed by this subsection shall not be deemed applicable where the tax has been incurred under the provisions of the "Tax Act of 1963 for Education."

(c) Notwithstanding any other provisions of this article, the tax with respect to non-residential intrastate telephone service and intrastate telegraph service within the meaning of clause (m) of section 201 of this article shall, except for telegrams paid for in cash at telegraph offices, be computed at the rate of [six] five per cent upon the total amount billed to customers periodically for such services, irrespective of whether such billing is based upon a flat rate or upon a message unit charge.

(d) Notwithstanding any other provisions of this article, the sale or use of food and beverages dispensed by means of coin operated vending machines shall be taxed at the rate of [six] five per cent of the receipts collected from any such machine which dispenses food and beverages heretofore taxable.

Amend Sec. 1, page 2, line 5, by striking out "1" and inserting:  
2

Amend Sec. 1, page 2, lines 5 and 6, by striking out "OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971"

Amend Sec. 2, page 3, line 26, by striking out "2" and inserting:  
3

Amend Sec. 3, page 5, line 6, by striking out "3" and inserting:  
4

Amend Sec. 4, page 5, lines 26 through 30; page 6, lines 1 through 29, by striking out all of said lines on said pages

Amend Sec. 17, page 34, by inserting between lines 10 and 11:

(b) The amendments affecting section 202 shall take effect November 1, 1985.

Amend Sec. 17, page 34, line 11, by striking out "(B)" and inserting: (c)

On the question,

Will the Senate agree to the amendment?

Senator KELLEY. Mr. President, what House Bill No. 136 represents is an attempt by the General Assembly to deal with what is the general taxing policy of this Commonwealth. This amendment really goes to the thrust of the philosophy of the equity of the tax program in this Commonwealth. Presently, the income tax is what is being addressed in this bill and what was proposed by His Excellency, the Governor, in his address on February 5th of this year. This amendment, instead of

effectuating the income tax, reduces the sales tax by one percent. The purpose of this, Mr. President, is twofold. First and foremost, the sales tax is the most regressive tax there is. It retards the free exchange in purchases, the dollar flow and turnover. Additionally, everybody pays the sales tax, so if you are talking about giving a conceptual break to the people of this Commonwealth, all the people who are on pensions, welfare, employees, no matter what, everybody making purchases benefits from the sales tax reduction, whereas the income tax reduction only benefits those people who are earning a living. Many, many people have addressed today and in previous days the economic condition of this Commonwealth, the underemployment, the unemployment, the threats to basic industry in this Commonwealth, but it seems to me that the most important contribution we could make in a philosophy, if we are going to reduce taxes, is to reduce taxes where they will be most beneficial to the most people, and that is the reduction of the sales tax.

Additionally, Mr. President, I have now circulated among my colleagues a list of our sister states and the sales tax effectuated: New Jersey, 6 percent; Maryland, 5 percent; interesting, Ohio, 5 percent. Indeed, for large purchases we, obviously, have people who will leave the southeastern section of this Commonwealth and go across into neighboring states like Maryland, and the west will go to Ohio to take advantage, if they are making a large purchase, of a one percent sales tax differential advantage. We would now become competitive with Maryland and we would become competitive with West Virginia, but we would also come to the advantage of economic competition with New Jersey because they are still at 6 percent.

Mr. President, it reminds me of the remarks made by the gentleman from Lancaster, Senator Armstrong. He gave a very impressive concept in his Lincoln Day address to us in this Body this year. He spoke in terms of, as a Republican postulating the Lincolnistic theories of government, and said, essentially, I do not believe I would be cutting the income tax, I would be cutting the business tax, because that, in turn, will stimulate business, economic opportunity and investment, jobs and economic health and the social benefits that flow from it. I commended the gentleman then for those remarks, and I reaffirm that comment today. What is important, Mr. President, is who benefits. The reduction of the sales tax has the same implication as the suggestion the gentleman from Lancaster gave us in his Lincoln Day address, and that is we reduce where it is beneficial and cause increased economic flow that will have the increase of tax revenues in other aspects, corporate and net income taxes, and other personal income taxes as well.

Mr. President, if we believe in equity, if we believe in realistic fairness, we will support this amendment.

Senator STAUFFER. Mr. President, the gentleman has proposed a radical change in the tax structure in the Commonwealth. I would point out to the Membership that on an annualized basis, this proposal is valued at about \$522 million. For the balance of the period of time, the two-thirds of the year, I believe, that he proposes it, being in effect for

this year, it would be \$350 million. It goes far beyond what we can deal with at this time. On that basis, I would ask that we have a "no" vote.

Senator KELLEY. Mr. President, I am not going to belabor this any more. I disagree with the gentleman's figures. I circulated among my colleagues the effects of the amendment, but since he made that comment I would expect him to be affirmative on my next vote. Therefore I will accept the same vote as we had on the previous roll call, Mr. President.

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

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

## YEAS—4

Kelley	Lewis	Reibman	Singel
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## NAYS—44

Andrezeski	Helfrick	Madigan	Salvatore
Armstrong	Hess	Mellow	Scanlon
Bell	Holl	Moore	Shaffer
Bodack	Hopper	Musto	Shumaker
Brightbill	Howard	O'Pake	Stapleton
Corman	Jones	Pecora	Stauffer
Early	Jubelirer	Peterson	Stout
Fisher	Kratzer	Rhoades	Tilghman
Fumo	Lincoln	Rocks	Wenger
Greenleaf	Loeper	Romanelli	Wilt
Hankins	Lynch	Ross	Zemprelli

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 AMENDMENT II

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

Amend Title, page 1, line 14, by striking out "RATE" and inserting: and the sales and use tax rates

Amend Bill, page 2, by inserting between lines 4 and 5:

Section 1. Section 202 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended September 9, 1971 (P.L.437, No.105) and October 4, 1978 (P.L.987, No.201), is amended to read:

Section 202. Imposition of Tax.—(a) There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined herein, within this Commonwealth a tax of [six] five and one-half per cent of the purchase price, which tax shall be collected by the vendor from the purchaser, and shall be paid over to the Commonwealth as herein provided.

(b) There is hereby imposed upon the use, on and after the effective date of this article, within this Commonwealth of tangible personal property purchased at retail on or after the effective date of this article, and on those services described herein purchased at retail on and after the effective date of this article, a tax of [six] five and one-half per cent of the purchase price, which tax shall be paid to the Commonwealth by the person who makes such use as herein provided, except that such tax shall not be paid to the Commonwealth by such person where he has paid the tax imposed by subsection (a) of this section or has paid the tax imposed by this subsection (b) to the vendor with respect to such

use. The tax at the rate of [six] five and one-half per cent imposed by this subsection shall not be deemed applicable where the tax has been incurred under the provisions of the "Tax Act of 1963 for Education."

(c) Notwithstanding any other provisions of this article, the tax with respect to non-residential intrastate telephone service and intrastate telegraph service within the meaning of clause (m) of section 201 of this article shall, except for telegrams paid for in cash at telegraph offices, be computed at the rate of [six] five and one-half per cent upon the total amount billed to customers periodically for such services, irrespective of whether such billing is based upon a flat rate or upon a message unit charge.

(d) Notwithstanding any other provisions of this article, the sale or use of food and beverages dispensed by means of coin operated vending machines shall be taxed at the rate of [six] five and one-half per cent of the receipts collected from any such machine which dispenses food and beverages heretofore taxable.

Amend Sec. 1, page 2, line 5, by striking out "1" and inserting:  
2

Amend Sec. 1, page 2, lines 5 and 6, by striking out "OF MARCH 4, 1971 (P.L.6, No.2), KNOWN AS THE TAX REFORM CODE OF 1971"

Amend Sec. 2, page 3, line 26, by striking out "2" and inserting:  
3

Amend Sec. 3, page 5, line 6, by striking out "3" and inserting:  
4

Amend Sec. 4, page 5, line 26, by striking out "4" and inserting:  
5

Amend Sec. 4 (Sec. 302), page 6, line 8, by striking out "FIRST SIX MONTHS OF THE"

Amend Sec. 4 (Sec. 302), page 6, lines 10 and 11, by striking out "SECOND SIX MONTHS OF THE"

Amend Sec. 4 (Sec. 302), page 6, line 11, by striking out "1985" and inserting: 1986

Amend Sec. 4 (Sec. 302), page 6, lines 23 and 24, by striking out "FIRST SIX MONTHS OF THE"

Amend Sec. 4 (Sec. 302), page 6, line 26, by striking out "THE SECOND SIX MONTHS OF"

Amend Sec. 4 (Sec. 302), page 6, line 27, by striking out "1985" and inserting: 1986

Amend Sec. 5, page 6, line 30, by striking out "5" and inserting:  
6

Amend Sec. 6, page 7, line 23, by striking out "6" and inserting:  
7

Amend Sec. 7, page 8, line 4, by striking out "7" and inserting:  
8

Amend Sec. 8, page 8, line 12, by striking out "8" and inserting:  
9

Amend Sec. 9, page 10, line 18, by striking out "9" and inserting:  
10

Amend Sec. 10, page 11, line 20, by striking out "10" and inserting:  
11

Amend Sec. 11, page 16, line 10, by striking out "11" and inserting:  
12

Amend Sec. 12, page 17, line 5, by striking out "12" and inserting:  
13

Amend Sec. 13, page 27, line 15, by striking out "13" and inserting:  
14

Amend Sec. 14, page 28, line 19, by striking out "14" and inserting:  
15

Amend Sec. 15, page 33, line 15, by striking out "15" and inserting:  
16

Amend Sec. 16, page 33, line 22, by striking out "16" and inserting:  
17

Amend Sec. 17, page 34, line 9, by striking out "17" and inserting:  
18

Amend Sec. 17, page 34, by inserting between lines 10 and 11:

(b) The amendments affecting section 202 shall take effect November 1, 1985.

Amend Sec. 17, page 34, line 11, by striking out "(B)" and inserting: (c)

On the question,

Will the Senate agree to the amendment?

Senator KELLEY. Mr. President, the effect of this amendment is to reduce the sales tax from 6 percent to 5.5 percent and reduce the personal income tax. I will not belabor the Body any longer because, in my judgment, of course, the Majority overwhelmingly does not see equity as I do in the taxing policies. I have no objection to taking the same roll call as we had on the last one, Mr. President.

