

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, FEBRUARY 2, 1988

SESSION OF 1988 172ND OF THE GENERAL ASSEMBLY

No. 8

SENATE

TUESDAY, February 2, 1988.

The Senate met at 1:00 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the Chair.

PRAYER

The following prayer was offered by the Secretary of the Senate, Hon. MARK R. CORRIGAN:

Our Heavenly Father, we thank You for this new day. Cleanse our hearts and our minds that we may walk the upward way with You and with our fellowmen. Grant that we may always be on the side of justice and peace. In so doing may we seek to make this earth a finer place on which we can dwell together safely and securely. Amen.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of February 1, 1988.

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

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:

Weekly Adjournment.

HOUSE BILLS FOR CONCURRENCE

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

February 2, 1988

HB 907 and **2061** — Committee on Transportation.

HB 1454 — Committee on Judiciary.

HB 1952 — Committee on Consumer Protection and Professional Licensure.

BILL INTRODUCED AND REFERRED

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

February 2, 1988

Senators BRIGHTBILL, JUBELIRER, HOLL, ROMANELLI and STAUFFER presented to the Chair **SB 1255**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the offense of driving under foreign license during suspension or revocation.

Which was committed to the Committee on TRANSPORTATION, February 2, 1988.

GENERAL COMMUNICATIONS

LISTS OF LOBBYISTS AND ORGANIZATIONS

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

SENATE OF PENNSYLVANIA

February 2, 1988

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

In compliance with Act No. 712 of the 1961 Session and Act No. 212 of the 1976 Session of the General Assembly titled the "Lobbying Registration and Regulation Act," we herewith jointly present a list containing the names and addresses of the persons who have registered from January 1, 1988 through January 31, 1988 inclusive, for the 172nd Session of the General Assembly. This list also contains the names and addresses of the organizations represented by these registrants.

Respectfully submitted:

MARK R. CORRIGAN
Secretary

Senate of Pennsylvania

JOHN J. ZUBECK
Chief Clerk

House of Representatives

(See Appendix for complete list.)

SUNSET LEADERSHIP COMMITTEE MEETING

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

SUNSET LEADERSHIP COMMITTEE
MEETING

The Sunset Leadership Committee was called to order by the Chairman, K. Leroy Irvis, at 10:10 a.m., Wednesday, January 27, 1988.

The following members, in addition to the Chairman, were present: Senator Robert Jubelirer, Representative James Mandarino, Representative Matthew Ryan and Senator F. Joseph Loeper.

Chairman Irvis announced that in the 1988 Sunset Cycle, the Independent Regulatory Review Commission and the Board of the Ben Franklin Partnership Fund must be assigned to a committee in either the House or Senate. The Chairman suggested that the Independent Regulatory Review Commission be assigned to the House State Government Committee, and the Board of the Ben Franklin Partnership Fund be assigned to the Senate Community and Economic Development Committee. Senator Jubelirer so moved, the motion was seconded and adopted unanimously.

The meeting was then adjourned.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENT BY THE SECRETARY**

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Rules and Executive Nominations to meet off the floor today to consider certain nominations.

REPORTS FROM COMMITTEES

Senator GREENLEAF, from the Committee on Judiciary, reported the following bills:

SB 758 (Pr. No. 876)

An Act establishing a drunk driving victim's bill of rights; and providing civil penalties and remedies.

SB 1101 (Pr. No. 1473)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for interception of certain communications and access to records pertaining thereto; providing for stored wire and communications and transactional records access, mobile tracking devices and pen registers and trap and trace devices; and further providing for certain reports and penalties.

HB 524 (Pr. No. 2396)

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for affidavit and oath; and expanding a category of authorized investments.

Senator HOLL, from the Committee on Banking and Insurance, reported the following bills:

SB 1156 (Pr. No. 1566)

An Act amending the act of November 26, 1978 (P. L. 1188, No. 280), entitled "Life and Health Insurance Guaranty Association Act," further providing for certain assessments on insurance companies.

SB 1248 (Pr. No. 1760) (Amended)

An Act providing for competitive rating relating to certain insurance policies; and providing penalties.

Senator PECORA, from the Committee on Local Government, reported the following bills:

SB 535 (Pr. No. 1758) (Amended)

An Act reenacting and amending the act of July 31, 1968 (P. L. 805, No. 247), entitled, as amended, "Pennsylvania Municipalities Planning Code," revising, amending, adding and changing provisions; and making editorial changes.

SB 1252 (Pr. No. 1759) (Amended)

AN Act amending the act of May 2, 1945 (P. L. 382, No. 164), entitled "Municipality Authorities Act of 1945," clarifying the body empowered to make appointments to authority boards; changing the terms of authority members; and making editorial changes.

HB 179 (Pr. No. 2781) (Amended)

An Act amending the act of June 24, 1931 (P. L. 1206, No. 331), known as "The First Class Township Code," providing for limited annual appropriations for support of drug and alcohol abuse programs.

HB 829 (Pr. No. 2451)

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581), known as "The Borough Code," increasing the penalty for ordinance violations.

HB 830 (Pr. No. 2452)

An Act amending the act of June 24, 1931 (P. L. 1206, No. 331), known as "The First Class Township Code," increasing fines for violation of ordinances.

HB 831 (Pr. No. 2453)

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), known as "The Second Class Township Code," increasing ordinance violation fines.

HB 832 (Pr. No. 2454)

An Act amending the act of August 9, 1955 (P. L. 323, No. 130), known as "The County Code," increasing penalties for violations of ordinances.

HB 1099 (Pr. No. 2782) (Amended)

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581), known as "The Borough Code," further providing for a decrease in the number of councilmen and for appropriations; and making an editorial change.

HB 1271 (Pr. No. 1453)

An Act amending the act of June 23, 1931 (P. L. 932, No. 317), known as "The Third Class City Code," further providing for the power to make contracts and for regulations concerning contracts.

HB 1342 (Pr. No. 1553)

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), known as the "Second Class County Code," further providing for contracts and purchases.

HB 1347 (Pr. No. 1558)

An Act amending the act of April 6, 1956 (1955 P. L. 1414, No. 465), known as the "Second Class County Port Authority Act," further providing for the awarding of contracts and making of purchases.

HB 1577 (Pr. No. 2672)

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), known as "The Second Class Township Code," further providing for the compensation of supervisors and for the purchase of insurance; and making editorial changes.

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, I request temporary legislative leaves for today's Session on behalf of Senator Peterson, Senator Jubelirer and Senator Stauffer.

The PRESIDENT. Senator Loeper requests temporary legislative leaves for Senator Peterson, Senator Jubelirer and Senator Stauffer. Without objection, these leaves will be granted.

Senator LINCOLN. Mr. President, I would request a legislative leave for today and for the remainder of the week for Senator Reibman.

The PRESIDENT. Senator Lincoln requests legislative leave for Senator Reibman. The Chair hears no objection. The leave will be granted.

LEAVES OF ABSENCE

Senator LINCOLN asked and obtained leaves of absence for Senator HANKINS, Senator LYNCH and Senator STOUT, for today's Session, for personal reasons.

CALENDAR**SENATE RESOLUTION NO. 152,
CALLED UP OUT OF ORDER**

Senator LOEPER, without objection, called up out of order, as a Special Order of Business, from page 5 of the Calendar, **Senate Resolution No. 152**, entitled:

A Resolution urging the Governor to direct the Secretary of Public Welfare to comply with State law by implementing the increase in medical assistance reimbursements to nursing homes for the care of impoverished patients.

On the question,

Will the Senate adopt the resolution?

Senator LOEPER. Mr. President, I move that the Senate do adopt Senate Resolution No. 152.

On the question,

Will the Senate agree to the motion?

Senator LOEPER. Mr. President, may we be at ease for a moment.

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

Senator LOEPER. Mr. President, after consultation with the other side, I withdraw consideration of Senate Resolution No. 152 at this time.

SB 987 CALLED UP OUT OF ORDER

SB 987 (Pr. No. 1755) — Without objection, the bill was called up out of order, from page 2 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 987 (Pr. No. 1755) — The Senate proceeded to consideration of the bill, entitled:

An Act regulating certain lease-purchase agreements; prescribing requirements for such agreements; and providing for remedies and penalties.

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?

LEGISLATIVE LEAVES

Senator ZEMPRELLI. Mr. President, I request temporary Capitol leaves for Senator Jones and Senator Ross.

The PRESIDENT. Senator Zemprelli requests temporary Capitol leaves for Senator Jones and Senator Ross, as well. Is there an objection to the leave requests? The Chair sees none. The leaves will be granted.

And the question recurring,

Shall the bill pass finally?

Senator ANDREZESKI. Mr. President, yesterday we went through a lengthy debate over an amendment that was attempted to be added to this bill. As the bill now stands with the one section of the bill talking about 50 percent and 50 percent, it is my understanding it equates to being a 100 percent interest charge, whether you call it 50 percent now, 50 percent in payments, or whatever language is used, it doubles the cost to the consumer of the item. I would like to ask that we as a Body recognize our moral obligation to represent everyone in our community, and those who are needy of representation are those who this bill will affect: the low income individual who does not have a line of credit, the person who needs someone to stand up and say wait a minute, let us not be excessive. I will not go through all of the debate and all of the issues that were offered yesterday, except to say that we now set lease-purchase agreements up with two separate agreements. If you are a business concern and you lease-purchase, you are going to be paying what is the standard rate. If you are in a situation where you do not have credit or you are a low income person, you now pay double the cost of the item. I do not think this is fair to people in Pennsylvania, to take such economic advantage of them simply because of their income strata. I would ask my colleagues to recognize this and to vote "no" on this bill.

Senator ZEMPRELLI. Mr. President, much was said yesterday at the time of the discussion of the amendment of the gentleman from Erie, Senator Andrezeski, most of which related to the bill itself. Mr. President, over the years we have endeavored to be extremely careful in dealing with exceptions to the usury law, and we have come up with any number of different separate acts to deal with exceptions to the usury law: the Consumer Discount Act, the Automobile Sales Act, the Installment Sales Act, whatever. Suddenly, we get before us a bill that really pretends to deal with a specific set of circumstances, but is so far in its coverage that it would allow just about anybody in any buyer-seller posture to charge as much as 100 percent over and above the sales price for undefined items that would be related to either interest costs, or the like, or none of the same. The simple language of the bill would indicate that by the way the language is structured, it shall be illegal or otherwise offensive to have the payments reach 50 percent of the sale price. If that should happen to be the case, then, in fact, at that point in time somebody says that it is not right. Stated in another way, what is being said is that the merchant has the perfect right—an individual or whomever is in that capacity—to charge as much as 100 percent over and above the sales price of an item, and I think that is absolutely horrendous. I think it is counterproductive to all the careful legislation we have put in place. As I suggested yesterday, we toyed with making criminal interest a sum in excess of 36 percent here not too long ago. We toyed with a very, very critical long-term bond market rate in order to establish a going mortgage rate. Then, all of a sudden, we open the barn doors to allow the kind of legislation that is before us now. I am vehemently opposed to this legislation in actual conception as well as operation, and I would hope my colleagues would join me in turning this legislation down by voting against it.

I am going to say again, in conclusion, that it is probably a bill that warrants very little public media attention at this moment, but let me tell the Members that the first time some poor person, or someone who does not have the ability to acquire financing in legitimate banking circles gets involved with a furniture salesman, for example, and you learn that a repossession takes place in which the interest rate, in fact, was somewhere around 50 percent to 75 percent, you will rue the day you passed this legislation. I can only conclude by saying I do not want that kind of blood on my conscience.

And the question recurring,
Shall the bill pass finally?

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

Senator FUMO. Mr. President, I was inadvertently distracted during the debate. I made a mistake. I would like to change my vote from "aye" to "no."

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—29

Afflerbach	Hess	Moore	Salvatore
Bell	Holl	O'Pake	Scanlon
Brightbill	Hopper	Pecora	Shaffer
Corman	Jubelirer	Peterson	Shumaker
Fisher	Lemmond	Reibman	Stauffer
Greenleaf	Loeper	Rhoades	Tilghman
Greenwood	Madigan	Rocks	Wenger
Helfrick			

NAYS—18

Andrezeski	Kelley	Regoli	Stewart
Armstrong	Lewis	Romanelli	Williams
Bodack	Lincoln	Ross	Wilt
Fumo	Mellow	Stapleton	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 present said bill to the House of Representatives for concurrence.

SPECIAL ORDER OF BUSINESS CEREMONY IN COMMEMORATION OF GROUNDHOG DAY

The PRESIDENT. For the purpose of a yearly tradition, it gives the Chair a great amount of pleasure, and without objection, and as a special order of business, to recognize the gentleman from Indiana, Senator Stapleton.

Senator STAPLETON. Mr. President, I know most of the Members here today realize that this is February 2nd and, certainly, this is a very important day in my Senatorial district as well as for a number of other Senators here on the floor.

Mr. President, again, Punxsutawney Phil has brought all of us good news. For the 101st time, at 7:32 a.m. this morning, the original Punxsutawney Phil returned to Gobbler's Knob, just outside of Punxsutawney, with members of the Inner Circle with their silk hats and their tails, with the news media from around this country, along with over 1,000 spectators, rain drenched I might add, gathered around Phil's den anticipating his scheduled shadow-casting forecast. Yes, and at 7:32 a.m., Phil came out of his winter home and he did not see his shadow, predicting that spring is just around the corner. You have to remember that in the 101 times, this is the seventh time only that this has happened.

Mr. President, I am not sure what that other groundhog saw this morning. I am talking about the one located down there between Lancaster County and Chester County, but I am sure we will hear from the good Senator, the gentleman from Lancaster, Senator Wenger, who will expound about that great groundhog from Quarryville Lodge. If I recall correctly, I should say last year after his remarks, I think most of us were still very much confused with that Pennsylvania Dutch dialect that he had. I recall last year I was not quite sure if that groundhog even came out of the hole, or whether or not he saw his shadow. Certainly, Phil and his wife Philomena were pleased this morning to announce the good news to all of us that spring is just around the corner. I have strong feelings about Phil, and I know most of the Members

do here. I know I talked to a few of my good Republican Members who are here, and they talked to me personally about Phil and his capabilities. I want to say that on each Senator's desk they will find an original Punxy Phil limited edition of the 101st anniversary card. This is certainly a collector's item. It certainly should be cherished, and I am sure this card and maybe fifty cents will get you a cup of coffee at any of the fine restaurants in Punxsutawney.

In closing, the good news is that spring is around the corner, and I only hope the great groundhog from Quarryville will have the same positive forecast.

The PRESIDENT. The Chair thanks the gentleman. The Chair also thanks the gentleman for bringing his furry little friend to the Minority Leader's podium. I am not talking about Senator Lincoln.

Senator WENGER. Mr. President, because of the spirit of detente presently in the world, I do not wish to be critical of Punxsutawney Phil or of the good Senator who gave the report on behalf of Phil, but I must point out that we have to pay attention to the verified record. Octoraro Orphie, on the banks of the Octoraro Creek over on the boundary between Lancaster County and Chester County, has not been in the weather predicting business quite as long as Phil, perhaps, but he has had his eightieth year, and out of those eighty years, the past seventy-nine years he has always been completely accurate in his forecasting and in his predictions. So I think it is with great confidence I rise to report to the Senate of Pennsylvania and to the people of Pennsylvania that Octoraro Orphie made his best efforts this year. In fact, he emerged from the burrow wearing Bermuda shorts and sunglasses but, alas, he did see his shadow. The leaders of our great groundhog lodge at Quarryville then mounted their platform, their pinnacle of prognostication, which is actually a manure spreader, and then they mounted up on there and they pronounced to the world we are going to have six more weeks of winter. As I said, this forecasting has been accurate for all these lo seventy-nine or eighty years, and so I would suggest that none of you plant a garden before March 16th. I suggest you be prepared for the kind of weather that Orphie tells us we are going to have. I repeat, at 7:11 a.m. Orphie made his appearance. He saw his shadow, went back into the burrow, and there will be six more weeks of winter.

Now for those of the Pennsylvania-German dialect—and they always make me do this—Die geschichte vom murmeltier gehoert zu den altweibergeschichten.

Jedoch hat sich diese geschichte im laufe der zeit so sehr bewaehrt, dass jeder fest daran glaubt.

Wir wissen bescheid, dass man den wintermantel und die lange, warme unterwaesche weiter tragen muessen.

Holz muss weiter fuer den kamin gehackt werden, damit wir uns in den naechsten sechs wochen waermen koennen.

Senator BRIGHTBILL. Mr. President, one of the great things about our country is there are no dynasties. In our country it is always a question of excellence. In Lebanon County we have a groundhog that has been making predictions now for seven years. His name is "Uni," and he makes

his predictions. He lives in the old bed of the Union Canal along Race Street in Myerstown Borough, Lebanon County. This morning I heard Carl Feeg, who is one of the members of the Grundsow Lodge, say that, frankly, he thinks Uni is better than some of these other groundhogs simply because he is young and youthful, and he is frankly concerned, he said, about a little bit of senility in the other groundhogs. They have been around so long. Earl Buffenmeyer, who is the interpreter for the lodge, apparently based upon Uni's reaction this morning, announced that there will be five weeks and six days more of winter. I think we all know what is in store for us, and I think the gauntlet is down. We are going to find out who, really, can make these predictions.

Senator KELLEY. Mr. President, the first year we did this annual event of prediction for the longevity of the winter season is finally coming to impact upon me that what redress do I or my fellow citizens in Pennsylvania have for erroneous predictions? It seems we go through this all the time, and half the time they are correct and half the time they are incorrect, but there is no redress and not even an apology. Mr. President, I am befuddled. The gentleman from Lancaster got up and he said that groundhog came out in Lancaster County and, wanting to do everything in his best efforts, he came out in Bermuda shorts and sunglasses and he saw a shadow. I want you to know I checked the weather. It is raining throughout this Commonwealth today. How can anybody or anything see its shadow, let alone with sunglasses on? I cannot understand it nor comprehend it. I think this might be the year that groundhog is wrong. The precision and excellence the gentleman from Lebanon has is the impulse and impetuosity of youth. We are all seasoned people. We know you have good judgment only with maturity, so we have to put that aside. That puts us up with the gentleman from Indiana. The only credibility is he did not see his shadow because there was no shadow because it is raining, and by coincidence he may be correct, but, in either event, it is always nice to have the gentlemen participate, and pretty soon, year after year, we may have fifty of us standing up trying to make all sorts of claims.

Senator BELL. Mr. President, some of us in the back of the room were wondering if this young groundhog did not come out for something other than to see its shadow.

RECESS

Senator LOEPER. Mr. President, I request a recess of the Senate until 4:00 p.m., for the purpose of holding a Republican caucus and a Democratic caucus.

The PRESIDENT. Are there any objections? The Chair hears no objection, and declares a recess of the Senate until 4:00 p.m., Eastern Standard Time.

AFTER RECESS

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

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Stauffer and his temporary legislative leave will be cancelled.

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, before proceeding with today's Calendar, I would also request a legislative leave on behalf of Senator Moore who has been called from the floor.

The PRESIDENT. Senator Loeper requests legislative leave for Senator Moore. The Chair hears no objection. The leave will be granted.

Senator KELLEY. Mr. President, we request a temporary Capitol leave for Senator Fumo.

The PRESIDENT. Senator Kelley requests a temporary Capitol leave for Senator Fumo. The Chair hears no objection. The leave will be granted.

CONSIDERATION OF CALENDAR RESUMED

**BILL ON CONCURRENCE IN HOUSE
AMENDMENTS TO SENATE AMENDMENTS**

BILL OVER IN ORDER

HB 446 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

**BILLS ON CONCURRENCE IN
HOUSE AMENDMENTS**

BILLS OVER IN ORDER

SB 409 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

SB 948 (Pr. No. 1732) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for low-level radioactive waste disposal; further providing for powers and duties of the Department of Environmental Resources and the Environmental Quality Board; providing for siting of low-level radioactive waste disposal facilities and for the licensing of operators thereof; establishing certain funds and accounts for the benefit of host municipalities and the general public; establishing the Low-Level Waste Advisory Committee and providing for its powers and duties; providing for membership on the Appalachian States Low-Level Radioactive Waste Commission; requiring certain financial assurances; providing enforcement procedures; providing penalties; making repeals; and making appropriations.

Senator LOEPER. Mr. President, I move the Senate do concur in the amendments made by the House to Senate Bill No. 948.

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

Senator LOEPER. Mr. President, I withdraw my motion relative to Senate Bill No. 948.

Senator ZEMPRELLI. Mr. President, I request that Senate Bill No. 948 go over in its order as it is a first day bill.

The PRESIDENT. The Chair hears no objection. The bill will go over in its order.

THIRD CONSIDERATION CALENDAR

**PREFERRED APPROPRIATION BILL
ON THIRD CONSIDERATION,
DEFEATED ON FINAL PASSAGE**

HB 1988 (Pr. No. 2780) — The Senate proceeded to consideration of the bill, entitled:

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects through this Commonwealth for fiscal year 1987-1988.

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?

Senator LOEPER. Mr. President, I would simply remind the Members that this is a Sunny Day bill that creates significant amounts of jobs for Pennsylvania. It is a bill we dealt with last week and, unfortunately, the other side of the aisle did not see fit to support the additional monies needed to be appropriated from the Sunny Day Fund to relocate seven new businesses in this Commonwealth along with the approximately 3,100 jobs that would come along with them. Last week the problem seemed to be that we were concerned about the PENNVEST bill, a bill dealing with our water and sewer infrastructure. Yesterday, that bill was reported from the Senate Committee on Appropriations and sits before this Senate on second consideration. It seems to me, Mr. President, that this is the opportunity to send a signal to all Pennsylvanians and to all people outside Pennsylvania that we are concerned about our economy, concerned about job creation and concerned about bringing new businesses into a healthy business climate in the Commonwealth. I would urge an affirmative vote on the legislation.

Senator LINCOLN. Mr. President, I think the need for further words from this side of the aisle is unnecessary. We very clearly and ably stated our position on this particular bill last week. The only thing I would say is that the situation has not changed and I would ask my caucus to vote "no."

And the question recurring,
Shall the bill pass finally?

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

YEAS—27

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

NAYS—20

Afflerbach	Kelley	O'Pake	Scanlon
Andrezeski	Lewis	Regoli	Stapleton
Bodack	Lincoln	Reibman	Stewart
Fumo	Mellow	Romanelli	Williams
Jones	Musto	Ross	Zemprelli

Less than a constitutional two-thirds majority having voted "aye," the question was determined in the negative.

RECONSIDERATION OF HB 1988**PREFERRED APPROPRIATION BILL OVER
IN ORDER ON FINAL PASSAGE**

HB 1988 (Pr. No. 2780) — Senator LOEPER. Mr. President, I move the Senate do now reconsider the vote by which House Bill No. 1988, Printer's No. 2780, just failed of final passage.

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

PARLIAMENTARY INQUIRY

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

The PRESIDENT. The gentleman from Fayette, Senator Lincoln, will state it.

Senator LINCOLN. Mr. President, under Senate Rules, how many times may a bill that has been defeated be reconsidered?

The PRESIDENT. The Chair would respond that twice is the proper amount.

Senator LINCOLN. Mr. President, then today, under Senate Rules, would be the last time that House Bill No. 1988 could be reconsidered if it is defeated?

The PRESIDENT. The Chair would respond to Senator Lincoln's parliamentary inquiry that under Rule XIII, Section 12, of the Senate Rules regarding motions, "A motion to reconsider the same question cannot be reconsidered a third time." The language regarding the same question indicates that since this legislation has been amended, this is not the same question and, in fact, this bill can be reconsidered twice as it is before us.

Senator LINCOLN. Mr. President, I disagree with that, but I am not going to argue the point because winning would not be worthy of an argument. I just want to make sure I understand that, absent any further amendment, House Bill No. 1988, the current printer's number, if defeated one more time, could be reconsidered without suspending Rules, without anything else.

The PRESIDENT. The Chair would respond by indicating that the gentleman from Delaware, Senator Loeper, has moved to reconsider the vote by which House Bill No. 1988 is before us now. If, in fact, that motion carries and a vote is taken, there will be one more opportunity for a reconsideration and a vote.

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

The motion was agreed to.

And the question recurring,
Shall the bill pass finally?

Senator LOEPER. Mr. President, I request that House Bill No. 1988 go over in its order and appear on the Final Passage Calendar.

The PRESIDENT. There being no objection, the bill will be placed on the Final Passage Calendar.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1200 (Pr. No. 1735) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 5, 1933 (P. L. 364, No. 106), entitled, as amended, "Business Corporation Law," providing for option and conversion rights; further providing for the rights of shareholders; and providing for job protection.

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?

Senator AFFLERBACH. Mr. President, I would urge an affirmative vote for this legislation, and I commend the Majority for moving swiftly in bringing it to the Calendar. I would simply like to remind the Majority, however, that we also have in the Committee on Judiciary Senate Resolution No. 126, which expresses to Congress the sense of the Senate that the federal government shall not prohibit the states from passing strict regulations regarding corporate takeovers, as this bill proposes to do, and I would hope they would move equally expeditiously in having us consider that resolution.

Senator LEWIS. Mr. President, much has been written in the last few weeks about the debate going on in Delaware with regard to proposed amendments to their law in dealing with hostile corporate takeovers. I think we should note with some pride that the legislation in front of us now is every bit as protective as the proposal being recommended in Delaware. In fact, in many respects Pennsylvania, again, is taking the lead, the lead not only in protecting our companies against unfriendly takeovers and the dissolution of those businesses, but also the lead as far as showing the way for the statutory presumptions and authorities that are necessary to give our companies and their shareholders the kinds of protection which they rightfully deserve.

I have not seen a thing written yet in Pennsylvania about this proposal, and I thought it important to make these few comments in light of the volumes that have been written about the Delaware efforts in the last few weeks, because we are doing more than is occurring in Delaware here in Pennsylvania today.