Senator STAUFFER. Mr. President, I would again ask for a negative vote on the proposal. This would have a long-term additional cost of over \$260 million.

And the question recurring,

Will the Senate agree to the amendment?

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

YEAS—5

Kelley	Reibman	Roeks	Singel
Lewis			

NAYS—43

Andrezeski	Helfrick	Madigan	Scanlon
Armstrong	Hess	Mellow	Shaffer
Bell	Holl	Moore	Shumaker
Bodack	Hopper	Musto	Stapleton
Brightbill	Howard	O'Pake	Stauffer
Corman	Jones	Pecora	Stout
Early	Jubelirer	Peterson	Tilghman
Fisher	Kratzer	Rhoades	Wenger
Fumo	Lincoln	Romanelli	Wilt
Greenleaf	Loeper	Ross	Zemprelli
Hankins	Lynch	Salvatore	

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?

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair notes the return to the floor of Senator Hankins whose temporary Capitol leave will be cancelled.

And the question recurring,

Will the Senate agree to the bill on third consideration?

FUMO AMENDMENT II

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

Amend Sec. 12, page 17, lines 8 through 30; pages 18 through 25, lines 1 through 30; page 26, lines 1 through 4, by striking out all of said lines on said pages and inserting:

Section 1701. Short Title.—This article shall be known and may be cited as the Pennsylvania Economic Revitalization Tax Credit Law.

Section 1702. Legislative Intent.—The General Assembly of the Commonwealth of Pennsylvania hereby finds that:

Whereas, in certain regions of this Commonwealth, industries and other businesses important to the economic well-being of this State suffered substantial losses during the recent recession and because of these losses closed plants and other facilities and laid off thousands of Pennsylvania workers; and

Whereas, many of these distressed industries have not yet sufficiently returned to profitability to recover their losses and either rehire laid-off workers or expand their employment in Pennsylvania; and

Whereas, new capital investments for the economic revitalization of these distressed industries during the current economic expansion are crucial in order to rehire laid-off workers, expand employment, and avoid even more serious economic dislocations within this Commonwealth in any future economic recessions; therefore

It is in the public interest to provide tax credits to distressed industries and other businesses for new investments above threshold investment levels which will cause the rehiring of laid-off Pennsylvania workers or will result in the retention of existing jobs or the creation of expanded permanent employment opportunities in these distressed industries within Pennsylvania.

Section 1703. Tax Credit.—Any taxpayer subject to Article IV of this act (relating to corporate net income tax) for which a net loss for a tax year beginning in 1981 or 1982 is not used as a deduction pursuant to section 401(3)4 of this act (relating to definition of taxable income) may apply to the Secretary of Revenue, prior to July 1 of the year following the year in which the investment is made, for a credit pursuant to this article. The secretary may award to the taxpayer a portion of the tax equivalent amount of such excess net losses as a credit against any tax or other obligation due and payable as an unrestricted receipt to the General Fund of the Commonwealth. The secretary may award such credits for qualified investments in excess of the threshold level made during calendar years 1985, 1986 or 1987, provided that investments, for which a credit is awarded, made during 1985 are made on or after July 1, 1985.

Section 1704. Qualified Investments.—(a) Qualified investments consist of expenditures for the acquisition of new depreciable tangible personal property with a cost recovery period of five years or more, of rehabilitation expenditures for the renovation, restoration or reconstruction of an existing building or structure, and of expenditures for the construction of a new building or structure.

(b) Qualified investments shall be limited to expenditures by the taxpayer for use by the taxpayer within this Commonwealth directly for manufacturing, mining, agriculture, processing and research and development activities.

(c) Qualified investments shall not include investments for vehicles, office furnishings, livestock, public utility property, cable television property, telecommunications property, movie and television films and tapes, vending machines, lodging facilities, restaurants, and commercial retail or wholesale property.

(d) Qualified investments for which a credit is claimed shall consist of otherwise eligible expenditures for which the taxpayer certifies and demonstrates to the Secretary of Revenue that the investments make possible the rehiring of previously laid-off workers in Pennsylvania, the retention of existing jobs in Pennsylvania or the expansion of permanent employment by the taxpayer within this Commonwealth.

Section 1705. Threshold Level.—A taxpayer may receive credits for investments only if total qualified investments made within Pennsylvania by the taxpayer for the calendar year exceed the average of total qualified investments made in Pennsylvania for a base period consisting of the three calendar years prior to the calendar year for which a credit is claimed. For the purpose of calculating the threshold level, the taxpayer shall include the

qualified investments of any corporation which reported as a separate taxpayer to Pennsylvania during any of the three calendar years included in the base period, but which is included within a single tax report filed by the taxpayer for all or a portion of the calendar year for which a credit is claimed.

Section 1706. Tax Equivalent Amount of Excess Loss Carryover Claimable as Credit.—A taxpayer may utilize nine and one-half per cent of any excess net loss carryover, as determined according to section 1703, in the calculation of credits pursuant to this article. No portion of any net loss carryover may be utilized in the calculation of credits pursuant to this article to the extent such carryovers would not be recognizable as deductions pursuant to section 401(3)4(g).

Section 1707. Amount of Credit.—(a) A taxpayer may claim a credit for twenty per cent of qualified investments in excess of the threshold level not to exceed the tax equivalent amount of the taxpayer's loss carryover claimable as a credit as determined under section 1706.

(b) Total credits awarded to any taxpayer, together with any credit awarded to a subsidiary corporation of the taxpayer, may not exceed six million two hundred fifty thousand dollars (\$6,250,000). In the year in which total credits claimed by a taxpayer, together with any subsidiary corporations, will cause total credits awarded to the taxpayer, and any subsidiary corporations, to exceed six million two hundred fifty thousand dollars (\$6,250,000), the Secretary of Revenue shall cause credits awarded to the taxpayer, and any subsidiary corporations, during such year to be proportionately reduced so as not to exceed six million two hundred fifty thousand dollars (\$6,250,000). For the purpose of this article, a subsidiary corporation shall be defined in the manner provided by section 601.

(c) Total credits awarded pursuant to this article shall not exceed twenty-five million dollars (\$25,000,000). In the year in which total credits claimed will cause total credits awarded in such year and any prior years to exceed twenty-five million dollars (\$25,000,000), the Secretary of Revenue shall cause credits awarded during such year to be proportionately reduced so as not to exceed twenty-five million dollars (\$25,000,000) and no further credits shall be awarded.

Section 1708. Refunds.—In the event that the taxpayer can show that credits awarded pursuant to this article will exceed any outstanding obligations of the taxpayer to unrestricted accounts within the General Fund of the Commonwealth and any obligations arising for the tax year during which credits are awarded, the taxpayer may petition for a cash refund of such credit amounts in the manner provided by law.

Section 1709. Utilization of Credits.—(a) Credits awarded pursuant to this article may be utilized in the tax year awarded, paid as a refund in the manner provided by section 1708 of this article, or carried over to a future tax year by the taxpayer.

(b) Any credits awarded pursuant to this article shall be first utilized to pay any outstanding tax debts of the taxpayer, or a subsidiary corporation of the taxpayer as defined in section 601, even if the taxpayer has petitioned for a review or redetermination of any such tax liabilities. In the event any such tax debts are later determined not to be due and payable, the taxpayer may petition for a refund in the manner provided by law.

(c) In the case of a change in ownership, acquisition of stock or reorganization of a corporation in the manner described in section 382(a) or (b) of the Internal Revenue Code of 1954, the limitations provided in section 401(3)4(g) of this act with respect to the carryover of net losses shall apply in the same manner with respect to the carryover of any unused credit.

Section 1710. Recapture of Credits.—If any property for which a taxpayer is awarded credits pursuant to this act is disposed of prior to the completion of its cost recovery period utilized for the purposes of reporting to the Federal government, a portion of such credit shall be added to the tax liability of the

taxpayer for the tax year of such disposition equal to the percentage which the number of years remaining in the cost recovery schedule of the property represents to the total years of cost recovery which could have been claimed but for the disposition. For the purposes of calculating the recapture percentage, the year of disposition shall be considered a year of remaining cost recovery. The recapture of tax credits may be waived by the Secretary of Revenue if the disposed property is replaced by the taxpayer by new plant or equipment investments within Pennsylvania which expand employment in Pennsylvania.

Section 1711. Application Procedures.—The Secretary of Revenue shall establish procedures and timetables for the application by taxpayers for credits pursuant to this article, the review and approval or disapproval of such applications, and the calculation, award and utilization of such credits. The secretary may promulgate rules and regulations, statements of policy, forms and other rulings and interpretations necessary to implement this article.

On the question,

Will the Senate agree to the amendment?

Senator FUMO. Mr. President, in a review of the bill before us, we were quite surprised to find out that this piece of legislation, House Bill No. 136, as now amended by the Majority in committee, does a lot more than lower the personal income tax to 2.2 percent. There is some language in here which was quite surprising and shocking to us, in which this amendment would remove and bring us back to where the Governor said we were supposed to be in the beginning of this process. There is language in the Majority's bill concerning the tax credit. Mr. President, do you remember the tax credit that we all talked about originally of \$25 million to help out heavy industry in Pennsylvania? And this is a heavy industry state. We went along with that and we thought that was not a bad idea. The Majority has now, apparently through this process, perverted that original intent. What we now have before us is a process that requires approval of none other than the Ben Franklin Partnership Board if you want to get the tax credit. In addition, it allows the Executive Director of that board and the Secretary of Revenue to set the criteria for these decisions. Mr. President, I am not against high tech, I do not think anybody in this Chamber is. But we are very, very concerned about the Republican Party throwing away the base industries of this Commonwealth in heavy industry and taking us over into high tech and not worrying about those people in transition. We watched as President Reagan came to Malvern, Pennsylvania and talked about high tech, but we did not watch and look carefully enough to see what he was really saying. The Republican Party in this Senate took a message from him and, basically, said to steel, mining and other capital intensive industries, "You are a thing of the past. Good-bye, get out of town."

I do not hang out with the President of U.S. Steel or any of those people. They are not my constituents, and not necessarily my jet set, and I do not eat lunch at the Union League. But I do know those industries happen to employ a lot of steel workers, mine workers, blue collar, middle income taxpayers in this Commonwealth, and to tell those people, basically, philosophically, our tax policies are a thing of the past and

they might as well leave Pennsylvania, is a very serious and dangerous precedent.