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Fumo and Senator Peterson. Their temporary Capitol leaves will be cancelled.

And the question recurring,
Shall the bill pass finally?

Senator WENGER. Mr. President, I am also pleased to see that Pennsylvania is moving ahead in being a leader in the legislation before us in Senate Bill No. 1200. The question of unfriendly or hostile corporate takeovers has been a thorny one over the last few years, and I think we are moving here in a bipartisan fashion to solve a problem before it becomes of even greater magnitude here in our Commonwealth. I think Governor Casey said it quite well when he said the legislation before us would serve notice that Pennsylvania will not tolerate the raiders who would take over our companies, strip them of corporate assets and move their operations from Pennsylvania, weakening their ability to compete and, most important, rob our communities of precious jobs.

I do concur it is important that we pass this legislation at this time. It is timely and it is something that has had a lot of attention in other states, perhaps not as much publicity here in Pennsylvania as in some of the other states, but the urgency is just as great. I ask for an affirmative vote on Senate Bill No. 1200.

Senator LOEPER. Mr. President, I also would ask for an affirmative vote for this legislation. I think it does represent in a bipartisan spirit of cooperation, the recognition of a potential problem to the Commonwealth and the devastating impact that potentially could come upon us. Therefore, I commend each and every one involved in this legislation to bring it to this point and would ask for an affirmative vote.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Ross. His temporary Capitol leave will be cancelled.

And the question recurring,
Shall the bill pass finally?

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

YEAS—47

Afflerbach	Hess	Moore	Scanlon
Andrezeski	Holl	Musto	Shaffer
Armstrong	Hopper	O'Pake	Shumaker
Bell	Jones	Pecora	Stapleton
Bodack	Jubelirer	Peterson	Stauffer
Brightbill	Kelley	Regoli	Stewart
Corman	Lemmond	Reibman	Tilghman
Fisher	Lewis	Rhoades	Wenger
Fumo	Lincoln	Rocks	Williams
Greenleaf	Loeper	Romanelli	Wilt
Greenwood	Madigan	Ross	Zemprelli
Helfrick	Mellow	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.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

HB 1100 (Pr. No. 2779) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 32 (Forests, Waters and State Parks) of the Pennsylvania Consolidated Statutes, adding provisions relating to water supply and sewage treatment systems; providing for the establishment, implementation and administration of the Pennsylvania Infrastructure Investment Authority; providing for the powers and duties of the board of directors of the authority, including the utilization of Federal funds; authorizing the incurring of indebtedness, with approval of the electors, of \$450,000,000 for the acquisition, repair, construction, reconstruction, rehabilitation, extension, expansion and improvement of water supply and sewage treatment systems; providing for the allocation of the bond proceeds; authorizing the authority to issue its own bonds and notes; transferring the rights, powers, duties and obligations of the Water Facilities Loan Board to the authority; making an appropriation; and making repeals.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator LINCOLN, on behalf of himself and Senator MUSTO, offered the following amendment No. A0462:

Amend Title, page 2, lines 16 through 30; page 3, lines 1 and 2, by striking out all of said lines on said pages and inserting:

Providing for the establishment, implementation and administration of the Pennsylvania Infrastructure Investment Authority; imposing powers and duties on a board of trustees; transferring the rights, powers, duties and obligations of the Water Facilities Loan Board to the Pennsylvania Infrastructure Investment Authority; providing for the issuance of notes and bonds; providing for financial assistance and for a comprehensive water facilities plan; authorizing a referendum to incur indebtedness; making an appropriation; and making repeals.

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- Section 14. Expedited approval of rate relief.
- Section 15. Transfer of Water Facilities Loan Board.
- Section 16. Referendum.
- Section 17. Bonds.
- Section 18. Appropriation.
- Section 19. Severability.
- Section 20. Repeals.
- Section 21. Effective date.

Amend Bill, page 25, lines 2 through 30; pages 26 through 63, lines 1 through 30; page 64, lines 1 through 17, by striking out all of said lines on said pages and inserting:

Section 1. Short title.

This act shall be known and may be cited as the Pennsylvania Infrastructure Investment Authority Act.

Section 2. Legislative intent.

The General Assembly finds and declares that:

(1) The health of millions of citizens of this Commonwealth is at risk due to substandard and deteriorated water supply and sewage disposal systems.

(2) Many water and sewage systems in this Commonwealth are aging, outmoded, inadequate, deteriorating and operating above capacity, and many areas have to limit their growth solely due to lack of proper water supply and sewage disposal.

(3) The economic revitalization of this Commonwealth is being stifled by a lack of clean water and adequate sewage facilities.

(4) Financing of water and sewage projects at affordable cost is not currently available in many areas of this Commonwealth.

(5) In order to assist in financing projects to protect the health and safety of the citizens of this Commonwealth and to promote the economic development of Pennsylvania, the General Assembly has determined that it is necessary to establish the Pennsylvania Infrastructure Investment Authority and to provide funding of the authority programs.

Section 3. Definitions.

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

"Authority." The Pennsylvania Infrastructure Investment Authority.

"Board." The board of directors of the authority.

"Bonds." Bonds, notes or other evidences of indebtedness issued by the authority pursuant to this act.

"Department." The Department of Commerce of the Commonwealth or its successor agency.

"Eligible cost." The cost of all labor, materials, machinery and equipment, lands, property, rights and easements, plans and specifications, surveys or estimates of costs and revenues, engineering and legal services, and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project.

"Governmental unit." Any agency of the Commonwealth or any county, municipality or school district, or any agency, instrumentality, authority or corporation thereof, or any public body having local or regional jurisdiction or power.

"Project." The eligible costs associated with the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of any facility or system, whether publicly or privately owned, for the collection, treatment or disposal of wastewater, including industrial waste, or for the supply, treatment, storage or distribution of drinking water.

"Secretary." The Secretary of Commerce of the Commonwealth or the head of any successor agency.

"Water Facilities Loan Board." The board established under 32 Pa.C.S. § 7504 (relating to Water Facilities Loan Board).

Section 4. Pennsylvania Infrastructure Investment Authority; board of directors.

(a) Establishment.—There is hereby established a body corporate and politic, with corporate succession, to be known as the Pennsylvania Infrastructure Investment Authority. The authority is constituted an instrumentality of the Commonwealth, and the exercise by the authority of the powers conferred by this act shall be deemed and held to be a public and essential governmental function.

(b) Membership.—The authority shall consist of an 11-member board of directors composed of the Governor, the

majority and minority leaders of the Senate, the majority and minority leaders of the House of Representatives, the Secretary of Commerce, the Secretary of Community Affairs, the Secretary of Environmental Resources, the Secretary of General Services, the Secretary of the Budget and the Chairman of the Pennsylvania Public Utility Commission.

(c) Officers.—The Governor shall be the chairman and chief executive officer of the authority. The board shall biannually elect a vice-chairman. The board shall select a secretary and treasurer who need not be members of the board, and the same person may be selected to serve as both secretary and treasurer.

(d) Vesting of powers.—The powers of the authority shall be vested in the board in office from time to time, and eight members of the board shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the authority by the affirmative vote of at least seven members of the board. No vacancy on the board shall impair the right of a quorum of the members of the board to exercise the powers and perform the duties of the authority.

(e) Designees.—Each member of the board may designate someone to represent him at meetings of the board. Each designee may lawfully vote and otherwise act on behalf of the member of the board for whom he constitutes the designee. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended in writing delivered to the authority.

(f) Services.—Research, investigation and other services necessary for the operation of the board shall be carried out from resources and by employees from the various executive departments represented on the board. All applicable Commonwealth departments and agencies shall cooperate with, and provide assistance to, the board, which may, at its discretion, provide financial reimbursement.

(g) Dissolution.—The authority may be dissolved by law, provided that the authority has no bonds or other debts or obligations outstanding or that provision has been made for the payment or retirement of all such bonds, debts and obligations. Upon any dissolution of the authority, all property, funds and assets of the authority shall be vested in the Commonwealth.

Section 5. Revenues of authority.

(a) Sources of revenues.—The authority may receive money from sources of revenue, including, but not limited to, the following:

(1) State funds appropriated to the authority.

(2) Federal funds appropriated to or granted to the authority.

(3) Proceeds from the sale of bonds of the authority authorized under section 7.

(4) Proceeds from the sale of bonds issued on or after the effective date of this act from the remaining unused authorization in addition to any other funds that remain unencumbered on the effective date of this act from the act of July 12, 1981 (P.L.263, No.88), entitled "An act authorizing the incurring of indebtedness, with approval of the electors, of \$300,000,000 for the repair, construction, reconstruction, rehabilitation, extension and improvement of community water supply systems, and for the repair, reconstruction or rehabilitation of flood control facilities, dams and port facilities and providing the allotment of proceeds from borrowing hereunder," approved by the electorate on November 3, 1981.

(5) Proceeds from the sale of bonds issued for site development under the provisions of Article XVI-B of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(6) Proceeds from the sale of any other Commonwealth general obligation bonds designated for the authority.

(7) Proceeds from the sale of authority assets.

- (8) Repayment of loan principal.
- (9) Payment of interest on loans made by the authority.
- (10) Interest earned on the investments of authority moneys.

(b) Control of revenues; investment of funds.—The board shall have exclusive control and management of all moneys of the authority and full power to invest moneys not required for immediate use in any securities or other investments in which funds of the Commonwealth are authorized to be invested and in any other type of security or investment if, prior to the acquisition of the securities or investments, the board determines by resolution that such type of security or investment is in the best interests of the authority and the State Treasurer approves of such type of security or other investment.

(c) General fund and other separate funds or accounts.—The board shall establish a general fund from which it may authorize expenditures for any of the purposes of this act. The board shall establish a Water Pollution Control Fund which shall be a revolving fund administered in accordance with the requirements of Title VI of the Water Quality Act of 1987 (Public Law 100-4, 101 Stat. 7), for the purpose of providing financial assistance for sewage facilities. The board may also establish revolving funds and accounts and other separate funds and accounts when separate accounting for different sources of funds is required by State or Federal law or when otherwise determined by the board to be necessary or convenient.

(d) Loan repayment.—Subject to any agreement with the holders of bonds, repayments of loan principal, together with any interest thereon, shall be deposited with the authority and credited to such fund or account as the board shall determine. Loans made by the Water Facilities Loan Board prior to the effective date of this act and repayment of the principal of and interest on those loans shall be controlled by the provisions of Title 32 of the Pennsylvania Consolidated Statutes (relating to forests, waters and State parks) and the regulations promulgated thereunder. The board shall maintain such separate funds and accounts as may be necessary for the deposit of payments made under authority or requirement of State or Federal law.

Section 6. Powers and duties of authority.

The authority shall have and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this act, including, but not limited to, the following:

- (1) Conduct examinations and investigations and take testimony, under oath or affirmation, on any matter necessary to the determination and approval of project applications.
- (2) Sue and be sued, implead and be impleaded, complain and defend in all courts.
- (3) Adopt, use and alter at will a corporate seal.
- (4) Make bylaws for the management and regulation of its affairs, and make and, from time to time, adopt, amend and repeal rules, regulations and guidelines governing the administrative procedures and business of the authority. Regulations of the board shall not be subject to review under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.
- (5) Make contracts of every name and nature and execute all instruments necessary or convenient for the carrying on of its business.
- (6) Accept grants from and enter into contracts or other transactions with any Federal, State or local agency.
- (7) Take title by foreclosure or otherwise to any project or other property pledged, mortgaged, encumbered or otherwise available as security for a project financed in whole or in part by the board, whether by loan, loan guarantee or otherwise, where such acquisition is necessary to protect the interests of the board with respect to a project; pay all costs arising out of such acquisition from moneys held in the trust fund;

and sell, transfer and convey all or any portion of any such project to any responsible buyer. The board may require a dedicated source of revenue to be available for repayment of any loan.

(8) Provide financial assistance, including, but not limited to, loans, loan guarantees, bond guarantees and grants for projects fulfilling the purposes of this act.

(9) Collect fees and charges, as the board determines to be reasonable, relating to activities undertaken in furtherance of the purposes of this act.

(10) Borrow money and issue bonds and provide for the right of holders thereof in accordance with the provisions of this act.

(11) Pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the authority as security for all or any of the bonds of the authority.

(12) Receive appropriations and apply for and accept grants, gifts, donations, bequests and settlements from any public or private source.

(13) Acquire, own, hold, construct, improve, rehabilitate, renovate, operate, maintain, sell, assign, exchange, lease, mortgage or otherwise dispose of real and personal property or any interest therein in the exercise of its powers and the performance of its duties under this act.

(14) Procure insurance against any loss in connection with its property and other assets and operations in any amounts and from any insurers as it deems desirable.

(15) Contract for the services of attorneys, accountants and financial experts and any other advisors, consultants and agents as may be necessary in its judgment, subject to the requirement that the chairman shall ensure that minority-owned or minority-controlled firms shall have an opportunity to participate to a significant degree in the provision of any contractual services purchased by the authority.

(16) Subject to any agreement with holders of its bonds, notes or other obligations, purchase bonds, notes and other obligations of the authority.

(17) Subject to any agreement with holders of its bonds, notes or other obligations, obtain as security for payment of all or any part of the principal of and interest and premium on the bonds, notes and other obligations of the authority, lines of credit and letters of credit in any amounts and upon any terms as the authority may determine, and pay any fees and expenses required in connection therewith.

(18) Do any act necessary or convenient to the exercise of the powers enumerated in this section or reasonably implied therefrom.

(19) Serve as the Water Facilities Loan Board to satisfy any outstanding bond obligation and loan liabilities.

(20) Assume all the rights, powers, duties, obligations and liabilities of the Water Facilities Loan Board.

(21) Repay the General Fund any or all debt service due to be paid in any fiscal year from bonds used to fund projects under this act.

(22) Prepare plans and reports and provide for public participation as deemed appropriate.

(23) Fund prefeasibility studies from any of its sources of revenue.

Section 7. Specific power to issue bonds.

(a) Principal amounts.—The authority may issue its bonds, notes or other obligations in principal amounts as in the judgment of the authority shall be necessary to provide sufficient funds for any of its corporate purposes. Corporate purposes shall be deemed to include:

- (1) The payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it, whether the bonds to be funded or refunded have or have not become due.

(2) The establishment or increase of reserves to secure or to pay the bonds or interest thereon.

(3) All other costs or expenses of the authority incident to and necessary to carry out its corporate purposes and powers.

(b) Negotiable instrument designation.—Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of Title 13 of the Pennsylvania Consolidated Statutes (relating to commercial code), the bonds are made negotiable instruments within the meaning of and for the purposes of Title 13, subject only to the provisions of the bonds for registration.

(c) Resolution; terms of bonds.—Bonds shall be authorized by resolution of the board, may be issued in one or more series and shall bear any date or dates, mature at any time or times not later than 35 years from the date of issuance thereof, bear interest at any rate or rates or at variable rates, be in any denomination or denominations, be in any form, either coupon or registered, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable from such sources in any medium of payment at any place or places within or without this Commonwealth, and be subject to any terms of redemption, purchase or tender by the authority or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the authority authorizing the issuance of bonds may provide that the bonds be secured by a trust indenture between the authority and a trustee, vesting in the trustee any property, rights, powers and duties in trust consistent with the provisions of this act as the authority may determine. Such resolution may further provide for the acquisition of credit enhancement devices such as bond insurance, letters of credit or any other instruments to carry out the provisions of this section.

(d) Public or private sale.—Bonds may be sold at public or private sale at any price or prices and in any manner as the authority may determine, subject to the requirement that the chairman shall ensure that minority-owned or minority-controlled firms shall have an opportunity to participate to a significant degree in any bond sale activities.

(e) No prior preconditions on bond issuance.—Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, board, bureau or agency of the Commonwealth and without any other proceeding or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by this act.

(f) Limitation on obligations.—Bonds issued under the provisions of this act shall not be a debt or liability of the Commonwealth or of any of its political subdivisions other than the authority and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth or of any political subdivision. All bonds shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act, including the proceeds of any issue of bonds. Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in this act, that neither the Commonwealth nor any political subdivisions are obligated to pay the principal or interest, and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision is pledged to the payment of the principal of or the interest on the bonds.

(g) Nature of obligation and payment.—Each issue of bonds may, if it is determined by the authority, be general obligations of the authority payable out of any revenues, receipts or funds of the authority, or special obligations payable out of particular revenues, receipts or funds, subject only to agreements with the holders of the bonds. Bonds may be secured by one or more of the following:

(1) Pledges of revenues and other receipts to be derived from the payment of the interest on and any principal of notes and bonds issued by one or more governmental units and purchased by the authority, and any other payment made to the authority pursuant to agreements with any governmental unit or a pledge or assignment of any notes and bonds of any governmental units, and the rights and interests of the authority therein.

(2) Pledges of loan payments, rentals, other revenues to be derived from loan agreements, leases or other contractual arrangements with any person or entity, public or private, or a pledge or assignment of any such loan agreements, leases or other contractual arrangements, and the rights and interests of the authority therein.

(3) Pledges of grants, subsidies, contributions, appropriations or other payments to be received from the Federal Government or any instrumentality thereof or from the Commonwealth, any Commonwealth agency or other governmental unit.

(4) Pledges of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds.

(5) Mortgages and security interests covering all or part of any project or other property of any person or entity, real or personal, then owned or thereafter to be acquired, or a pledge or assignment of mortgages and security interests made or granted to the authority by any person or entity, and the rights and interests of the authority therein.

(h) Exemption from taxation.—All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes.

Section 8. Covenants and express conditions on obligations.

In any resolution of the authority authorizing or relating to the issuance of bonds, the authority, in order to secure payment of the bonds, and, in addition to its other powers, may, by provisions in the resolution which shall constitute covenants by the authority and contracts with the holders of the bonds, do the following:

(1) Secure the bonds.

(2) Make covenants against pledging all or part of its revenues or receipts to other parties.

(3) Make covenants limiting its right to sell, pledge or otherwise dispose of notes and bonds of governmental units, loan agreements of public or private persons or entities, or other property of any kind.

(4) Make covenants as to additional bonds to be issued, the limitations thereon, the terms and conditions thereof, and the custody, application, investment and disposition of the proceeds thereof.

(5) Make covenants as to the incurring of other debts by it.

(6) Make covenants as to the payment of principal of or interest on bonds, the sources and methods of the payment, the rank or priority of bonds with respect to liens or security interests or the acceleration of maturity of bonds.

(7) Provide for replacement of lost, stolen, destroyed or mutilated bonds.

(8) Make covenants as to the redemption, purchase or tender of bonds by the authority, or the holders thereof, and the privileges of exchanging them for other bonds.

(9) Make covenants to create or authorize the creation of special funds or accounts to be held in trust or otherwise for the benefit of holders of bonds, or of reserves for other purposes and as to the use, investment and disposition of moneys held in those funds, accounts or reserves.

(10) Provide for the rights, liabilities, powers and duties arising upon the breach of a covenant, condition or obligation and prescribe the events of default and the terms and conditions upon which any or all of the bonds shall become or may

be declared due and payable before maturity and the terms and conditions upon which the declaration and its consequences may be waived.

(11) Vest in a trustee or trustees within or without this Commonwealth in trust any property, rights, powers and duties as the authority may determine. These may include any or all of the rights, powers and duties of any trustee appointed by the holders of bonds or notes, including rights with respect to the sale or other disposition of notes and bonds of governmental units and other instruments and security pledged pursuant to a resolution or trust indenture for the benefit of the holders of bonds and the right, by suit or action, to foreclose any mortgage pledged pursuant to the resolution of trust indenture for the benefit of the holders of the bonds, notes or other obligations, and to limit the right of the holders of any bonds to appoint a trustee under this act and to limit the rights, powers and duties of the trustee.

(12) Pay the costs or expenses incident to the enforcement of the bonds or the provisions of the resolution authorizing the issuance of those bonds, or the trust indenture securing the bonds or any covenant or agreement of the authority with the holders of the bonds, notes or other obligations.

(13) Limit the rights of the holders of any bonds to enforce any pledge or covenant securing bonds.

(14) Make covenants other than or in addition to the covenants authorized by this act of like or different character and make covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or which, in the absolute discretion of the authority, will tend to make bonds more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

Section 9. Nature and effect of pledges.

A pledge of revenues, receipts, moneys, funds or other property or instruments made by the authority shall be valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds or other property pledged and thereafter received by the authority shall be immediately subject to the lien of the pledge without its physical delivery or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge under this section is created or evidenced need be filed or recorded except in the records of the authority.

Section 10. Financial assistance.

(a) Criteria for obtaining assistance.—In reviewing applications for financial assistance, the authority shall consider:

(1) Whether the project will improve the health, safety, welfare or economic well-being of the people of this Commonwealth.

(2) Whether the proposed project will lead to an effective or complete solution to the problems experienced with the water supply or sewage treatment system to be aided, including compliance with State and Federal laws, regulations or standards.

(3) The cost-effectiveness of the proposed project in comparison with other alternatives, including other institutional, financial and physical alternatives.

(4) The consistency of the proposed project with other State and regional resource management and economic development plans.

(5) Whether the applicant has demonstrated its ability to operate and maintain the project in a proper manner.

(6) Whether the project encourages consolidation of water or sewer systems, where such consolidation would enable the customers of the systems to be more effectively and efficiently served.

(7) The availability of other sources of funds at reasonable rates to finance all or a portion of the project and the need for authority assistance to finance the project or to attract the other sources of funding.

(b) Financing priorities.—In assigning priorities for projects, the board shall consult with the Department of Environmental Resources and the department. In addition to any requirements of Federal law imposed on the use of Federal funds, the board shall determine priorities based on factors which include, but are not limited to:

(1) Benefits to public health.

(2) The contribution to and impact of the project on economic development as well as social and environmental values.

(3) Benefits to public safety or welfare.

(4) Improvement in the ability of an applicant to come into compliance with State and Federal statutes, regulations and standards.

(5) Improvement in the adequacy or efficiency of the water supply or sewage treatment system.

(6) The cost-effectiveness of the project.

(7) Whether the governmental unit to be served by a sewage treatment system is subject to construction or connection limitations issued by the Department of Environmental Resources.

(c) Decision of board.—Establishment of priority for financial assistance shall not be deemed to be a final action under 2 Pa.C.S. (relating to administrative law and procedure), nor shall it confer a right or duty upon the board or any other person. A decision as to an applicant's eligibility may be appealed pursuant to 2 Pa.C.S., but the priority assigned the project may not be raised in that appeal.

(d) Projects requiring immediate assistance.—The board shall ensure that funds are always available for emergency situations which immediately threaten the health and safety of the residents of this Commonwealth and for economic development when the project must be completed in a short time period in order to attract or retain business within this Commonwealth.

(e) Small projects.—The board shall establish a program of assistance to water supply and sewage disposal systems serving communities with a population of 12,000 people, or less, or systems having hookups of 1,000 or less.

(f) Grants.—Grants, except for those under the Community Facilities program, shall be made only when the board, in its sole discretion, determines that the financial condition of the recipient is such that repayment of a loan is unlikely and that the recipient will not be able to proceed with the project without a grant. In considering grant applications, the authority may recommend, either before or after the determination of the board, that the recipient pursue other State grant programs, including, but not limited to, the Site Development program, the Federal Small Communities Block Grant program and the Federal Urban Development Action Grant program. Should the board determine that a grant is necessary from the authority, the board shall attempt to mix the grant funds with loan funds, if financially possible.

(g) Loans.—Subject to any agreements with the holders of bonds, the board shall have the power to set terms applicable to loans in any manner it deems appropriate, subject to the provisions of this subsection. The board may consider such factors as it deems relevant, including current market interest rates, the financial and economic distress of the area which the project serves, and the necessity to maintain the authority funds in a financially sound manner. Loans may be made based on the ability to repay the loan from future revenue to be derived from the project, by a mortgage or other property lien, or on any other fiscal matters which the authority deems appropriate. The board shall have the power to defer principal on loans for up to five

years. In the event of a default on the repayment of a loan, the board may apply to the court of common pleas of the county where the project is located for the appointment of a receiver to assume operation and supervision of the facility under the supervision of the court. Interest rates on the loans shall be based upon the bond rate as defined as the interest rate of the most recent issue of Commonwealth general obligation bonds and the unemployment rate of the county, as defined by the average unemployment rate for the county, in the prior calendar year for which data has been finalized, subject to the following:

(1) For projects in counties whose unemployment rate exceeds the Statewide unemployment rate by 40% or more, the interest rate shall be 1% for the first five years and one-quarter of the bond issue rate for the remainder of the loan.

(2) For projects in counties whose unemployment rate exceeds the Statewide unemployment rate, but exceeds it by less than 40%, the interest rate shall be 35% of the bond issue rate for the first five years and 70% of the bond issue rate for the remainder of the loan.

(3) For all other projects, the interest rate shall be 70% of the bond rate for the first five years and 90% for the remainder of the loan.

For the projects which serve multiple counties, the highest unemployment rate of the projects involved shall be used.

(h) Limitation on annual assistance.—The amount of assistance approved by the board under subsection (f) shall not in any fiscal year exceed the amount of interest earnings, State appropriations and any funds received specifically for grants which are deposited into the accounts of the authority. This limitation shall not apply to projects funded prior to January 1, 1989, but the total amount of assistance under subsection (f) prior to January 1, 1989, shall not exceed \$15,000,000, excluding moneys specifically appropriated by the General Assembly for grants.

(i) Other assistance.—The board shall have the power to use other methods of financial assistance, including, but not limited to, bond and loan guarantees, and may buy or insure bonds if the board deems this to be an appropriate method to accomplish the purposes of this act.

(j) Limitation.—The provisions of other law notwithstanding, all projects eligible for assistance under this act shall be determined to be site development projects as referenced in the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. In no case shall total assistance to any single project total more than \$12,000,000 or \$24,000,000 if a project serves more than one municipality.