What we do in this amendment, Mr. President, is strike that out. We are not about to allow the Ben Franklin Partnership to start setting the tax credit policies of this Commonwealth. What we have said is, in place of that let us go back to the language in Senate Bill No. 333 and create a true incentive for the industries in this Commonwealth that have helped us for so long. We are not against high tech. We put \$20 million into the budget for the Ben Franklin Partnership to foster that, but we cannot throw away that base of this economy of this Commonwealth. This is not southern California. This is not the Silicon Valley. This is Pennsylvania where we have tens of thousands of employees unemployed because of the horrendous policies in Washington. I am not about to allow that to perpetuate itself into the future without any concern. If we truly care about the unemployed in Pennsylvania—and let us not forget that they are there, let us not forget about Aliquippa. It made 60 Minutes this Sunday. The nation has not forgotten about Aliquippa, but the Republican Majority in this Senate has—let us not forget about those industries in this Commonwealth that need our help. Let us not do that. Let us worry about those people who are unemployed. We are not going to get a fifty-five year old steel worker and convert him into a computer programmer during his lifetime. We are not going to get a fifty-two year old mine worker and make him learn how to run an Apple II Computer and a word processor. We can talk about doing that, but realistically we are not going to do that. This state is about heavy industry. Granted, and I applaud the efforts of the Ben Franklin Partnership in helping us to stay in touch with high tech, but let us not throw away the very base of our economics in this Commonwealth for some nice thing that keeps the President happy so he can go to Malvern—I mean I appreciate that city. I go there once a year on retreat, and I do not run into the gentleman from Chester, Senator Stauffer, on the way, but I wish I would. But let us not forget about the other areas of this Commonwealth that need heavy industry tax incentives. Let us not do that, let us not kid ourselves. The last thing is, let us not give this authority to the Ben Franklin Partnership. Who are they to set tax policy? It should be set in this General Assembly. For those reasons, Mr. President, I would urge an affirmative vote on the amendment.

Senator STAUFFER. Mr. President, I might begin by saying I am pleased the gentleman knows where to come for forgiveness.

Having said that, Mr. President, I think it is important to point out that it is obvious, in spite of the emotional presentation that the gentleman made, that he totally misunderstands the proposal embodied in our legislation. There is not a single high tech firm in the Commonwealth of Pennsylvania, to the best of my knowledge, that could benefit from the provision dealing with the revitalization tax credit program in House Bill No. 136. There is not a steel firm that would have been eligible under the provision, as originally drafted in Senate Bill No. 333, which would be precluded from participating in this program as we have tailored it in House Bill No. 136.

Mr. President, this is a program, a \$25 million program that is being offered to those firms who had unutilized tax losses in the early 1980's. This is available to any firm which fits that category, and which is willing to invest in the future of this Commonwealth, which is willing to invest in providing jobs and the economic benefits that the gentleman describes. Mr. President, the reason we changed this program in this amended version of the legislation is because the Members on this side of the aisle felt that rather than have a handful of firms able to participate in the program, we wanted to broaden the eligibility as widely as possible. Mr. President, under the legislation as it is before us today, nearly 2,000 firms in this Commonwealth who had losses will be eligible to apply and participate in this program. And why do we have a board, the Ben Franklin Partnership Board in this instance, to review those applications? We do so in order that those which are most likely to achieve the goal that we have set, a revitalization in this Commonwealth, will be the ones that will be selected to be approved. Mr. President, this is a sound proposal. The steel companies that the gentleman talks about can participate exactly as they could before, but we are going beyond just steel, we are looking to all of the other types of industries in this Commonwealth that suffered in the early 1980's and had losses and can help revitalize our economy through the creation of additional jobs and greater investment in this state. On that basis, Mr. President, I would ask for a "no" vote on the amendment.

Senator ZEMPRELLI. Mr. President, I have listened to the Majority Leader with interest, and I believe he is 100 percent accurate in what he is saying, but, nonetheless, we are expressing a different philosophical feeling. The Governor's proposal, which I think is quite well-known, was designed to favor the very sadly depressed steel industry in a sense that it was, in fact, perhaps, maybe tailored to be a benefit that only they could qualify for. Goodness gracious knows the steel industry has been reduced from its number one standing in this nation to where virtually it is extinct at this time, and some of us are hanging on the ropes. There is simply no question the benefit that was suggested by the Governor was designed primarily to allow after the fact as the losses had been incurred in 1982 for steel to be the prime beneficiary of this appropriation. The gentleman is correct. There would not be any high tech industries or should not be any high tech industries that would be able to avail themselves of these benefits simply because they were not in that posture at that time. So the problem becomes one of how do you feel about this philosophically? The gentleman is also correct that it does not preclude the steel industry from making application for it. The problem comes when we bring others into the picture, and you may feel that is proper. The regrettable factor about it is that we abdicate a great deal of legislative power when we turn over to an independent agency the power to make the determination as to who will be entitled to the ultimate benefits of this appropriation. So, therefore, Mr. President, the question that we should be asking ourselves today when we address this issue is, one, what assurances do we have that

those who sit on the Ben Franklin Partnership Board are going to think in terms of steel in any sense? Are they going to be thinking in terms of steel as a has-been and, therefore, are not going to foster that kind of concept in terms of willingness to help in those areas of critical need, for whatever reason? Or, are they going to think in terms of, well, here is an up and coming industry, the high tech industry, and we are going to favor them?

The point is that a decision in either direction can be supported, but the danger is that an independent board making these conclusions, in its discretion, and not suggesting illegality, not suggesting anything other than the use of judgment, may very well say we are only going to prefer those industries that would go forward into this particular class to the exclusion of all others. What we are in effect saying is that a board would have the legal enactment, the legal ability to effectively discriminate as to what its independent judgment is as to what is good for the State of Pennsylvania.

Mr. President, what I am saying is this amendment is 180 degrees away from what the Governor's suggestion is, and I think it is nice that we should be supporting the Governor. It would indicate to the press and the people of this Commonwealth that it is just not an arbitrary opposition party, but one time or another we find some wisdom in his recommendations. We find a great deal of wisdom in his recommendation in this instance. I repeat, Mr. President, the serious danger in all of this is that we have reduced this appropriation to the will and whim of a board that may simply elect, in its democratic judgment by its numbers, to think the steel industry is behind us and not entitled to the benefit of any consideration. Mr. President, that would be a sad, sad moment for us knowing that this appropriation has as its genesis, as its clarion call, an effort to do something to help the floundering steel industry and, for no other reason, Mr. President, we should vote against this amendment. It has the magnitude, the impact, the explosive power to bring a steel industry further to its knees. I would rather not see any appropriation at all than one that allows itself to be contorted into this direction. I am sorry, Mr. President, I meant to vote for the amendment in terms of procedure.

Senator STAUFFER. Mr. President, just a brief response to the gentleman with regard to the mechanism in this bill regarding the Benjamin Franklin Partnership Board acting as the agency to select those applications which would be successful. Mr. President, we gave careful consideration to the selection of what agency would best fulfill that mission. I would point out to the gentleman that we selected this board because, number one, it is a board which has legislative membership. If I am not mistaken, I know the gentleman from Centre, Senator Corman, sits on that board from our side of the aisle, and if I am not mistaken, I believe the gentleman from Allegheny, Senator Bodack, sits on that board as a representative of the other side of the aisle. I would believe the gentlemen, with the knowledge and the background these two Members have, as well as our House colleagues, would certainly have a strong influence on the selection of those appli-

cations which would be approved. I am certain these kinds of people will be very considerate of the extraordinary problem the steel industry faces in this Commonwealth, and I am certain the steel industry will have no problem in being considered fairly and probably even with a little extra weight when those applications are considered. I would also point out there are other industries in this Commonwealth that have suffered, as well, and other firms that can aid the revitalization of all parts of this Commonwealth, particularly the western area of Pennsylvania. That is the reason we wanted to see the program expanded in its intent in order that we could do the most possible to gain the economic revitalization that the program is targeted to bring.

Senator ZEMPRELLI. Mr. President, I would call the gentleman's attention to page 25 of the bill, subsection (D), which reads specifically, and which would, at least in my judgment, be contrary to what the gentleman suggests:

"The Secretary of Revenue and the Executive Director of the Ben Franklin Partnership Fund shall jointly establish procedures and timetables for the application by taxpayers for credits pursuant to this article..." It is not the board that would make those decisions. Additionally, "...the review and approval...of such applications... The Secretary and the Executive Director may jointly promulgate rules and regulations, statements of policy, forms and other rulings and interpretations necessary to implement this article."

The point is, Mr. President, it is not the board, and if anything—and I have the greatest confidence in the gentleman from Allegheny, Senator Bodack, and the gentleman from Centre, Senator Corman, I think they represent both sides of this aisle very adequately—they are not a majority of the board, number one, and, number two, as I read page 25, subsection (D), it would seem to me very explicit that the power by legislation is in two people in joint action, and that is the difficulty. Whereas, I am impressed with the integrity and the sincerity of the Majority Leader, unfortunately he is without portfolio in this instance. He not only is without portfolio, he is without "musto" in this situation because his desires, wishes and highest aspirations may not be the feeling of an Executive Director who, at this point in time, is not only nameless but faceless, and may even be bloodless at that period of time. I suggest to the Members, Mr. President, that we should not deal in these sensitivities of great importance to high tech industries in this nation in such an off-handed and whimsical fashion as to be willing to take the prerogatives of belief that these people are going to do the right thing when, on one hand, the old adage "a bird in hand is better than, at least, two birds in the bush" must apply, because there is no other ball game in town if we take that fine Governor's recommendation as to how these monies should be appropriated, whereas now we have a cloud—not only a cloud, a smoke screen—as to what may happen with these funds.

Mr. President, in a time when there is a need for certainty, we do not need to be concerned about what might happen in the future. We do not have to be pragmatists, or whatever they are called, but we need to be realists, and realism in this situation dictates that we vote for this amendment.