(k) Continuing education of operators.—No agreement with individuals or entities shall be valid in the absence of an agreement by the individuals or entities seeking assistance under this act to assure that the system operators are participating or will participate in continuing education programs developed by the Department of Environmental Resources. If the board determines that the system operator of a system receiving assistance is not participating in continuing education programs, the board shall take all steps necessary to cease all financial assistance and recover all prior payments, including, but not limited to, the immediate repayment of any outstanding loans and interest and any grants.

(l) Inspection of project and records.—

(1) The applicant shall allow the authority and its successors, agents and representatives the right, at all reasonable times during construction and after completion of the project, to enter upon and inspect the project and to examine and make copies of the applicant's books, records, accounting data and other documents pertaining to the project and the financial condition of the applicant.

(2) The applicant may be required by the board or its agent to have prepared independent audits of its financial documents and conditions and submit a certified copy of the audits to the board.

(m) Financial analysis.—The financial analysis used by the board to determine the need of all applicants for financial assistance shall include, but not be limited to, the following:

(1) Fair and reasonable costs of wastewater treatment or of supplying drinking water incurred by comparable systems.

(2) The incomes of affected ratepayers and their ability to pay increased rates necessary to complete the proposed projects.

(3) Other sources of financing available to individuals or entities seeking assistance under this act.

(4) A determination that any financial assistance provided by this act will not be used to supplant financial resources already available to the applicant.

Section 11. Comprehensive water facilities plan.

The Department of Environmental Resources shall prepare and submit to the authority a comprehensive plan for wastewater disposal and piped drinking water facilities in this Commonwealth. In preparing the plan, the Department of Environmental Resources shall consult with county commissioners, multicounty planning agencies and other applicable local officials and agencies. The plan should include, but not be limited to:

(1) An inventory of the existing facilities located within this Commonwealth, including, but not limited to, identification of the type, capacity, location, current condition and year constructed.

(2) An inventory of drinking water and sewage construction needs.

(3) Identification of the major issues and problems that the Commonwealth must deal with in order to address its water infrastructure needs, including financial as well as non-financial issues.

(4) Recommendations for programs to encourage the construction of drinking water and sewage treatment facilities. This may include innovative financing mechanisms, alternative technology and ownership structures, and technical assistance.

(5) Identification of emerging issues, trends and problems that might affect these facilities.

The plan shall be updated at least every five years.

Section 12. Audits.

The accounts and books of the authority, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operation and affairs, shall be examined and audited by the Auditor General.

Section 13. Annual report.

The board shall provide the General Assembly with an annual report detailing all projects funded under section 10 of this act and all projects receiving assistance from community facilities funds.

Section 14. Expedited approval of rate relief.

For the limited and special purpose of ensuring repayment of principal and interest on loans made pursuant to this act, the Pennsylvania Public Utility Commission shall approve such security issues, affiliated interest agreements and rate increase requests by applicants that are regulated utilities as are necessary and appropriate. For this purpose, the Pennsylvania Public Utility Commission shall establish such expedited practices, procedures and policies as necessary to facilitate and accomplish repayment of the loans. Nothing in this act shall be construed as to require approval of rate increases greater than that necessary to accomplish the repayment of loans made pursuant to this act.

Section 15. Transfer of Water Facilities Loan Board.

(a) Removal of members.—Forty-five days after the effective date of this act: All existing members of the Water Facilities Loan Board shall cease to hold office.

(b) Board of directors to serve as Water Facilities Loan Board.—For purposes of satisfying all outstanding obligations of

the Water Facilities Loan Board and for purposes of collecting loan and interest repayments, the board established in section 4 shall constitute the membership of the Water Facilities Loan Board.

(c) Transfer of function.—All remaining unencumbered funds, rights, powers, duties, obligations, liabilities, records and equipment of the Water Facilities Loan Board are transferred to the authority.

Section 16. Referendum.

(a) General rule.—Pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania, the question of incurring indebtedness of \$450,000,000 for loans for the acquisition, repair, construction, reconstruction, rehabilitation, extension, expansion and improvement of water supply and sewage treatment systems, subject to implementation through this act, shall be submitted to the electors at the next primary, municipal or general election following the effective date of this act.

(b) Certification.—The Secretary of the Commonwealth shall forthwith certify the question to the county boards of elections.

(c) Form of question.—The question shall be in substantially the following form:

Do you favor the incurring of indebtedness by the Commonwealth of \$450,000,000 for use as loans to acquire, repair, construct, reconstruct, rehabilitate, extend, expand and improve water supply and sewage treatment systems?

Section 17. Bonds.

(a) Issuance of general obligation bonds.—As evidence of the indebtedness if authorized under section 16, general obligation bonds of the Commonwealth shall be issued from time to time to fund and retire notes issued pursuant to section 16 to carry out the purposes of this act, or both, for such total amounts, in such form, in such denominations and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the issuing officials direct except that the latest stated maturity date shall not exceed 30 years from the date of the debt first issued for each series.

(b) Execution of bonds.—All bonds and notes issued under the authority of section 16 shall bear facsimile signatures of the issuing officials and a facsimile of the great seal of the Commonwealth and shall be countersigned by a duly authorized loan and transfer agent of the Commonwealth.

(c) Direct obligation of Commonwealth.—All bonds and notes issued in accordance with section 16 shall be direct obligations of the Commonwealth, and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon as it becomes due and the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States of America.

(d) Exemption from taxation.—All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes.

(e) Form of bonds.—The bonds may be issued as coupon bonds or registered as to both principal and interest as the issuing officials may determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(f) Bond amortization.—The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts, whether by stated serial maturities or by mandatory sinking fund retirements.

(g) Refunding bonds.—The issuing officials are authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any bonds issued under this section and then outstanding, either by voluntary exchange with the holders of the outstanding bonds, or to provide funds to redeem and retire the outstanding bonds with accrued interest, any premium payable thereon and the costs of issuance and retirement of bonds, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect to the same shall be governed by the provisions of this section, insofar as they may be applicable. Refunding bonds may be issued by the issuing officials to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

(h) Quorum.—Whenever any action is to be taken or decision made by the Governor, the Auditor General and the State Treasurer acting as issuing officials and the three officers are not able unanimously to agree, the action or decision of the Governor and either the Auditor General or State Treasurer shall be binding and final.

(i) Public sale.—Whenever bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on such terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and character of the advertisement and the time of advertising shall be prescribed by the issuing officials.

(j) Private sale.—Any portion of any bond issue so offered and not sold or subscribed for may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than 98% of the principal amount and accrued interest, as the issuing officials shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this section.

(k) Bond series.—When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth.

(l) Temporary bonds.—Until permanent bonds can be prepared, the issuing officials may in their discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

(m) Disposition and use of proceeds.—The proceeds realized from the sale of bonds and notes, except funding bonds, refunding bonds and renewal notes, under the provisions of this section are specifically dedicated to the purposes of the referendum to be implemented by this act and shall be paid into the special funds established in the State Treasury in such amounts as may be specified by the board pursuant to section 5(c). The proceeds shall be paid by the State Treasurer periodically to the board to expend them at such times and in such amounts as may be necessary to satisfy the funding needs of the board. The proceeds of the sale of funding bonds, refunding bonds and renewal notes shall be paid to the State Treasurer and applied to the payment of principal, the accrued interest and premium, if any, and costs of redemption of the bonds and notes for which such obligations shall have been issued.

(n) Investment of funds.—Pending their application to the purposes authorized, moneys held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the funds established by the board in section 5(c) in such amounts as may be specified by the board pursuant to that section.

(o) Registration of bonds.—The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the issuing officials.

(p) Expenses of preparation for issue and sale of bonds and notes.—There is hereby appropriated to the State Treasurer from the proceeds of the bonds and notes issued as much money as may be necessary for all costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this act.

Section 18. Appropriations.

(a) Appropriation.—The sum of \$500,000, or as much thereof as may be necessary, is hereby appropriated from the General Fund to the Pennsylvania Infrastructure Investment Authority for the fiscal year July 1, 1987, to June 30, 1988, to carry out the provisions of this act.

(b) Continuing appropriation.—The General Assembly hereby appropriates on a continuing basis to the Authority funds as authorized by section 5 of this act.

Section 19. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 20. Repeals.

(a) Absolute.—Forty-five days after the effective date of this act, the following acts or parts of acts are repealed:

The definitions of "community water supply system," "department," "flood control facility," "port facility," "project" and "water facility" in section 7502 and sections 7503, 7504(b), (d) and (e), 7506, 7510, 7511, 7512, 7513, 7514, 7515 and 7516 of Title 32 of the Pennsylvania Consolidated Statutes (relating to forests, waters and State parks).

(b) Limited.—The following acts or parts of acts are repealed:

(1) Any project itemized in a capital budget which was funded by current revenues without the use of bond obligations.

(2) Sections 1, 1.1, 2 and 3 of the act of August 20, 1953 (P.L.1217, No.339), entitled "An act providing for payments by the Commonwealth to municipalities which have expended money to acquire and construct sewage treatment plants in accordance with the Clean Streams Program and the act, approved the twenty-second day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1987), and making an appropriation," as applied to projects funded under the provisions of this act.

(c) Inconsistent.—All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 21. Effective date.

This act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

Senator LINCOLN. Mr. President, yesterday at a meeting of the Senate Committee on Appropriations, amendments were offered to House Bill No. 1100. They were placed in the bill by a vote that reflected the Republican membership of that committee voting "yes" and the Democratic membership of that committee voting "no." The amendment I have prepared today would change House Bill No. 1100 to reflect what is commonly known as the Governor's PENNVEST plan, as

introduced with some changes which have been necessitated by federal law. There is also one change that increases the cap up to \$12 million for individual projects and up to \$24 million for multi-municipal projects. I could go into detail to explain the amendment—which I will be very happy to do if anyone would care to question me on that—but I think the most effective tool in this debate is that I would like to read into the record a letter from Bob Casey, the Governor of this Commonwealth, that was delivered to each and every Member of this Senate prior to caucus today. I think it would very clearly indicate the Democratic Senate position on this issue and the Governor's position. It is something that, if you have not read it, I think you should listen to because if you are interested in PENNVEST, which all of us are, I think you will find there must be some compromise or this bill is never going to be part of the economic development process in Pennsylvania.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
Harrisburg

February 2, 1988

"TO: ALL MEMBERS OF THE SENATE

"I am deeply disappointed in the actions of the Republican Senators who cut the heart out of the PENNVEST proposals in committee action yesterday. There is a documented need in Pennsylvania for water and sewage infrastructure improvements of over \$5.8 billion. In response to that need the Senate Republicans have again proposed a limited, one-time program that deals with too little of the problem and too late.

"First, by removing the capital budget process from PENNVEST, the Senate Republicans would delay the Commonwealth's authority to initiate project application and planning until after a referendum. When the referendum approach was used in 1981 to establish the Water Facilities Loan Program, thirty months lapsed before the first loan was made. Seven years later, more than two-thirds of that money is still unspent. We cannot afford to wait that long to provide our people with safe drinking water.

"Second, by removing PENNVEST's ability to reinvest loan returns into more borrowing as revenue bonds, the Republican amendments destroy the program's growth potential. The full faith and credit of the Commonwealth alone cannot support the vast needs for water and sewer development. Allowing the PENNVEST Authority to reinvest its funds in future water and sewer loans is the best hope we have of facing this problem with real resources. This reinvestment of funds can generate over \$3 billion for Pennsylvania's water and sewer needs.

"Finally, the failure of the Republican proposal to include grants is also a fatal flaw, because many Pennsylvania communities cannot support these projects with loans only.

"Yesterday's action reflects either a failure to recognize the environmental infrastructure problems we face, or a success at further delaying the implementation of this vital program to rebuild Pennsylvania's substandard water and sewer systems.

"PENNVEST is critical to Pennsylvanians' health and safety; we have had giardiasis-tainted water in Altoona, State College, McKeesport, Scranton, and many other communities. The plan is also central to creating jobs and economic growth. In addition to providing immediate construction jobs, it will give businesses the water and sewer systems they need to locate or expand in Pennsylvania.

"There is simply no reason for continued delay in enacting PENNVEST. The Senate Republicans have had this legislation since June, 1987, when it passed the House by 198-1. Their latest proposal imitates prior failures, is not adequate to today's needs,

and I cannot accept it. I urge the members of the Senate to return PENNVEST to its original form by supporting the amendments of Senators Lincoln and Musto.

“Sincerely,

“ROBERT P. CASEY

“Governor

“Dictated and approved
from Davos, Switzerland”

This is that important that Governor Casey, while, strangely enough, on an economic development trip, would take time to dictate this letter while thousands of miles away. I think it is also very, very important to note that the original PENNVEST program did not include any referendum monies, and Secretary Hershock and myself, over a period of time last year, were able to convince the Governor that for a political compromise we would be wise to accept the concept of a referendum of the gentleman from Forest, Senator Peterson, and he agreed to do that as long as it was over and above what had been proposed by the Governor in PENNVEST. Not only has the other side of the aisle in this Body refused to be part of a compromise, they have further increased the referendum to \$450 million. I think the Governor is completely accurate in his assessment of what is taking place, that there is either a lack of understanding of the seriousness of the problem and the necessity to have prompt action, or there truly is a desire on the part of the Majority in this Body to delay this, and delay it and delay it for their own partisan political purposes. I have a hard time accepting that because I have had the privilege of working with Members on the other side of the aisle over a period of nine years that I have been in the Senate. I have had a privilege of working out many problems that looked like they could not possibly be worked out, and I have never been as frustrated with anything in my life as I have been the last nine months in trying to get this bill passed. I have been frustrated because it seems that we have given everything that we could possibly give through the Governor's Office and through this caucus in negotiations. We are asking for nothing more than the ability to spend money and solve a problem and do it quickly. We are asking nothing more than to help you, those of you who represent the same kind of districts I represent and many other Democrats represent, to go back to our people and give them some hope for not having to face a sewer improvement forced on them by the federal government at the same time that the federal government has withdrawn all funding. There are districts within many of the Republican Senatorial districts where you have a sewage or a water municipal authority that is facing \$3 million and \$4 million and \$5 million and \$8 million improvements, and they might have 500 users. I can tell you that there are people in this Chamber who represent districts that would not know what to do with that kind of a problem, because when they have a \$3 million or a \$5 million or a \$10 million problem, there may be 25,000 or 30,000 users. When you break that cost down to 500 and then you break it down to 5,000 even, it is incredible, the frightening aspects of trying to handle that particular aspect of paying something back, particularly in many of the areas where there is no

industry. We are asking the individuals that you go home to and go to church with on Sunday and you go grocery shopping on Saturday and you see them, and they have a great deal of respect for you as a Senator, as they should have, and you have been persistent, for some reason I cannot understand, in not allowing this bill to be passed in a manner in which the Governor wants it so that he can go into your areas and help you. It is not a political thing. Hell, we could not beat some of the people on the other side of the aisle that this affects with a club. It is purely and simply a good government effort to try to solve and face some very serious problems.

Mr. President, I can tell you that the sad part of not supporting this amendment and then passing PENNVEST, House Bill No. 1100, with a true compromise in it, is going to result in tomorrow when this bill is run, to not have a Democratic Senator vote for it, and when it gets to the House of Representatives, there are going to be no votes over there. It is going to be nonconcurrent in, and it is going to go into a Committee of Conference, which means it could be December and we would not have the bill. That is sad. It is very sad, and it is sad because there is no reason or rhyme or purpose to cut out the capital projects portion of this bill. There is no rhyme or reason for the reduction to 40 percent for the Revolving Loan Fund, which in four to five years will completely do away with the funding, because I assure you, in four or five years the sewage and water problems in our districts are not going to be gone. This would allow this Governor, who is going to serve another four years, and potentially another Governor to serve four to eight years, with the ability to handle the most serious problem facing our society in Pennsylvania today, and that is the lack of good drinking water, the lack of adequate sewage and the infrastructure that is needed to bring in industry and have industry expand. I implore you to quit this partisan battling on this issue and accept the fact that Governor Casey was elected. Bill Scranton lost the election. Bob Bittenbender is no longer Budget Secretary, Mike Hershock is. Give us an opportunity to do the job that the people in Pennsylvania have given to us. It is very, very simple. This amendment is not really earth shattering, it just puts the bill back in a position to be as it was, as proposed by the Governor, with other changes that were necessitated by federal law. It raises the cap, and I understand the reason for a cap. I am not arguing the reason. We raised it in this amendment to \$12 million for a single project, which is not unreasonable, and \$24 million for a multi. In many of our districts there is an effort being made to regionalize and put the smaller water and sewer authorities into a little bit bigger clump so they can operate a little bit easier for the people paying the load. Mr. President, we want to encourage regionalization, that is why it is wise to have a \$24 million cap on two or more projects. It makes sense to do it that way.

Mr. President, there is a part of the bill that this amendment does not address that was put in here that Representative Manderino has a tremendous problem with, and that is there was an adjustment to the formula on the low interest and other loans that would allow one of the wealthiest counties in

this state to participate. It was done very blatantly to do just that. It was done for no good purpose other than to include a wealthy county in Pennsylvania into a loan program, when we have Senate Members representing districts where there is no money, no base, there is nothing. There is nothing but a need to improve the water and sewer facilities, and I ask you to consider that when you vote and not consider a party-line position, and allow this bill to be put into a condition and a shape and a form that when it is passed here tomorrow, it can go to the House and be concurred in, and someday next week a whole group of us can very proudly stand in the Governor's reception room and have our picture taken behind Bob Casey when he signs this into law. You can take that picture home with you, and twenty years from now, God willing you are still alive, you are going to be very proud of that picture because you are going to be part of one of the most exciting pieces of legislation that had ever gone through this Body. Consider that whenever you are voting.

Senator LOEPER. Mr. President, I could not help but stand here and listen to the remarks of the Minority Whip and reflect a little bit exactly on what his position is, not only on this legislation, but also to previous initiatives of this Administration. He talks about us having a good government effort. Is that what we just saw, a good government effort, when we just voted down 3,100 jobs for Pennsylvania, when we voted down bringing in new business and industry to the Commonwealth? Is that a good government effort, Mr. President? Mr. President, this was an initiative put forth by this Administration, yet after that action took place in this Senate last week, we see the Governor quoted in the paper as supporting the action of the Senate Democrats in voting down new jobs for Pennsylvania, and yet we hear the Minority Whip standing here today telling us about how we have to pass PENNVEST. We want to pass PENNVEST. We are interested in our infrastructure and new water and sewer facilities in all our districts in the Commonwealth. We recognize how critical a program it is, and yet we hear read into the record a letter from the Governor to each one of us that came from Switzerland and, I believe, it says on the bottom, "Dictated and approved in Switzerland." Maybe before that was dictated and approved, he should have had the opportunity to sit down and read the legislation, read the bill that was before him. This Governor has persisted in blaming the Senate for his lack of legislative success. The letter he delivered today on PENNVEST demonstrates why. This Administration suffers from a stubborn inability to accept changes or improvements made by the General Assembly to the point of sometimes even misrepresenting facts and creating nonissues, issues that are not even there.

Mr. President, the time lapse on the Water Facilities Loan program is irrelevant to the present circumstances. Under the version of PENNVEST that was released from committee, water projects could be considered thirty days after the measure is signed into law—thirty days, not months, not years but thirty days. Since the Governor and five of his Cabinet Secretaries serve on the independent authority that would consider these water and sewer projects, delay would only

occur if those appointments were party to that delay. The Governor is absolutely incorrect in his contentions about a continuing program. The version that is before us today that came out of the Senate Committee on Appropriations does have a provision for a revolving portion of loan proceeds. On the other hand, the Administration has vastly overestimated the market for authority bonds. Our version deals with realistic financing. The Governor has an inflated view of what his program could produce in available funds on a timely basis.

One thing, Mr. President, I think we have to talk about, which seems to be a major point of contention, is the capital budgeting process. We have entered into good faith negotiation to try to move this legislation along. There has been agreement on essentially every piece of the PENNVEST program with that one exception. The capital budget process has no realistic benefit for the prompt implementation of PENNVEST. The Governor cannot explain how an April referendum sets back this program. It would still provide those monies necessary for water and sewer facilities in a timely fashion for this construction season. There is ample historical evidence of how capital budgets tend to be time consuming in development and less than timely in passage, particularly in this General Assembly. There is an unmistakable grants component under the present version of the bill. The grants have not been eliminated from this current version. These grant proposals would be sufficient to help hard pressed communities. Why the Governor insists otherwise can only be attributed to other motives.

Finally, as the Governor has outlined in his letter delivered to us today, he seems to believe that only he has a profound interest in water and sewer funding. I would remind him that many of us supported the Water Facilities Loan program and other state programs to provide funding over the years. There is no dispute over the need for a broader program and a substantial commitment of funds in order to implement those programs. There is no monopoly on recognition of the problem or a desire to enact an effective and far-reaching program. The Governor will receive a bill to sign, and it is hoped that his action will be consistent with the promises he has made to the citizens of Pennsylvania and not of his confrontational tactics with the General Assembly in recent weeks.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Jubelirer. His temporary Capitol leave will be cancelled.

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

Senator LINCOLN. Mr. President, words are a very strange thing that the human being has been given to use. They can be said in loving terms, they can be said in hating terms. They can be used to smooth over things, and sometimes they can be used to fudge things a little bit. I do not care what the Majority Whip says, there has not been a compromising, negotiating process in this whole thing. First off, it

has been since June of last year—and I think it was something like May, and I am not sure of the date but I will take the Governor's letter as being right and me being wrong—that the Majority in the Senate has had this bill. It was June of last year. That means that June, July, August, September, October, November, December, and here we are with January going by in 1988 and it is now February. That is really a long time to negotiate to get to the point where the Governor would say, I do not want what you are giving me. I have agreed to give you \$450 million in a referendum that I did not want. And, what have you done? You have choked off what I conceive and what I have worked and what I have put forth to you as a program to solve the whole problem, not one-fifth of it.

Words are wonderful things and wonderful tools. The Majority Whip was using them rather well when he wants to continue to use the 1988 Sunny Day Fund as a whip on this side of the aisle. That bill came to you from a Governor who is interested in economic development and he did not look at Senate districts and say these are Republican and these are Democratic, let us go into the Democratic districts and do this, and we can go into the Republican districts and do this. God knows he could, because I guarantee you there are a hell of a lot more economic problems in the Democratic districts in the west than there are in what that Sunny Day Fund is providing. He has been fair and he has tried to teach you that it can be done without being partisan, but this Body has dealt with an arrogant Majority for so long that you do not know what fairness is. If you want to stand up and beat on my head every day, you pass PENNVEST exactly the way you are planning on passing it. It is not going to pass the House, and you are never going to get that Sunny Day bill. I can tell you that if you want to play the rough game you are starting out to play, whenever you fail one more time then you have to reconsider by suspending the Rules, and I am telling you, you better have twenty-six people here to do it every time, because I will play the game your party played back in the 1977 budget and would not allow us to reconsider the vote by which the budget failed, and we had to bring a man in on a stretcher, who died three weeks later, to get the vote. You want to play hard politics and rough partisan politics? You picked the fight. There are two issues in this bill that could be changed: the Revolving Loan Fund, which helps your districts, and the capital project process. Those are two little issues. You are willing to give up this bill and you are willing to give up the Sunny Day bill for that? I cannot believe that. There has to be some other reason. I know the caliber of people on that side of the aisle and there is no way in my good judgment, in my knowledge, in my experience with you that you could be doing that for those two reasons. The fight ought to be the opposite. With you in the Majority, I ought to be standing here saying I do not want the capital projects. Because, if you would do things the way a Majority can, you would pass a capital project bill, take it back to the committee of the gentleman from Montgomery, Senator Tilghman, put only the projects in you want, bring it out on the floor, with your votes defeat every amendment we

offer, and pass the bill only with what you want in it. I am afraid of the capital project, but our Governor trusts you because he knows that you are good people.

The Revolving Loan Fund, it is absolutely incredible that you will not allow that to be 100 percent the way it is being asked. The only thing it means is that the repayment of the debt is being paid out of a different fund. It is going to come out of the General Fund. The only thing it means is that three billion more dollars will be available over a period of years.

You can talk, you can say this Governor is not interested, you can say because he supports a position of his party in this Senate that he is a bad guy and he is not interested in jobs. He has been in your districts more in twelve months trying to help you get jobs than Dick Thornburgh was in eight years. The very first place he went was into the district of the gentleman from Mercer, Senator Wilt. Do not make him look bad. This is us over here. This is me and my party in the Senate fighting this battle. The Governor recognizes the only way we are going to get anything out of you over there is by fighting your way, and we have that on the Sunny Day bill, because you cannot stretch twenty-seven to thirty-four. I am asking you to break down that barrier you have built up around yourselves, face the real world, go home to your districts and see the problems that are there, and look at this amendment and say, God, they are trying to help me. I do not think that is going to happen today. I do not believe I am going to get a vote over there, but that is a really disappointing thing for me to have to say knowing, dealing with and having the friendship with quite a few of the people who serve on the other side of the aisle.

I implore you once again to vote for this amendment, tomorrow we will pass the bill, and we will go over to the Governor's Office next week and have a picture taken that will be one of which we will always be proud. I can say one thing to you: That scenario will make you happier than what you are doing here today. I say to you once again, please vote for this amendment.

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

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

YEAS—20

Afflerbach	Kelley	O'Pake	Scanlon
Andrezeski	Lewis	Regoli	Stapleton
Bodack	Lincoln	Reibman	Stewart
Fumo	Mellow	Romanelli	Williams
Jones	Musto	Ross	Zemprelli

NAYS—27

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

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

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, Senator Helfrick and Senator Armstrong have been called to their offices and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Armstrong and Senator Helfrick. The Chair hears no objection. The leaves will be granted.

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 381 and 382 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

HB 429 (Pr. No. 467) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for the regulation of telephone companies that provide recorded message calls.

Considered the second time and agreed to,

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

BILL OVER IN ORDER AND RECOMMITTED

SB 503 (Pr. No. 553) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 28, 1984 (P. L. 150, No. 28), entitled "Automobile Lemon Law," further providing for substitute vehicles during repair periods.