**The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.**

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

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

**YEAS—22**

Andrezeski	Kelley	O'Pake	Scanlon
Bodack	Lewis	Reibman	Singel
Early	Lincoln	Rocks	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	Mellow	Ross	Zemprelli
Jones	Musto		

**NAYS—26**

Armstrong	Hess	Madigan	Shaffer
Bell	Holl	Moore	Shumaker
Brightbill	Hopper	Pecora	Stauffer
Corman	Howard	Peterson	Tilghman
Fisher	Jubelirer	Rhoades	Wenger
Greenleaf	Kratzer	Salvatore	Wilt
Helfrick	Loeper		

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?

**POINT OF ORDER**

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

The PRESIDENT pro tempore. The gentleman from Westmoreland, Senator Kelley, will state it.

Senator KELLEY. Mr. President, I make a point of order whether or not this bill is in order to be considered, not having been referred by direction of the Chair under the Rules of the Senate to the Committee on Appropriations, calling for reduction in the revenues of the Commonwealth, and appropriating as well.

The PRESIDENT pro tempore. On the point of order that the Chair refer the matter to the Committee on Appropriations, it is not the Chair's prerogative to do that. However, the gentleman makes a point that in his opinion there is an expenditure of state funds, in which case it would require a referral to the Committee on Appropriations by the Body prior to receiving a third reading. There seems to be at least a case made that there is an expenditure of state funds, even though this is a reduction in the tax structure. Therefore, I believe the gentleman's intentions are indeed well taken and, therefore, it would be appropriate for the Body to deal with it based on the point of order of the gentleman from Westmoreland, Senator Kelley.

**MOTION TO SUSPEND RULES**

Senator STAUFFER. Mr. President, rather than debate the validity of the gentleman's point, as a means of expediting our process, I move that Senate Rule XIV, Section 16, subsection (b) be suspended.

The PRESIDENT pro tempore. Senator Stauffer moves that Rule XIV, Section 16, subsection (b) be suspended for the purpose of considering this bill.

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

The PRESIDENT pro tempore. The Chair recognizes Senator Early with the admonition that the motion is not debatable.

Senator EARLY. Mr. President, I was going to rise to indicate why we should suspend the Rules. Is that possible?

The PRESIDENT pro tempore. It is not debatable, Senator, under our Rules. We would have to suspend that one, too. We thank you for your comment.

On the question of suspending the Rules, an "aye" vote is to suspend the Rules, a "no" vote is to not suspend the Rules, if I may use a double negative.

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

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

**YEAS—45**

Andrezeski	Hess	Mellow	Scanlon
Armstrong	Holl	Moore	Shaffer
Bell	Hopper	Musto	Shumaker
Bodack	Howard	O'Pake	Singel
Brightbill	Jones	Pecora	Stapleton
Corman	Jubelirer	Peterson	Stauffer
Early	Kratzer	Rhoades	Stout
Fisher	Lincoln	Rocks	Tilghman
Fumo	Loeper	Romanelli	Wenger
Greenleaf	Lynch	Ross	Wilt
Hankins	Madigan	Salvatore	Zemprelli
Helfrick			

**NAYS—3**

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

The PRESIDENT pro tempore. The Rule as heretofore described is suspended for the purpose of giving a third consideration reading to House Bill No. 136.

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

Senator ROCKS. Mr. President, there have been a number of issues contained in this bill that have been discussed and one that has not been mentioned. I would like to take this opportunity to share a few remarks on the issue of unemployment compensation interest tax as it is in the bill in front of us to be voted. The employer-paid tax of unemployment compensation, which is scheduled to increase January, 1986, to one percent, currently at a rate of .5 percent, is proposed in this bill to be reduced to .3 percent. If the tax were to be reduced from the one percent scheduled rate to the .3 percent as proposed in this bill in January of 1986, Administration proposals estimate that \$221 million would be generated over the period of time of 1985 to 1989. The \$189 million savings to employers that have been mentioned by the Governor represents the difference in the two projected revenue figures. Our calculation, if we were to take the Administration proposal, would result in about a \$75 million cushion that would exist in

the event of a miscalculation of future borrowing requirements of this fund. These funds would result from excess revenues and interest earnings of the fund during that same period of time.

There are two points which I believe are important for our record here today that I would like to make. I do not make these points to impugn the motives or the competence of this Administration, but I believe it must be noted that the events preceding and following the recent unemployment compensation law amendments attest to lack of accuracy of projections made by this Administration regarding borrowing requirements of the fund. Prior to the massive borrowing when the Administration was attempting to minimize the effects of the recession on state spending, as a Democratic Party we were able to effectively demonstrate that borrowing requirements of the fund were grossly underestimated. Now it becomes clear in conjunction with the unemployment compensation debate during an unprecedented tax on employees imposed by Administration claims of a \$1.8 billion additional employer contributions from increased taxes were significantly exaggerated. Given the history of this Administration's projections, there is little reason for a high degree of confidence in their ability to predict future economic conditions affecting this fund. Since the law provides that subsequent to 1986 the interest tax will be whatever amount is necessary to repay the interest, it is conceivable the tax will have to be raised by the next Governor.

I also would point out that no one has made a prediction on the future of employment or, in the case of the impact of this legislation in front of us on unemployment compensation, no one has made a prediction on the future of unemployment in the State of Pennsylvania.

Mr. President, when the gentleman from Lancaster, Senator Wenger, and I came to our respective caucuses with the proposed agreement that we believed, as ultimately passed, was somewhat historic in its nature and that today most agree that we are on a road towards solvency in our Unemployment Compensation Fund, it was a portion of the agreements that became law in this Commonwealth that had the potential to take away some of this doubt. We legislated the formation of an advisory committee and the purpose of that advisory committee was to have on an almost daily basis as accurate as possible a monitor of the Unemployment Compensation Fund. Unfortunately today—and I think, as many of you know, it is not the first time I have spoken about this here in the Senate—this Administration stands in flagrant disregard for the law of the Commonwealth because the Governor refuses to name that advisory committee. We would be far better off in consideration of today's legislation, this bill now, if we had an advisory committee, that we were to be part of as Legislators, that was to give us an accurate reading of where we stood with unemployment compensation today.

We are here to be convinced, we as Democrats, that this tax reduction can become reality. We want this important incentive for Pennsylvania business that we, too, represent. We understand the terrific economic incentive of being able to

give back to the employers monies that would be held in an unemployment compensation fund. However, we do not know the future of unemployment. We have serious questions that I hope you now understand about the ability of this Administration to properly project numbers that impact on the Unemployment Compensation Fund. For those purposes and for the reasons that have been outlined very effectively here today by the gentleman from Philadelphia, Senator Fumo, and with the very important debate led by the gentleman from Allegheny, Senator Zemprelli, on other issues in this bill, I will be casting a "no" vote on the bill in front of us. I want, on the issue of the unemployment compensation tax, though, to be clearly understood that we are here to be convinced on the question of that reduction. Our problem today is an Administration who refuses to implement the law that we established and give us the committee that could properly project the figures by which we could make this judgment today. Mr. President, I would hope that others, in order to clarify this and the several other issues raised here, will join with us in opposing the bill that is in front of us.

#### LEGISLATIVE LEAVE

Senator LINCOLN. Mr. President, Senator Jones has been called to her office to meet with constituents, and I would like to request a temporary Capitol leave for her.

The PRESIDENT pro tempore: Senator Lincoln has requested a temporary Capitol leave for Senator Jones. The Chair hears no objections, and that leave will be granted.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator EARLY. Mr. President, I know the hour is late and I certainly will be brief, but I want to encourage this side of the aisle to vote in the negative on House Bill No. 136. There are various reasons and, again, I will be brief, and the one is the amendment that was an all-encompassing amendment that was given to us yesterday to vote in the Committee on Finance. As Democratic Chairman of the Committee on Finance, I certainly did not have sufficient time to research it, and we had to, as a party, yesterday vote in the negative. I want to point out to the Members that many hours have been spent by the gentleman from Lancaster, Senator Wenger, and the gentleman from Philadelphia, Senator Rocks, in the compromise in the Unemployment Compensation Fund and all the work that they did that took months to accomplish was basically altered by a stroke of a pen. I think that should be discussed in great length. The income tax that is currently in this particular bill is much too high. I am amazed that the highest tax that has been proposed so far by either the Governor who said 2.15 percent is all he needs, the Senate Democrats have indicated that 2.1 percent is sufficient for the budget, and the House Democrats have indicated 2.0 percent is all we need. The Republicans on the Senate side here have indicated they want 2.2 percent. We are talking about money that will be needed for a budget that we have not even seen, and I am sure we will be seeing it very shortly. So, for the fact that we are asking for a 2.2 percent—that is a two point two—



not two two, but 2.2 percent—is extremely too high, and the fact that it is an all-encompassing amendment that went in that certainly was not debated to the extent that it should, I am asking this side of the aisle and anyone on that side of the aisle who would like to join us, to please vote in the negative.

Senator KELLEY. Mr. President, sometimes debate brings to the surface a lot of reasons, not necessarily changing of votes. Earlier in the discussion in some of the debate on one of the amendments the gentleman from Delaware, Senator Bell, I believe, was making a rebuttal to the gentleman from Philadelphia, Senator Fumo, and started talking about axle taxes. You know that is going to be \$250 million this Commonwealth is going to owe immediately, assuming the Supreme Court sustains and affirms the decision of the Commonwealth Court. Mr. President, there is no provision for that. The Governor did not. Now his irresponsibility is no reason for us to be irresponsible. It was today in the debate that the gentleman from Chester talked about the devastation in the far western part and northern tier of this Commonwealth over last weekend. During the interim period since then, the Governor was saying that the Commonwealth does not have the money. At the same time he is proposing and his party is proposing a cut of the income tax rates. Additionally, Mr. President, while all of this is going on since January, this Administration is issuing bonds in the amount of \$200 million plus. They are going to be requiring us and our children to be paying for the next twenty years about 10 percent interest. In the meantime, they are going to cut by less than one percent income tax. Bravo. I think it is the height of fiscal irresponsibility with all of those things pending. In the Committee on Appropriations the Secretary of Revenue was talking to us about the rainy day fund that the gentleman from Blair has introduced a bill to establish. I asked the Secretary for the ideal figure for the rainy day fund. You are asking for \$25 million, but what is the ideal figure to cap it, so to speak? He said, \$200 million. If all these things are realistic and if we really care about being fiscally responsible and accountable, why cut taxes at all? I do not even agree with the gentleman from Allegheny, Senator Early, because he is talking about reducing it more, so to speak. That is not the reason I am voting against this bill. I am voting against it because I think it is highly irresponsible to cut the tax at all with what is immediately pending for us as a government in this Commonwealth and what the threats are. I urge a negative vote, also.