Without objection, the bill was passed over in its order at the request of Senator LOEPER.

Pursuant to Senate Rule XI, the bill was recommitted to the Committee on Consumer Protection and Professional Licensure.

BILLS OVER IN ORDER

SB 657, 663, HB 668, SB 672, HB 783, 931, SB 1023, 1182 and 1219 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SENATE RESOLUTION NO. 152, CALLED UP

Senator LOEPER, without objection, called up from page 5 of the Calendar, **Senate Resolution No. 152**, entitled:

A Resolution urging the Governor to direct the Secretary of Public Welfare to comply with State law by implementing the increase in medical assistance reimbursements to nursing homes for the care of impoverished patients.

On the question,

Will the Senate adopt the resolution?

Senator FUMO offered the following amendment No. A0500:

Amend Title, page 1, line 2, by striking out "comply with State law by implementing" and inserting: implement

Amend Fifth Whereas Clause, page 2, line 3, by striking out "blatant disregard for the law," and inserting: disregard of

Amend First Resolve Clause, page 2, lines 18 and 19, by striking out "comply with State law by implementing" and inserting: implement

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate adopt the resolution, as amended?

Senator SALVATORE. Mr. President, Senate Resolution No. 152 is urging the Governor to keep his commitment to the nursing homes for reimbursement. Last year when the budget was passed, or during the process of the budget being passed, the Budget Secretary sat in with the Chairmen of the Committee on Appropriations of the four caucuses and agreed to a 115 percentile reimbursement to the nursing homes. The Governor came in at that time and gave his stamp of approval. Mr. President, based on that approval by the Governor and the Budget Secretary, the nursing homes went out and predicated their budgets in January 1988 based on that reimbursement cost. Now, the Governor comes along and says there is not any money. This Commonwealth still is running at a surplus and the monies could be forthcoming. Even if we needed the money at a later date, Mr. President, we could have a supplemental appropriation bill introduced to provide the monies. The Budget Secretary's letter says that the budget message the Governor will read on February 9th "...will contain a request for a supplemental appropriation for long term care which will include funds for increasing ceilings to 115 percent median, effective April 1...." Mr. President, that was not what the agreement was. The agreement was January of 1988. I am asking for the adoption of this resolution, and I hope we do get the funding, because the nursing homes are in dire need of this money. This was money that was promised to them, and I hope we will have an affirmative vote on this resolution.

Senator FUMO. Mr. President, with the addition of the amendment, we think we have cleaned up some of the language in this resolution. I have to honestly say that I am a little bit torn on the issue, because there were, in fact, good faith negotiations and commitments made during the budget process that the 115 percent would be implemented in January. However, during the fiscal year there have been other problems which have arisen and, quite frankly, costs have exceeded what everyone anticipated they would be.

I have received a copy of a letter from Secretary Hershock that he wrote to the gentleman from Montgomery, Senator Tilghman, on January 30th putting forth his position. I believe in the letter he talks about implementing this in April and that it would cost \$1.1 million. Mr. President, as I said before, I am torn, but I do believe we have an obligation to honor commitments that are negotiated in good faith among all the caucuses. However, on the other hand, I do not believe

this has been a blatant or arrogant disregard of the process by the Executive Branch. However, I do support the resolution because the language now urges the Governor, in the strongest of terms, to ask the Secretary of Welfare to implement the program.

I just want to add one cautionary note, Mr. President. That is, I would hope that all the Senators who will vote for this resolution today—and I will be among them—will be here later when the supplemental appropriation bill comes forth to fund this, because, in fact, there were miscalculations made by, I believe, all four caucuses and the Executive Branch on the cost of this matter. I think the program has to be funded, but it is going to need additional money in the supplemental appropriation. I would hope that anyone voting “yes” today—as I will on this resolution—will join with me to make sure the supplemental passes so we can fund this, to show we are doing a lot more than just idle conversation and idle talk on the Senate floor, but we are really going to try and solve a problem. I do believe the money is there to solve the problem, Mr. President. Our latest revenue estimates indicate that to us. I think it is appropriate that we honor the commitments of the last budget cycle prior to beginning the next budget cycle. With those cautionary remarks, Mr. President, I would agree to support the resolution.

Mr. President, if I may, I would also like to add into the record the letter which Secretary Hershock wrote in response to the gentleman from Montgomery, Senator Tilghman. I think it only fair that the Executive Branch have its opportunity. Rather than bore the Senate and read it into the record, I would ask for unanimous consent to have it submitted into the record at this time.

The PRESIDENT. The letter will be entered into the Journal.

(The following letter was made a part of the record at the request of the gentleman from Philadelphia, Senator FUMO:)

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
Harrisburg

January 30, 1988

Honorable Richard A. Tilghman
Majority Chairman
Senate Appropriations Committee
Room 281, Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Senator Tilghman:

This is in response to our discussion of December 15, 1987 regarding the Long Term Care Program and implementation of the reimbursement ceiling increase to 115 percent of the median for each reimbursement group as expressed in the General Appropriations Act for 1987-88. Because of numerous legislative inquiries regarding this program, I will share this answer with the other members of the General Assembly.

When the 1987-88 budget passed, the appropriation for Long Term Care from Medical Assistance contained language expressing legislative intent to raise the reimbursement ceiling to 115 percent of the statewide median. No additional appropriation authority was added to pay for this increase. Traditional language was retained in the bill, however, which requires the Governor to approve the additional costs only after assuring adequate

availability of funds. At this time our estimates indicate that there are not sufficient funds in the appropriation for long term care to approve this increase.

Since the budget passed, several trends have developed in the Long Term Care Program which are causing state costs to increase:

- During the first quarter of this fiscal year, the Department of Public Welfare completed several cost settlements with major nursing home chains dating back to fiscal year 1978-79. The amount of money needed to cover these settlements is exceeding projections.
- As a result of the cost settlement process, the interim per diem rates have also increased above the original projections.
- The number of days of care medical assistance must pay for have been higher in the first half of the year than projected.
- The Department is compelled to incur costs under Troutman vs. Cohen (dealing with the level of nursing care) which will begin in this fiscal year and multiply in next year's budget.

Based upon these trends, the Budget Office estimates the need for a deficiency appropriation in 1987-88 for long term care of approximately \$12.7 million in state funds without implementing the increase to 115 percent of the median. An additional \$1.1 million would be required to implement that change on April 1, 1988. We further estimate that the upward trends in the program, which I discussed above, will cause increased state spending for this program of 54 percent from 1986-87 to the 1988-89 budget request if the new median is used. The full year cost in state funds of going to the 115 percent median is estimated to be about \$11 million.

In addition to the problems of cost and availability of state funds, there is considerable doubt about the willingness of the federal government, which pays more than half of the costs of this program, to approve a change of this magnitude to Pennsylvania's Medical Assistance plan.

When the Governor presents his budget message on February 9, it will contain a request for a supplemental appropriation for long term care which will include funds for increasing ceilings to 115 percent median, effective April 1, as well as a request for enough money to pay for the full year cost of that increase in fiscal year 1988-89. The Department of Public Welfare will prepare to publish regulations and request a change in the state's federal Medical Assistance plan accordingly. Understand, however, that we cannot go forward with implementation of this increase without prior federal approval of the new ceiling calculation method and assurance that the federal government will participate in paying the additional cost. To proceed without such assurance would place Pennsylvania in jeopardy of assuming the full year cost of \$26.5 million for this proposal. We are attempting, with some difficulty, to honor legislative intent as expressed in this appropriation but must obtain a higher state appropriation and federal approval to do so.

Sincerely,

MICHAEL H. HERSHOCK
Secretary
Office of the Budget

And the question recurring,
Will the Senate adopt the resolution, as amended?

SENATE RESOLUTION NO. 152, ADOPTED

Senator LOEPER. Mr. President, I move that the Senate do adopt Senate Resolution No. 152, as amended.

The motion was agreed to and the resolution was adopted.

**MEETING OF COMMITTEE ON RULES
AND EXECUTIVE NOMINATIONS**

Senator LOEPER. Mr. President, at this time I would request a very brief recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations to begin in the Rules Committee room at the rear of the Senate Chamber immediately.

The PRESIDENT. Would the gentleman have any objection to proceeding with the Unfinished Business of the day while that occurs?

Senator LOEPER. No, Mr. President.

The PRESIDENT. The Chair, then, would direct the Members of the Committee on Rules and Executive Nominations to proceed to the rear of the Chamber for a meeting of the Committee on Rules and Executive Nominations to begin immediately, and we will proceed with the order of business of the day.

**UNFINISHED BUSINESS
SENATE RESOLUTION**

**DESIGNATING THE WEEK OF FEBRUARY 8,
1988, AS CHOLESTEROL AWARENESS
WEEK OF AMERICAN HEART MONTH
IN PENNSYLVANIA**

Senator PETERSON, on behalf of himself and Senators WILLIAMS, SHAFFER, JUBELIRER, AFFLERBACH, HELFRICK, BODACK, CORMAN, BRIGHTBILL, HOPPER, JONES, GREENWOOD, WILT, O'PAKE, SHUMAKER, MADIGAN, BELL, FISHER, LEMMOND, WENGER, GREENLEAF, STAPLETON, MUSTO, KELLEY and HESS offered the following resolution (**Senate Resolution No. 153**), which was read as follows:

In the Senate, February 2, 1988.

A RESOLUTION

Designating the week of February 8, 1988, as Cholesterol Awareness Week of American Heart Month in Pennsylvania.

WHEREAS, Heart disease is the Nation's leading cause of death; and

WHEREAS, High blood cholesterol is associated with an increased risk of heart disease, specifically heart attack; and

WHEREAS, Cholesterol can only be detected by specific testing; and

WHEREAS, Pennsylvanians may help prevent heart attacks and stroke by controlling their cholesterol levels through proper diet, and, when appropriate, diet in combination with cholesterol-lowering medications; therefore be it

RESOLVED, That the Senate of Pennsylvania designate the week of February 8, 1988, as Cholesterol Awareness Week in Pennsylvania to encourage cholesterol awareness programs in local communities throughout the State.

On the question,
Will the Senate adopt the resolution?

SENATE RESOLUTION NO. 153, ADOPTED

Senator PETERSON. Mr. President, I move that the Senate do adopt Senate Resolution No. 153.

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

Senator PETERSON. Mr. President, while we have a moment, I would like to take this opportunity to congratulate the Heart Association that conducted the cholesterol screening downstairs today and also remind everyone that cholesterol is one of the major health problems facing Americans. Those of you who did not go down and participate in the screening, I urge you to have your cholesterol checked. There are many people out there, our neighbors and friends, who do not. I guess our Governor might have wished he had his checked earlier. Cholesterol is something that we should all be very concerned about, and we should know and we should understand what kinds of diets we should be eating to help that issue. It is an issue that we can help resolve ourselves. I would urge my colleagues to do whatever they can do to alert their constituencies, because across Pennsylvania we need a much broader awareness of cholesterol being an issue we should watch, just like our blood pressure.

And the question recurring,
Will the Senate agree to the motion?
The motion was agreed to and the resolution was adopted.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Mr. and Mrs. Roy H. Nissy by Senator Armstrong.

Congratulations of the Senate were extended to Dr. J. Franklin Styer by Senator Bell.

Congratulations of the Senate were extended to Sarah L. Wrye by Senator Corman.

Congratulations of the Senate were extended to J. Mark Skinner and to Christopher Rimsky by Senator Helfrick.

Congratulations of the Senate were extended to Sergeant Al Maida by Senator Kelley.

Congratulations of the Senate were extended to Mr. and Mrs. Harold E. Shepley, Sr. by Senator Lincoln.

Congratulations of the Senate were extended to Joseph F. Dolan, III by Senator Loeper.

Congratulations of the Senate were extended to the Borough of Bally by Senator O'Pake.

Congratulations of the Senate were extended to P. Buckley Moss and to Edward Halas by Senator Regoli.

Congratulations of the Senate were extended to Christian C. Frank, Kevin J. Ardinger, Jason A. Eger and to Kevin D. Colleran by Senator Scanlon.

Congratulations of the Senate were extended to Mr. and Mrs. John Winters, Mr. and Mrs. Richard Pfirman, Mr. and Mrs. Charles F. Miller, Mr. and Mrs. Philip Ekas and to Mr. and Mrs. Herman Schilling by Senator Shaffer.

Congratulations of the Senate were extended to Mr. and Mrs. Thomas Crissman by Senator Stapleton.

Congratulations of the Senate were extended to Sandra Campbell by Senator Wilt.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 535, 758, 1101, 1156, 1248, 1252, HB 179, 524, 829, 830, 831, 832, 1099, 1271, 1342, 1347 and 1577.

And said bills having been considered for the first time,

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

HOUSE MESSAGES

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 committee indicated:

February 2, 1988

HB 167, 296 and 1652 — Committee on Game and Fisheries.

BILLS INTRODUCED AND REFERRED

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

February 2, 1988

Senators FUMO, HESS, MELLOW, ANDREZESKI, LYNCH, SALVATORE and AFFLERBACH presented to the Chair **SB 1256**, entitled:

An Act requiring institutions of higher education to file certain annual certifications with the Department of Education.