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?

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

YEAS—26

Armstrong	Hess	Madigan	Shaffer
Bell	Holl	Moore	Shumaker
Brightbill	Hopper	Pecora	Stauffer
Corman	Howard	Peterson	Tilghman
Fisher	Jubelirer	Rhoades	Wenger
Greenleaf	Kratzer	Salvatore	Wilt
Helfrick	Loeper		

NAYS—22

Andrezeski	Kelley	O'Pake	Scanlon
Bodack	Lewis	Reibman	Singel
Early	Lincoln	Rocks	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	Mellow	Ross	Zemprelli
Jones	Musto		

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 207 CALLED UP**

**HB 207 (Pr. No. 1637)** — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 3 of the Third Consideration Calendar, by Senator STAUFFER.

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 207 (Pr. No. 1637)** — The Senate proceeded to consideration of the bill, entitled:

An Act to facilitate vehicular traffic within and across the Commonwealth by providing for the construction, reconstruction, improvement, operation and maintenance of toll roads and the conversion of existing toll-free roads to toll roads in Pennsylvania; conferring powers and imposing duties on the Pennsylvania Turnpike Commission; providing for membership on the Pennsylvania Turnpike Commission; authorizing issuance of turnpike revenue bonds, notes or other obligations of the commission, payable solely from revenues of the commission, including tolls, or from such other funds as may be available to the commission for that purpose, to pay the costs of such toll roads including the acquisition and other costs of toll-free roads and for refunding purposes; providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted by this act; providing for the collection of tolls for the payment of such bonds, notes or other obligations, and for the cost of maintenance, operation and repair of the toll roads including toll-free roads converted to toll roads; making such turnpike revenue bonds, notes or other obligations exempt from taxation; constituting the same legal investments in certain instances; requiring suits against the commission to be brought in the courts in which such actions may be brought against the Commonwealth; prescribing conditions on which toll roads shall be turned over to the Department of Transportation; providing for grade separations, grade changes, relocations, restorations and vacations of public roads and State highways affected by the toll roads; providing for the purchasing or condemnation of land and procedure for determining damages in condemnation; granting certain powers and authority to municipalities and agencies of the Commonwealth to cooperate with the commission; conferring powers and imposing duties on the Department of Transportation; authorizing the Secretary of Transportation to enter into

negotiations with the United States Department of Transportation, the Federal Highway Administration or any other Federal agency regarding the conversion of toll-free highways constructed in the Commonwealth using Federal funds to toll roads; and authorizing the Secretary of Transportation to enter into agreements on behalf of the Commonwealth and the commission with the United States Department of Transportation, the Federal Highway Administration or any other Federal agency with respect to obtaining Federal funds for resurfacing, restoring, rehabilitating or reconstructing toll roads in Pennsylvania.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Title, page 2, line 25, by striking out "AND"

Amend Title, page 2, line 32, by removing the period after "PENNSYLVANIA" and inserting: ; and creating an offense and imposing a penalty.

Amend Table of Contents, page 3, by inserting between lines 16 and 17:

Section 20. Unlawful acts.

Amend Table of Contents, page 3, line 17, by striking out "20" and inserting: 21

Amend Table of Contents, page 3, line 18, by striking out "21" and inserting: 22

Amend Table of Contents, page 3, line 19, by striking out "22" and inserting: 23

Amend Bill, page 30, by inserting between lines 23 and 24:

Section 20. Unlawful acts.

(a) Professional services.—No members of the commission shall knowingly authorize any professional services which directly or indirectly financially benefit any public official or employee of this Commonwealth.

(b) Bond issues.—No public official or employee of this Commonwealth shall have a direct or indirect financial interest in any bond issue authorized by this act.

(c) Penalty.—Whoever knowingly violates the provisions of this section commits a felony of the third degree and shall, upon conviction, be punished by a fine of not more than \$15,000, or by imprisonment of not more than seven years, or both.

Amend Sec. 20, page 30, line 24, by striking out "20" and inserting: 21

Amend Sec. 21, page 31, line 1, by striking out "21" and inserting: 22

Amend Sec. 22, page 32, line 18, by striking out "22" and inserting: 23

Amend Sec. 22, page 32, line 19, by striking out "21" and inserting: 22

On the question,

Will the Senate agree to the amendment?

Senator KELLEY. Mr. President, the content of this amendment is such that it is precautionary in anticipation of potential harm that may come to, you might say, government officials, or the people of Pennsylvania because of wrongful conduct by public officials. Specifically, what it does is require that any professional services retained by the commission in bond issues shall not be done knowingly to any fiscal or financial benefit to any public official or employee of the Commonwealth and, likewise, it makes it wrong for a bond

issue and a public official or an employee of the Commonwealth to have any direct or indirect benefit fiscally in the bond issue authorized. It makes it a criminal penalty therefor. Mr. President, the reason for this is many of us have lived both in this Body and the other Body when there have been actual criminal convictions because of the conduct of those in public office, and it reflects upon us as a particular Body, or the Legislative Branch, and I believe it is incumbent upon us to make sure because of all the speculation that has gone on in regard to these \$4.5 billion to \$5 billion bond issues that will be needed for these construction projects, that we have anticipation to make sure that the purity of the process, so to speak, at least is anticipated to be prevented by us in the General Assembly. I think it is a small, small expression on our part, but, yet, to overcome a big, big valid apprehension. I would urge an affirmative vote, an incorporation to protect the ethical conduct and accountability to the people of Pennsylvania.

Senator STAUFFER. Mr. President, while I agree with the spirit of the amendment the gentleman offers, I would ask for a negative vote on the amendment. I think we must recognize that the issue of toll road expansion has been before us a long time. There are thousands of jobs and very important projects at stake and in the interest of moving forward and expediting the process, I think today is the day we should pass House Bill No. 207. For that reason, I would ask for a negative vote.

## RECESS

Senator ZEMPRELLI. Mr. President, I have not had the benefit of information that the gentleman from Westmoreland, Senator Kelley, was presenting this amendment, and I have checked with other Members of the caucus who otherwise should know, and they have not had the benefit of any knowledge about the amendment. I would ask for a short recess of the Senate for the purpose of discussing this at caucus.

The PRESIDENT pro tempore. The Senate will be at ease.

Is the request for a Democratic caucus?

Senator ZEMPRELLI. Mr. President, that is the request.

The PRESIDENT pro tempore. Could you give me some idea of length?

Senator ZEMPRELLI. Mr. President, I would suspect a very short period of time.

The PRESIDENT pro tempore. The Senate will recess for the purpose of a short Democratic caucus to take place immediately in the caucus room at the rear of the Senate Chamber.

Senator STAUFFER. Mr. President, we on the Republican side will stand by ready to move forward as soon as the caucus of the Democratic Party is completed.

The PRESIDENT pro tempore. The Senate will stand in recess.

## AFTER RECESS

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

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

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

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

The PRESIDENT pro tempore. The gentleman will be so recorded.

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

YEAS—24

Andrezeski	Jones	Musto	Ross
Bodack	Kelley	O'Pake	Scanlon
Early	Lewis	Pecora	Singel
Fumo	Lincoln	Reibman	Stapleton
Greenleaf	Lynch	Rocks	Stout
Hankins	Mellow	Romanelli	Zemprelli

NAYS—24

Armstrong	Hess	Loeper	Shaffer
Bell	Holl	Madigan	Shumaker
Brightbill	Hopper	Moore	Stauffer
Corman	Howard	Peterson	Tilghman
Fisher	Jubelirer	Rhoades	Wenger
Helfrick	Kratzer	Salvatore	Wilt

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?

LEGISLATIVE LEAVE

Senator STAUFFER. Mr. President, Senator Salvatore has been called from the floor, and I would ask for a temporary Capitol leave for him.

The PRESIDENT pro tempore. Senator Stauffer has requested a temporary Capitol leave for Senator Salvatore. The Chair hears no objection. The leave is granted.

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

VERIFICATION OF THE ROLL

Senator ZEMPRELLI. Mr. President, I ask for a verification of the roll.

The PRESIDENT pro tempore. Request has been made to have the roll verified. The Clerk will proceed to call the names of those recorded as voting in the affirmative.

The Clerk read the names of those recorded as having voted in the affirmative as follows:

Andrezeski	Jones	Musto	Ross
Bodack	Kelley	O'Pake	Scanlon
Early	Lewis	Pecora	Singel
Fumo	Lincoln	Reibman	Stapleton
Greenleaf	Lynch	Rocks	Stout
Hankins	Mellow	Romanelli	Zemprelli

The PRESIDENT pro tempore. Are there any corrections? The Chair hears none. The affirmative roll will stand as verified.

The Clerk will now proceed to call the names of those recorded as voting in the negative.

The Clerk read the names of those recorded as having voted in the negative as follows:

Armstrong	Hess	Loeper	Shaffer
Bell	Holl	Madigan	Shumaker
Brightbill	Hopper	Moore	Stauffer
Corman	Howard	Peterson	Tilghman
Fisher	Jubelirer	Rhoades	Wenger
Helfrick	Kratzer	Salvatore	Wilt

The PRESIDENT pro tempore. Are there any additions or corrections? The Chair sees none. Senator Zemprelli, do you wish to correct that?

Senator ZEMPRELLI. Mr. President, I would ask that the Senate be at ease for the purpose of having the Lieutenant Governor come and cast a vote to break the tie.

The PRESIDENT pro tempore. The Lieutenant Governor is not here. I am in the Chair. The roll call was verified, and that really ends the issue.

Senator ZEMPRELLI. Mr. President, he may very well be in his office. This is an important issue.

The PRESIDENT pro tempore. The roll was verified, and the gentleman is out of order.

MOTION TO RECONSIDER VOTE

Senator ZEMPRELLI. Mr. President, I move that the vote by which the amendment was defeated, or failed to gain affirmative action, be reconsidered.

The PRESIDENT pro tempore. It has been moved by Senator Zemprelli that the vote by which the Kelley amendment was defeated be reconsidered.

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

POINT OF ORDER

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

The PRESIDENT pro tempore. The gentleman from Allegheny, Senator Zemprelli, will state it.

Senator ZEMPRELLI. Mr. President, is there some procedure whereby we can compel the Lieutenant Governor to come and vote on this issue if he happens to be in his office or to, at least, verify the Lieutenant Governor is in his office?

The PRESIDENT pro tempore. This Chair has no way of compelling the Lieutenant Governor to come from anywhere. That is not germane to the vote. When the Lieutenant Governor is not here, the President pro tempore presides and that is precisely what I am doing. The other thing is if the Lieutenant Governor is here, if he would be on the floor—and that is not the issue here—he is not obligated to vote. That is a matter for him to decide. I have no intention of speaking for him.

Senator ZEMPRELLI. Mr. President, in light of that I would accept the same roll call on the reconsideration.

PARLIAMENTARY INQUIRY

Senator MELLOW. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDENT pro tempore. The gentleman from Lackawanna, Senator Mellow, will state it.

Senator MELLOW. Mr. President, can you tell us what is before the Senate at this moment?

The PRESIDENT pro tempore. The motion to reconsider the vote by which the amendment offered by Senator Kelley was defeated.

Senator MELLOW. Mr. President, can you tell us if there was an announcement made to the Senate as to what the vote was on the original motion?

The PRESIDENT pro tempore. There was.

Senator MELLOW. Mr. President, I stand to be corrected. I did not hear that.

The PRESIDENT pro tempore. The Chair announced the 24-24 vote and Senator Zemprelli requested that there be a verification of the roll call. The roll call was verified and the vote stands. Now Senator Zemprelli has moved the vote by which the amendment was defeated be reconsidered, and that is where we are at this present time.

Senator MELLOW. I thank you, Mr. President.

MOTION WITHDRAWN

Senator ZEMPRELLI. Mr. President, I withdraw my motion to reconsider.

The PRESIDENT pro tempore. Senator Zemprelli withdraws his motion to reconsider.

And the question recurring,

Will the Senate agree to the bill on third consideration?

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

Amend Sec. 7, page 17, line 2, by striking out “, ATTORNEYS, AND OTHER EMPLOYEES” and inserting: and other persons

Amend Sec. 7, page 17, line 3, by inserting after “NECESSARY,”: as unclassified service employees under the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act,

Amend Sec. 7, page 17, line 3, by inserting after “COMPENSATION.”: All other present and future employees of the commission shall be deemed as classified service employees and shall be subject to the rights and duties as provided under the Civil Service Act.

On the question,

Will the Senate agree to the amendment?

Senator GREENLEAF. Mr. President, I rise to offer an amendment that would provide that all Turnpike employees be placed under the Civil Service Act. I think it is abundantly clear that over the months and years this issue has been before us, there is an issue in regard to employment. In order to avoid this in the future and also to ensure that possibly this legislation will be passed, because this is only the first leg of a long journey that this legislation has to pursue, I think if we placed these employees under the protection of the Civil Service that issue will be rendered moot, and that is one less point of controversy that possibly is standing as a block to prevent the passage of this final legislation, both in the House and in the Senate. I think it is an issue that will, hopefully, resolve this particular problem.

Senator STAUFFER. Mr. President, again, in the interest of expediting the legislation, I would ask for a “no” vote on the amendment.

LEGISLATIVE LEAVE

Senator ZEMPRELLI. Mr. President, I am requesting a temporary Capitol leave on behalf of Senator Fumo who has been called to his office.

The PRESIDENT pro tempore. Senator Zemprelli requests a temporary Capitol leave for Senator Fumo. The Chair hears no objection. The leave is granted.

And the question recurring,

Will the Senate agree to the amendment?

Senator KELLEY. Mr. President, on occasion I agree and disagree with the gentleman from Chester, but I am appalled that he or anyone would urge a negative vote on the basis of expediting legislation, the expediency of which is greatly in question, especially when this legislation has been pending in this committee in this Body in which there was a discharge resolution and which all of the Members on his side of the aisle voted in the negative on the discharge resolution. I cannot understand, if the gentleman would somehow reconcile for me and, I am sure, others, how he can say that on the basis of expediting this legislation we should vote against the amendment on the merits. It does not make any sense, Mr. President. I wonder if the gentleman is not used to being here on a Wednesday afternoon and intensively working on legislation that he might be commingling his concepts on the Commonwealth? I would welcome an opportunity that he would espouse some explanation.

And the question recurring,

Will the Senate agree to the amendment?

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

YEAS—21

Andrezeski	Jones	Musto	Scanlon
Bodack	Kelley	O’Pake	Singel
Early	Lincoln	Reibman	Stapleton
Fumo	Lynch	Romanelli	Stout
Greenleaf	Mellow	Ross	Zemprelli
Hankins			

NAYS—27

Armstrong	Holl	Madigan	Shaffer
Bell	Hopper	Moore	Shumaker
Brightbill	Howard	Pecora	Stauffer
Corman	Jubelirer	Peterson	Tilghman
Fisher	Kratzer	Rhoades	Wenger
Helfrick	Lewis	Rocks	Wilt
Hess	Loeper	Salvatore	

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?

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

**YEAS—28**

Armstrong	Hess	Loeper	Salvatore
Bell	Holl	Madigan	Shaffer
Brightbill	Hopper	Moore	Shumaker
Corman	Howard	Pecora	Stauffer
Fisher	Jubelirer	Peterson	Tilghman
Greenleaf	Kelley	Reibman	Wenger
Helfrick	Kratzer	Rhoades	Wilt

**NAYS—20**

Andrezeski	Jones	Musto	Scanlon
Bodack	Lewis	O'Pake	Singel
Early	Lincoln	Rocks	Stapleton
Fumo	Lynch	Romanelli	Stout
Hankins	Mellow	Ross	Zemprelli

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.

**BILL ON CONCURRENCE IN  
HOUSE AMENDMENTS**

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 36 (Pr. No. 1040)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining the term "bus"; further providing for the seizure of suspended registration plates and registration cards; providing for seizure of revoked and suspended drivers' licenses; further providing for violations relating to equipment requirements, for inspection of vehicles and for the weighing and measuring of vehicles; granting the department additional regulating power; and providing for the impoundment and disposition of impounded vehicles.

Senator STAUFFER. Mr. President, I move the Senate do concur in the amendments made by the House to Senate Bill No. 36.

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

**LEGISLATIVE LEAVE**

Senator ZEMPRELLI. Mr. President, I would request a temporary Capitol leave on behalf of Senator Mellow who had to leave the floor.

The PRESIDENT pro tempore. Senator Zemprelli has requested a temporary Capitol leave for Senator Mellow. The Chair hears no objection and the leave is granted.

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—47**

Andrezeski	Holl	Mellow	Scanlon
Armstrong	Hopper	Moore	Shaffer
Bell	Howard	Musto	Shumaker
Bodack	Jones	O'Pake	Singel
Brightbill	Jubelirer	Pecora	Stapleton
Corman	Kelley	Peterson	Stauffer
Early	Kratzer	Reibman	Stout
Fisher	Lewis	Rhoades	Tilghman
Fumo	Lincoln	Rocks	Wenger
Greenleaf	Loeper	Romanelli	Wilt
Hankins	Lynch	Ross	Zemprelli
Helfrick	Madigan	Salvatore	

**NAYS—1**

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 inform the House of Representatives accordingly.

**FINAL PASSAGE CALENDAR**

**BILL OVER IN ORDER**

**SB 684** — Without objection, the bill was passed over in its order at the request of Senator STAUFFER.

**THIRD CONSIDERATION CALENDAR**

**BILL ON THIRD CONSIDERATION AMENDED  
AND REREFERRED**

**SB 422 (Pr. No. 481)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 9, 1976 (P. L. 817, No. 143), entitled "Mental Health Procedures Act," permitting the public to be present at certain court hearings regarding involuntary treatment.

Considered the third time,

On the question,  
Will the Senate agree to the bill on third consideration?  
Senator STAUFFER, on behalf of Senator JUBELIRER, by unanimous consent, offered the following amendment:

Amend Title, page 1, line 7, by removing the period after "treatment" and inserting: ; and further providing involuntary outpatient treatment.

Amend Bill, page 1, lines 10 and 11, by striking out all of said lines and inserting:

Section 1. Section 303(h)(2) of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, is amended to read:

Section 303. Extended Involuntary Emergency Treatment Certified by a Judge or Mental Health Review Officer - Not to Exceed Twenty Days.—\* \* \*

(h) Duration of Extended Involuntary Emergency Treatment.—Whenever a person is no longer severely mentally disabled or in need of immediate treatment and, in any event, within 20 days after the filing of the certification, he shall be discharged, unless within such period:

- (1) he is admitted to voluntary treatment pursuant to section 202; or
- (2) the court orders involuntary treatment pursuant to section 304 or 601.

Section 2. Section 304(f) and (g)(4) of the act,

Amend Sec. 1 (Sec. 304), page 1, by inserting between lines 15 and 16:

(f) Determination and Order.—Upon a finding by clear and convincing evidence that the person is severely mentally disabled and in need of treatment and subject to subsection (a), an order shall be entered directing treatment of the person in an approved facility as an inpatient [or an outpatient, or a combination of such treatment as the director of the facility shall from time to time determine]. Inpatient treatment shall be deemed appropriate only after full consideration has been given to less restrictive alternatives. Investigation of treatment alternatives shall include consideration of the person's relationship to his community and family, his employment possibilities, all available community resources, and guardianship services. An order for inpatient treatment shall include findings on this issue. If the person meets criteria for outpatient treatment, as per section 601(a), he shall be committed to outpatient treatment consistent with section 102.

Amend Bill, page 2, by inserting between lines 20 and 21:

Section 3. The act is amended by adding an article to read:

#### ARTICLE VI

##### Involuntary Outpatient Treatment

Section 601. Initial Involuntary Outpatient Treatment Certified by a Judge or Mental Health Review Officer - Not to Exceed 90 Days.—(a) Persons for Whom Application May Be Made.—

A person who has been previously adjudicated severely mentally disabled and in need of immediate treatment and treated under Article III may be made subject to court-ordered involuntary outpatient treatment upon a determination that the person is mentally ill; that he is capable of surviving safely in the community with available supervision; that his treatment history indicates the need for treatment in order to prevent further disability or deterioration which could predictably result in dangerousness as defined in section 301(b); that his current mental status or the nature of his illness either limits or negates his ability to make an informed and credible decision to voluntarily comply with recommended treatment; and that the proposed treatment is, in fact, available.