Which was committed to the Committee on EDUCATION, February 2, 1988.

Senators HOLL, SHAFFER, O'PAKE, STAPLETON, CORMAN, GREENLEAF, SALVATORE, HOPPER, JUBELIRER, MADIGAN, WENGER, WILT, HELFRICK, PECORA, RHOADES, HESS, MOORE, BRIGHTBILL, LOEPER, LEMMOND and ANDREZESKI presented to the Chair **SB 1257**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the Catastrophic Loss Trust Fund; and making a repeal.

Which was committed to the Committee on BANKING AND INSURANCE, February 2, 1988.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, FEBRUARY 3, 1988

10:30 A.M.	COMMUNITY AND ECONOMIC DEVELOPMENT (to consider IRRC Regulation 4-25, Senate Bills No. 1210, 1211, 1212, 1213, 1214 and 1215)	Room 459, 4th Floor Conference Rm., North Wing
11:00 A.M.	BANKING AND INSURANCE (to consider Senate Bill No. 1257)	Room 461, 4th Floor Conference Rm., North Wing

MONDAY, FEBRUARY 8, 1988

3:00 P.M.	Conference Committee on Senate Bill No. 515	Room 460, 4th Floor Conference Rm., North Wing
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WEDNESDAY, FEBRUARY 10, 1988

10:00 A.M.	Special Session - LEGISLATION (to consider tax reform)	Gold Room, Allegheny County Court House, Pittsburgh
1:00 P.M.	APPROPRIATIONS (Budget Hearing - Public Utility Commission)	Senate Majority Caucus Room
2:30 P.M.	APPROPRIATIONS (Budget Hearing - Office of Consumer Advocate)	Senate Majority Caucus Room

MONDAY, FEBRUARY 29, 1988

9:30 A.M.	APPROPRIATIONS (Budget Hearing - Department of Public Welfare)	Senate Majority Caucus Room
2:00 P.M.	APPROPRIATIONS (Budget Hearing - Department of Health)	Senate Majority Caucus Room

TUESDAY, MARCH 1, 1988

9:00 A.M.	APPROPRIATIONS (Budget Hearing - Treasury)	Senate Majority Caucus Room
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10:00 A.M.	APPROPRIATIONS (Budget Hearing - Temple University)	Senate Majority Caucus Room
11:00 A.M.	APPROPRIATIONS (Budget Hearing - Lincoln University)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - State System of Higher Education)	Senate Majority Caucus Room
2:30 P.M.	APPROPRIATIONS (Budget Hearing - Department of Transportation)	Senate Majority Caucus Room

WEDNESDAY, MARCH 2, 1988

9:00 A.M.	APPROPRIATIONS (Budget Hearing - Department of Education)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - Department of Revenue)	Senate Majority Caucus Room
2:30 P.M.	APPROPRIATIONS (Budget Hearing - Department of Aging)	Senate Majority Caucus Room

THURSDAY, MARCH 3, 1988

9:00 A.M.	APPROPRIATIONS (Budget Hearing - Department of Environmental Resources)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - State Employees' Retirement System)	Senate Majority Caucus Room
2:00 P.M.	APPROPRIATIONS (Budget Hearing - Public School Employees' Retirement System)	Senate Majority Caucus Room
3:00 P.M.	APPROPRIATIONS (Budget Hearing - Historical and Museum Commission)	Senate Majority Caucus Room

MONDAY, MARCH 7, 1988

9:30 A.M.	APPROPRIATIONS (Budget Hearing - Department of Agriculture)	Senate Majority Caucus Room
11:00 A.M.	APPROPRIATIONS (Budget Hearing - Department of Military Affairs)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - Department of Corrections)	Senate Majority Caucus Room
2:30 P.M.	APPROPRIATIONS (Budget Hearing - Department of Commerce)	Senate Majority Caucus Room

TUESDAY, MARCH 8, 1988

9:00 A.M.	APPROPRIATIONS (Budget Hearing - Department of Community Affairs)	Senate Majority Caucus Room
10:30 A.M.	APPROPRIATIONS (Budget Hearing - Department of State)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - University of Pittsburgh)	Senate Majority Caucus Room
2:00 P.M.	APPROPRIATIONS (Budget Hearing - Pennsylvania State University)	Senate Majority Caucus Room

WEDNESDAY, MARCH 9, 1988

9:00 A.M.	APPROPRIATIONS (Budget Hearing - Pennsylvania State Police)	Senate Majority Caucus Room
10:30 A.M.	APPROPRIATIONS (Budget Hearing - Governor's Office)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - Department of Insurance)	Senate Majority Caucus Room
2:30 P.M.	APPROPRIATIONS (Budget Hearing - Judiciary)	Senate Majority Caucus Room

THURSDAY, MARCH 10, 1988

9:00 A.M.	APPROPRIATIONS (Budget Hearing - Department of Labor and Industry)	Senate Majority Caucus Room
10:30 A.M.	APPROPRIATIONS (Budget Hearing - Attorney General)	Senate Majority Caucus Room
1:00 P.M.	APPROPRIATIONS (Budget Hearing - Department of General Services)	Senate Majority Caucus Room
2:00 P.M.	APPROPRIATIONS (Budget Hearing - Auditor General)	Senate Majority Caucus Room

TUESDAY, MARCH 22, 1988

9:30 A.M.	JUDICIARY (Public Hearing to on Senate Bill No. 1100)	Senate Majority Caucus Room
12:30 P.M.		

SENATE AT EASE

The PRESIDENT. The Senate will be at ease while we await the outcome of the meeting of the Committee on Rules and Executive Nominations.

(The Senate was at ease.)

**REPORT FROM COMMITTEE ON
RULES AND EXECUTIVE NOMINATIONS**

Senator BRIGHTBILL, by unanimous consent, from the Committee on Rules and Executive Nominations, reported the following nominations, made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

**MEMBER OF THE BOARD OF TRUSTEES OF
ASHLAND STATE GENERAL HOSPITAL**

December 10, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate James S. Fetter, Pine Burr Inn, Route 61, Atlas 17851, Northumberland County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Ashland State General Hospital, to serve until the third Tuesday of January, 1991, and until his successor is appointed and qualified, vice Arthur Bohard, Frackville, whose term expired.

ROBERT P. CASEY.
CORONER, BERKS COUNTY

January 6, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate William R. Fatora, 210 Mercer Street, Apartment 2, Reading 19601, Berks County, Eleventh Senatorial District, for appointment as Coroner in and for the County of Berks, to serve until the first Monday of January, 1990, vice Michael F. Feeney, resigned.

ROBERT P. CASEY.
MEMBER OF THE STATE BOARD
OF COSMETOLOGY

January 7, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate John M. Aichele (Public Member), Box 302, 278 East Chocolate Avenue, Hershey 17033, Dauphin County, Fifteenth Senatorial District, for reappointment as a member of the State Board of Cosmetology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period.

ROBERT P. CASEY.
MEMBER OF THE CRIME VICTIM'S
COMPENSATION BOARD

January 22, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Patricia A. Crawford, 6361 Stephen's Crossing, Mechanicsburg 17055, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the Crime Victim's Compensation Board, to serve until March 22, 1991, and until her successor is appointed and qualified, vice Marvin E. Miller, Lancaster, resigned.

ROBERT P. CASEY.
MEMBER OF THE CRIME VICTIM'S
COMPENSATION BOARD

January 22, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Marianne F. McManus, 312 Glen Road, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the Crime Victim's Compensation Board, to serve until March 22, 1993, and until her successor is appointed and qualified, vice Patricia A. Crawford, Mechanicsburg, whose term expired.

ROBERT P. CASEY.
MEMBER OF THE COUNCIL OF TRUSTEES
OF EAST STROUDSBURG UNIVERSITY OF
PENNSYLVANIA OF THE STATE SYSTEM
OF HIGHER EDUCATION

December 3, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Gertrude Denlinger, P. O. Box 7, Pocono Pines 18350, Monroe County, Twenty-ninth Senatorial District, for appointment as a member of the Council of Trustees of East Stroudsburg University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1993, and until her successor is appointed and qualified, vice Thomas A. Bubba, Easton, whose term expired.

ROBERT P. CASEY.
MEMBER OF THE BOARD OF TRUSTEES
OF EMBREEVILLE CENTER

November 25, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Cecilia R. Chambers, 1209 Valley Drive, West Chester 19382, Chester County, Nineteenth Senatorial District, for appointment as a member of the Board of Trustees of Embreeville Center, to serve until the third Tuesday of January, 1993, and until her successor is appointed and qualified, vice Denis E. Forrest, West Chester, resigned.

ROBERT P. CASEY.
MEMBER OF THE BOARD OF TRUSTEES
OF HAMBURG CENTER

December 22, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Sharon A. Seaman, R. D. 2, Box 270, Kempton 19529, Berks County, Forty-eighth Senatorial District, for appointment as a member of the Board of Trustees of Hamburg Center, to serve until the third Tuesday of January, 1989, and until her successor is appointed and qualified, vice William Walker, Allentown, resigned.

ROBERT P. CASEY.

JUDGE OF THE SUPERIOR COURT

January 19, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate James R. Melinson, Esquire, 15040 Kelvin Avenue, Philadelphia 19116, Philadelphia County, Fifth Senatorial District, for appointment as Judge of the Superior Court of Pennsylvania, to serve until the first Monday of January, 1989, vice The Honorable Richard B. Wickersham, resigned.

ROBERT P. CASEY.

JUSTICE OF THE SUPREME COURT

January 15, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate The Honorable Juanita Louise Kidd Stout, 1919 Chestnut Street, Apartment 2805, Philadelphia 19103, Philadelphia County, Second Senatorial District, for appointment as Justice of the Supreme Court of Pennsylvania, to serve until the first Monday of January, 1989, vice The Honorable William D. Hutchinson, resigned.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD
OF LANDSCAPE ARCHITECTS

December 22, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Charles R. Eshleman (Public Member), 54 West Sheridan Avenue, Annville 17003, Lebanon County, Forty-eighth Senatorial District, for reappointment as a member of the State Board of Landscape Architects, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD
OF OPTOMETRY

January 8, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Martin Krauss, O.D., 6328 Caton Street, Pittsburgh 15217, Allegheny County, Forty-third Senatorial District, for appointment as a member of the State Board of Optometry, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Bernard Mallinger, O.D., Pittsburgh, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF
WARREN STATE HOSPITAL

December 10, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate R. Dennis Hetrick, Ph.D., 34 Campbell Avenue, Clarion 16214, Clarion County, Forty-first Senatorial District, for appointment as a member of the Board of Trustees of Warren State Hospital, to serve until the third Tuesday of January, 1993, and until his successor is appointed and qualified, vice E. Neil Ruhlman, Franklin, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE CUMBERLAND COUNTY
BOARD OF ASSISTANCE

December 30, 1987.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate James M. Cookerly (Democrat), 624 Fourth Street, New Cumberland 17070, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the Cumberland County Board of Assistance, to serve until December 31, 1990, and until his successor is appointed and qualified, vice Harold Diehl, Jr., Mechanicsburg, resigned.

ROBERT P. CASEY.

MEMBER OF THE WASHINGTON COUNTY
BOARD OF ASSISTANCE

January 19, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Thomas J. Koval (Democrat), 573 Arch Street, Vestaburg 15368, Washington County, Forty-sixth Senatorial District, for appointment as a member of the Washington County Board of Assistance, to serve until December 31, 1989, and until his successor is appointed and qualified, vice Ruth Hopson, Washington, whose term expired.

ROBERT P. CASEY.

NOMINATIONS LAID ON THE TABLE

Senator BRIGHTBILL. Mr. President, I request the nominations just read by the Clerk be laid on the table.

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

**COMMUNICATION FROM THE GOVERNOR
TAKEN FROM THE TABLE**

Senator BRIGHTBILL called from the table communication from His Excellency, the Governor of the Commonwealth, recalling the following nomination, which was read by the Clerk as follows:

**MEMBER OF THE BOARD OF TRUSTEES OF
ASHLAND STATE GENERAL HOSPITAL**

January 29, 1988.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated December 10, 1987 for the appointment of James S. Fetter, Pine Burr Inn, Route 61, Atlas 17851, Northumberland County, Twenty-seventh Senatorial District, as a member of the Board of Trustees of Ashland State General Hospital, to serve until the third Tuesday of January, 1991, and until his successor is appointed and qualified, vice Arthur Bohard, Frackville, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

NOMINATION RETURNED TO THE GOVERNOR

Senator BRIGHTBILL. Mr. President, I move the nomination just read by the Clerk be returned to His Excellency, the Governor.

The motion was agreed to.

The PRESIDENT. The nomination will be returned to the Governor.

ADJOURNMENT

Senator LOEPER. Mr. President, I move the Senate do now adjourn until Wednesday, February 3, 1988, immediately following adjournment of the First Special Session.

The motion was agreed to.

The Senate adjourned at 5:07 p.m., Eastern Standard Time.