(b) Procedures for Initiating Court-Ordered Involuntary Outpatient Treatment for Persons Already Subject to Involuntary Treatment.—

(1) Petition for court-ordered involuntary outpatient treatment for persons already subject to treatment under sections 303, 304 and 305 may be made by the county administrator or the director of the facility to the court of common pleas.

(2) The petition shall be in writing upon a form adopted by the department and shall include a statement of the facts constituting reasonable grounds to believe that the person meets the criteria of subsection (a). The petition shall explicitly state the proposed treatment plan formulated by the prospective provider. The petition shall state the name of an examining physician and the substance of his opinion regarding the mental condition of the person. It shall also state that the person has been given the information required by paragraph (3).

(3) Upon the filing of the petition, the county administrator shall serve a copy on the person, his attorney and those designated to be kept informed, as provided in section 302(c), including an explanation of the nature of the proceedings, the person's right to an attorney and the services of an expert in the field of mental health, as provided in subsection (d).

(4) A hearing on the petition shall be held in all cases, not more than five days after the filing of the petition.

(5) Treatment shall be permitted to be maintained pending the determination of the petition.

(c) Procedures for Initiating Court-Ordered Involuntary Outpatient Treatment for Persons not in Involuntary Treatment.—

(1) Any responsible party may file a petition in the court of common pleas requesting court-ordered involuntary treatment for any person not already in involuntary treatment for whom application could be made under subsection (a).

(2) The petition shall be in writing upon a form adopted by the department and shall set forth facts constituting reasonable grounds to believe that the person is within the criteria for court-ordered treatment set forth in subsection (a). The petition shall state the name of any examining physician and the substance of his opinion regarding the mental condition of the person.

(3) Upon a determination that the petition sets forth such reasonable cause, the court shall appoint an attorney to represent the person and set a date for the hearing as soon as practicable. The attorney shall represent the person unless it shall appear that he can afford, and desires to have, private representation.

(4) The court, by summons, shall direct the person to appear for a hearing. The court may issue a warrant directing a person authorized by the county administrator or a peace officer to bring such person before the court at the time of the hearing if there are reasonable grounds to believe that the person will not appear voluntarily. A copy of the petition shall be served on such person at least three days before the hearing together with a notice advising him that an attorney has been appointed who shall represent him unless he obtains an attorney himself, that he has a right to be assisted in the proceedings by an expert in the field of mental health, and that he may request or be made subject to psychiatric examination under subsection (c)(5).

(5) Upon motion of either the petitioner or the person, or upon its own motion, the court may order the person to be examined by a psychiatrist appointed by the court. Such examination shall be conducted on an outpatient basis, and the person shall have the right to have counsel present. A report of the examination shall be given to the court and counsel at least 48 hours prior to the hearing.

(6) Involuntary treatment shall not be authorized during the pendency of a petition except in accordance with section 302 or 303.

(d) Professional Assistance.—A person with respect to whom a hearing has been ordered under this section shall have and be informed of a right to employ a physician, clinical psychologist or other expert in mental health, of his choice, to assist him in connection with the hearing and to testify on his behalf. If the person cannot afford to engage such a professional the court shall, on application, allow a reasonable fee for such purpose. The fee shall be a charge against the mental health and mental retardation program of the locality.

(e) Hearings on Petition for Court-Ordered Involuntary Treatment.—A hearing on a petition for court-ordered involuntary outpatient treatment shall be conducted according to the following:

(1) The person shall have the right to counsel and to the assistance of an expert in mental health.

(2) The person shall not be called as a witness without his consent.

(3) The person shall have the right to confront and cross-examine all witnesses and to present evidence in his own behalf.

(4) The hearing shall be public unless it is requested to be private by the person or his counsel.

(5) A stenographic or other sufficient record shall be made, which shall be impounded by the court and may be obtained or examined only upon the request of the person or his counsel or by order of the court on good cause shown.

(6) The hearing shall be conducted by a judge or by a mental health review officer and may be held at a location other than a courthouse when doing so appears to be in the best interest of the person.

(7) A decision shall be rendered within 48 hours after the close of evidence.

(f) Determination and Order.—Upon a finding by clear and convincing evidence that the person meets the criteria of subsection (a), an order shall be entered directing outpatient treatment of the person. That order must include the treatment plan submitted under subsection (b)(2), the acts of the person for which revocation of outpatient treatment will occur, and the name of the licensed private practitioner or facility responsible for both the treatment and the management and supervision of the committed person. A copy of the order shall be sent to the party who sought the commitment and to the person or facility to whom or which the person is committed.

(g) Onset of Court-Ordered Involuntary Outpatient Treatment.—For persons already in inpatient treatment, the court may order the person held for two working days after the hearing so that notification to the designated outpatient treatment facility can occur. Notification must be made by the inpatient facility. For persons not already in inpatient treatment, the order shall take effect two working days after the hearing. Notification of the order must be made by the person's attorney.

(h) Duration of Court-Ordered Involuntary Treatment.—A person may be made subject to court-ordered involuntary outpatient treatment under this section for a period not to exceed 90 days.

Section 602. Additional Periods of Court-Ordered Involuntary Outpatient Treatment.—At the expiration of a period of court-ordered involuntary treatment under section 601(h) or this section, the court may order treatment for an additional period upon the application of the county administrator or the director of the facility treating the person. Such an order shall be entered upon hearing on findings as required by section 601(a) and (b), and further finding of the need for involuntary outpatient treatment in lieu of voluntary outpatient treatment or no treatment at all. The order shall include an updated treatment plan and updated specifications for revocation. The additional period of treatment shall not exceed 180 days.

Section 603. Revocation of Involuntary Outpatient Treatment.—(a) Persons not Imminently Going to Deteriorate.—If the person fails to comply or clearly refuses to comply with the outpatient treatment plan as defined in section 601(f), and if reasonable attempts to solicit compliance have failed, and if the person is not imminently going to deteriorate, the facility or license private practitioner to whom or which he was committed shall notify the court to either dismiss the order or schedule a supplemental hearing.

(b) Persons Imminently Going to Deteriorate.—

(1) If the person fails to comply or clearly refuses to comply with the outpatient treatment plan as defined in section 601(f), and if reasonable attempts to solicit compliance have failed, and if the person is likely to imminently deteriorate due to his mental illness, the facility or licensed private practitioner to whom or which he is committed will notify the county administrator who will immediately issue a warrant for the person to be transported to his catchment area treatment facility.

(2) Following an examination by a physician within two hours of arrival, the person shall be admitted for a period not to exceed five days.

(c) Schedule of Hearing.—A hearing under subsection (a) shall take place within five days of notification to the court. A hearing under subsection (b) shall take place within five days of arrival at the facility.

(d) Determination on Order.—

(1) Upon a finding by clear and convincing evidence that the person meets the criteria for section 601(a), an order shall be entered directing involuntary outpatient treatment.

(2) Upon a finding by clear and convincing evidence that the person meets the criteria of section 304(a), an order shall be entered directing involuntary inpatient treatment. If the court finds neither subsection (1) or (2), the involuntary outpatient treatment shall be terminated.

(e) Duration of Treatment.—The duration of the treatment ordered under subsection (d) shall never be longer than the involuntary outpatient treatment under which the person was committed at the time of the revocation.

Section 604. Transfer of Persons from Involuntary Inpatient Treatment to Involuntary Outpatient Treatment.—A person may be transferred from involuntary inpatient treatment to involuntary outpatient treatment only upon a hearing under section 601.

Section 605. Transfer of Jurisdiction.—(a) Persons Who Move Within the State.—A person who moves from one catchment area to another shall have his involuntary outpatient treatment order modified by notification from the treating facility or person to the committing court. Such notification shall indicate the name of the new treating facility or licensed private practitioner and the treatment plan the facility or private practitioner has agreed to, or shall indicate that the catchment area community mental health center has refused to provide involuntary outpatient treatment. If the latter applies, a copy of the referral letter sent from the referring facility or practitioner to the community mental health center of the person's new address must be included in the report to the court.

(b) Persons Who Move Out-of-State.—A person who moves out-of-State shall have his involuntary outpatient treatment terminated at the time of residence in the other state. The treating facility or licensed private practitioner must notify the committing court of the change in residence.

(c) Persons for Whom Involuntary Outpatient Treatment Is no Longer Warranted.—A person for whom involuntary outpatient treatment is no longer warranted may have the treatment terminated upon a written request to terminate the order. Such request must come from the facility or private practitioner designated as responsible in section 601(f) and must be directed to the committing court.

Amend Sec. 2, page 2, line 21, by striking out "2" and inserting: 4

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.

On the question,  
Will the Senate agree to the bill on second consideration, as amended?

Senator STAUFFER. Mr. President, I move that Senate Bill No. 422 be rereferred to the Committee on Public Health and Welfare, as amended.

The motion was agreed to.

The PRESIDENT pro tempore. Senate Bill No. 422 will be rereferred to the Committee on Public Health and Welfare, as amended.

## SECOND CONSIDERATION CALENDAR

### BILLS OVER IN ORDER

**HB 2, 117, 150, 175 and SB 271** — Without objection, the bills were passed over in their order at the request of Senator STAUFFER.

### BILL ON SECOND CONSIDERATION

**SB 303 (Pr. No. 317)** — The Senate proceeded to consideration of the bill, entitled:

An Act requiring public agencies to hold certain meetings and hearings open to the public; and providing penalties.

The bill was considered.

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

Senator LINCOLN. Mr. President, on Senate Bill No. 303, several Members of our caucus have amendments. Will they have the opportunity to offer those amendments on third consideration?

Senator STAUFFER. Mr. President, very definitely. In fact, I am aware of some amendments coming from this side of the aisle as well. Our intention is to move Senate Bill No. 303 into position so that on Monday we can deal with the amendments and discuss the bill itself.

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

It was agreed to.

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

#### BILLS OVER IN ORDER

**SB 332, 383, 632, 661, 662, HB 666, SB 672, 703, 704, 706, 707, 708, 709, 724, 770, 774, 812 and 826** — Without objection, the bills were passed over in their order at the request of Senator STAUFFER.

#### BILL ON SECOND CONSIDERATION

**SB 830 (Pr. No. 1001)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 26, 1975 (P. L. 438, No. 124), entitled, as amended, "An Act establishing child protective services;....," further providing for record keeping duties of the department; requiring administrators of child care facilities or programs to request certain records before hiring new employees; prohibiting the employment of certain persons in child care services and schools; and repealing the definition of "child care" and provisions relating to the verification of the existence of certain information.

Considered the second time and agreed to,

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

#### BILLS OVER IN ORDER

**SB 860 and 872** — Without objection, the bills were passed over in their order at the request of Senator STAUFFER.

#### UNFINISHED BUSINESS

##### BILLS IN PLACE

Senator ROCKS presented to the Chair a bill.

Senator MADIGAN presented to the Chair a bill.

#### SENATE RESOLUTION

##### HONORING PENNSYLVANIAN FRED WARING, INTERNATIONALLY ACCLAIMED BIG BAND ERA CONDUCTOR, ON THE 85th ANNIVERSARY OF HIS BIRTH

Senator KRATZER offered the following resolution (**Senate Resolution No. 50**), which was read, considered and adopted:

In the Senate, June 5, 1985.

##### A RESOLUTION

Honoring Pennsylvanian Fred Waring, internationally acclaimed Big Band Era conductor, on the 85th anniversary of his birth.

WHEREAS, Fred Waring was born in Tyrone, Pennsylvania, on June 9, 1900, and became one of the great conductors of the Big Band Era and the leader in developing the choral technique; and

WHEREAS, Fred Waring and his group, the Pennsylvanians, blended instrumentals and vocals to become, under his baton, one of the most innovative and successful musical groups in the world; and

WHEREAS, Fred Waring and the Pennsylvanians, during nearly seven decades, performed an estimated 2,000 songs, 200 of which were composed by Waring, and became the first vocal-orchestra to have its own coast-to-coast radio and television shows; and

WHEREAS, Fred Waring was a highly successful inventor and businessman, patenting the popular Waring Blender, the forerunner of today's kitchen appliance, and owning the Shawnee Press, one of the world's largest publishers of band and choral music and publisher of the Monthly Music Journal; and

WHEREAS, Fred Waring and the Pennsylvanians bid an official farewell to the music world performing in concert at President Reagan's January 1981 inaugural festivities; and

WHEREAS, Fred Waring was presented with the Congressional Gold Medal by President Reagan in December 1983 the highest honor the United States Government can bestow on a civilian; and

WHEREAS, Upon his death on July 29, 1984, Fred Waring was eulogized by Governor Thornburgh as follows: "Fred Waring received the recognition that befits a man of his talent and professionalism, but there is no honor so great that can match the love and admiration which his fellow Pennsylvanians had for him throughout his lifetime"; therefore be it

RESOLVED, That the Senate hereby honor, on the 85th anniversary of his birth, Fred Waring, a very distinguished Pennsylvanian, for these many accomplishments.

#### HOUSE MESSAGE

##### HOUSE RESOLUTION FOR CONCURRENCE

The Clerk of the House of Representatives presented for concurrence **House Concurrent Resolution No. 122**, entitled:

Conveying sympathy to the families affected by the tornadoes and thunderstorms of May 31 and June 1, 1985; and considering emergency funding for recovery.

Senator Wilt asked and obtained unanimous consent for the immediate consideration of this resolution.

On the question,



Will the Senate concur in the resolution?

**SENATE CONCURS IN HOUSE CONCURRENT  
RESOLUTION NO. 122**

Senator WILT. Mr. President, I move that the Senate do concur in this resolution.

On the question,

Will the Senate agree to the motion?

Senator WILT. It seems appropriate, Mr. President, while we consider this resolution or it is before us, that we express today a word of condolence to the members of the families of those who have died in the disaster which took place throughout northwestern Pennsylvania. Several of those fatalities were buried today and, I think, it is in recognition of that disaster and those deaths that we should say, at least, one word. With those of us who live in the proximity and who represent districts that were heavily damaged, and as one views the sites, one can only have a thankful heart that even though there were fatalities that there were not significantly more. When one looks at the property damage, it is almost unbelievable the death toll was held to the number that it was, not knowing exactly for sure what that was, but some reports say anywhere between 50 and 70 fatalities, and for that we have reason to be thankful. As also representative of a district that was very badly hit, I want to say a word of thanks to the people who are helping other people, both within and throughout the affected area. Clothes, food, support, water, generators, and all needs have come from all parts of the state, not by request but by a need and a willingness to help their fellowman, and we are thankful for that.

The task before us now is one of rebuilding. We have had support from the state and federal agencies because they have been asked. A lot of what has taken place has been difficult to cope with—friends, neighbors, et cetera, who have been affected—but the support which is coming from institutions, governmental and private, has been a gratifying human event and one which can be appreciated as one beholds it.

We have before us a resolution from the House which acknowledges the disaster. It is a concurrent resolution and I think in its closing paragraph suggests that we resolve that the General Assembly consider appropriate emergency funding to assist recovery efforts and to enable the affected people of this Commonwealth to resume their normal lives. That will be the time factor, Mr. President, but there will be a point in time in which those of us who, again, come from the area will be asking our colleagues in this Chamber and the other Chamber, as well as the Administration, for support, primarily financial, and I have been assured that support will be forthcoming. I make that statement only as this word is reported, to be reassuring to those people who need that help that it will be on its way once it is determined exactly what the needs are.

The PRESIDENT pro tempore. The Chair thanks Senator Wilt for his most sensitive and appropriate comments.

And the question recurring,

Will the Senate agree to the motion?

The motion was agreed to and the resolution was concurred in.

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

**PETITIONS AND REMONSTRANCES**

Senator HOLL. Mr. President, on Monday of this week, June 3rd, I was on legislative leave. I returned to the floor but did not so state for the record. I am doing so now.

The PRESIDENT pro tempore. The Chair welcomes the gentleman's remarks and they will be placed in the Journal.

**HOUSE MESSAGES**

**HOUSE CONCURS IN SENATE  
CONCURRENT RESOLUTION**

The Clerk of the House of Representatives informed the Senate that the House has concurred in resolution from the Senate, entitled:

**Senate Concurrent Resolution No. 39.**

**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:

June 5, 1985

**HB 724** — Committee on Military and Veterans Affairs.

**HB 1006** — Committee on Local Government.

**HB 1250** — Committee on Appropriations.

**GENERAL COMMUNICATIONS**

**BILLS INTRODUCED AND REFERRED**

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

June 5, 1985

Senators HOPPER, JUBELIRER, HOLL, LOEPER, SALVATORE, MOORE, SHUMAKER and CORMAN presented to the Chair **SB 934**, entitled:

An Act amending the act of May 17, 1921 (P. L. 682, No. 284), entitled "The Insurance Company Law of 1921," further providing for investments.

Which was committed to the Committee on BANKING AND INSURANCE, June 5, 1985.

Senators HOPPER, JUBELIRER, HOLL, LOEPER, MOORE, SALVATORE, SHUMAKER and CORMAN presented to the Chair **SB 935**, entitled:

An Act amending the act of May 17, 1921 (P. L. 682, No. 284), entitled "The Insurance Company Law of 1921," further providing for investments.

Which was committed to the Committee on BANKING AND INSURANCE, June 5, 1985.

Senators ARMSTRONG, HELFRICK, SCANLON and HOLL presented to the Chair **SB 936**, entitled:

An Act amending the act of May 17, 1921 (P. L. 682, No. 284), entitled "The Insurance Company Law of 1921," authorizing stock insurers to establish more than one class or series of shares and to permit different voting rights according to the class of shares.

Which was committed to the Committee on BANKING AND INSURANCE, June 5, 1985.

Senators SALVATORE, LOEPER, SCANLON and HOLL presented to the Chair **SB 937**, entitled:

An Act amending the act of May 17, 1921 (P. L. 682, No. 284), entitled "The Insurance Company Law of 1921," extending provisions relating to the granting of allowances or pensions to include directors.

Which was committed to the Committee on BANKING AND INSURANCE, June 5, 1985.

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

### BILL SIGNED

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

**HB 694.**

**The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.**

### CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Besse Bomberger, Mr. and Mrs. Irvin Moore and to Mr. and Mrs. Clayton P. Myer by Senator Armstrong.

Congratulations of the Senate were extended to Mark J. Daniels, Sean Kender and to Mr. and Mrs. Howard F. Borden by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. Stanley Wisneski, Mr. and Mrs. Edwin Schmitt, Sr. and to Mr. and Mrs. Regis F. Faessel by Senator Early.

Congratulations of the Senate were extended to Steven Johnson by Senator Fumo.

Congratulations of the Senate were extended to the Cumberland Valley High School Band Units by Senator Hopper.

Congratulations of the Senate were extended to The American Legion and to the citizens of the Lehigh Valley on the occasion of the Portuguese Festival by Senator Kratzer.

Congratulations of the Senate were extended to Duke Little by Senator Lynch.

Congratulations of the Senate were extended to the Reading Liederkrantz by Senator O'Pake.

Congratulations of the Senate were extended to Steve Cesari, Mr. and Mrs. Adam Kokindas and to Mr. and Mrs. Benjamin O. Smith by Senator Rhoades.

Congratulations of the Senate were extended to Mr. and Mrs. Eugene Stoner by Senator Shaffer.

Congratulations of the Senate were extended to Mr. and Mrs. Paul A. Brinton by Senator Shumaker.

Congratulations of the Senate were extended to Mr. and Mrs. Kenneth Muth, Sr., Mr. and Mrs. Lawrence Thomas and to Mr. and Mrs. Tony Golinsky by Senator Stapleton.

Congratulations of the Senate were extended to Frederick "Chip" Wagner by Senator Wilt.

### ADJOURNMENT

Senator STAUFFER. Mr. President, I move the Senate do now adjourn until Monday, June 10, 1985, at 2:00 p.m., Eastern Daylight Saving Time, unless sooner recalled by the President pro tempore.

The motion was agreed to.

The Senate adjourned at 4:15 p.m., Eastern Daylight Saving Time.