

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JUNE 21, 1988

SESSION OF 1988

172ND OF THE GENERAL ASSEMBLY

No. 45

SENATE

TUESDAY, June 21, 1988.

The Senate met at 5:31 p.m., Eastern Daylight Saving 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:

Dear Lord, we know that we face difficult decisions, that we shall be expected to bear onerous burdens and to solve perplexing problems. May we sense Your presence and guidance in our endeavors. Amen.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 20, 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.

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

JUDGE, COURT OF COMMON PLEAS,
CHESTER COUNTY

June 21, 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, Jacqueline M. Carroll, 16 North New Street, West Chester 19380, Chester County, Nineteenth Senatorial District, for appointment as Judge of the Court of Common Pleas of Chester County, to serve until the first Monday of January, 1990, vice The Honorable Robert S. Gawthrop, III, resigned.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD
OF PHYSICAL THERAPY

June 21, 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, Augustus Hatzas, R. D. 9, Box 9085, Reading 19605, Berks County, Eleventh Senatorial District, for appointment as a member of the State Board of Physical Therapy, 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 Judith Bowman, Camp Hill, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BUTLER COUNTY
BOARD OF ASSISTANCE

June 21, 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, Nicholas M. Heider (Republican), 165 Oak Street, Butler 16001, Butler County, Twenty-first Senatorial District, for appointment as a member of the Butler County Board of Assistance, to serve until December 31, 1989, and until his successor is appointed and qualified, vice Walter J. Dunlap, Butler, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BUTLER COUNTY
BOARD OF ASSISTANCE

June 21, 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, Joseph H. Matson (Democrat), 1109 Fourth Street, Butler 16001, Butler County, Twenty-first Senatorial District, for appointment as a member of the Butler County Board of Assistance, to serve until December 31, 1989, and until his successor is appointed and qualified, vice John J. Morgan, Esquire, Butler, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BUTLER COUNTY
BOARD OF ASSISTANCE

June 21, 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, Richard J. Schontz, Jr., (Democrat), 107 Maharg Street, Butler 16001, Butler County, Twenty-first Senatorial District, for appointment as a member of the Butler County Board of Assistance, to serve until December 31, 1990, and until his successor is appointed and qualified, vice Elizabeth Gillott, Butler, whose term expired.

ROBERT P. CASEY.

RECALL COMMUNICATIONS
LAID ON THE TABLE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and laid on the table:

MEMBER OF THE HEALTH CARE POLICY BOARD

June 21, 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 April 11, 1988 for the reappointment of Dwayne Cooper, R. D. 1, Highland Drive, Industry 15052, Beaver County, Forty-sixth Senatorial District, as a member of the Health Care Policy Board, to serve until March 25, 1990, and until his successor is appointed and qualified.

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

ROBERT P. CASEY.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

June 21, 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 April 11, 1988, for the reappointment of Wayne G. Davis, 1502 Surrey Lane, Overbrook Hills 19151, Montgomery County, Seventeenth Senatorial District, as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1990, and until his successor is appointed and qualified.

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

ROBERT P. CASEY.

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 committees indicated:

June 21, 1988

HB 2171 and 2547 — Committee on State Government.

HB 2307 — Committee on Public Health and Welfare.

HB 2369, 2411, 2412, 2413, 2414, 2415 and 2416 — Committee on Appropriations.

BILLS INTRODUCED AND REFERRED

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

June 20, 1988

Senators MOORE, HELFRICK, SALVATORE, HESS, JUBELIRER, MELLOW and KELLEY presented to the Chair **SB 1513**, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for termination of annuities.

Which was committed to the Committee on FINANCE, June 20, 1988.

Senator LINCOLN presented to the Chair **SB 1514**, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for optional continuation of certain health insurance and for an additional supplemental payment to eligible annuitants.

Which was committed to the Committee on FINANCE, June 20, 1988.

Senators LINCOLN, STEWART, ZEMPRELLI, ROMANELLI, AFFLERBACH, MUSTO, REIBMAN and STOUT presented to the Chair **SB 1515**, entitled:

An Act amending the act of July 10, 1987 (P. L. 246, No. 47), entitled "Financially Distressed Municipalities Act," providing for the establishment of a revolving fund; further providing for criteria to declare a municipality distressed and for the publication of certain notices; establishing a revolving loan fund; further providing for expiration of the act; and making a repeal.

Which was committed to the Committee on LOCAL GOVERNMENT, June 20, 1988.

Senators PECORA, FISHER, SCANLON, REGOLI, ROMANELLI, ZEMPRELLI and BODACK presented to the Chair **SB 1516**, entitled:

An Act amending the act of July 3, 1987 (P. L. 459, No. 9A), entitled "General Appropriation Act of 1987," appropriating additional sums to the Department of Community Affairs for the purpose of providing moneys for the Practicing Scholar in Intergovernmental Cooperation Program.

Which was committed to the Committee on APPROPRIATIONS, June 20, 1988.

Senators BODACK, ROMANELLI, SCANLON, JONES, REGOLI, STOUT, ZEMPRELLI, LINCOLN and MELLOW presented to the Chair **SB 1517**, entitled:

An Act making an appropriation to the Department of Parks and Recreation of the City of Pittsburgh for the development of Lawrenceville Riverfront Park.

Which was committed to the Committee on APPROPRIATIONS, June 20, 1988.

Senator LEWIS presented to the Chair **SB 1518**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," clarifying the purchase price of new motor vehicles for sales tax purposes.

Which was committed to the Committee on FINANCE, June 20, 1988.

REPORTS FROM COMMITTEES

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

SB 531 (Pr. No. 584)

An Act amending the act of April 27, 1927 (P. L. 409, No. 267), entitled "An act providing for the postponement of the lien of a mortgage and bond accompanying the same to the lien of another mortgage or mortgages and bond accompanying, and providing for the recording of the agreement therefore," eliminating marginal notations of mortgage postponements in certain cases; and making an editorial change.

SB 536 (Pr. No. 2210) (Amended)

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), entitled "The Second Class Township Code," providing for the appointment of independent auditors in lieu of elected auditors.

SB 691 (Pr. No. 776)

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581), entitled "The Borough Code," further providing for emergency repairs to sidewalks.

SB 692 (Pr. No. 777)

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581), entitled "The Borough Code," providing for adoption of property maintenance regulations and standard codes; authorizing boards of code appeals; and eliminating provisions for milk inspection.

SB 1134 (Pr. No. 1525)

An Act amending the act of July 7, 1947 (P. L. 1368, No. 542), entitled, as amended, "Real Estate Tax Sale Law," further providing for the distribution of moneys collected and for notice of distribution of moneys obtained from tax sales.

SB 1511 (Pr. No. 2198)

An Act prohibiting local government units and authorities from imposing certain residency requirements for employees.

HB 1053 (Pr. No. 1163)

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581), known as "The Borough Code," further providing for the imposition and collection of sanitary sewer rentals.

HB 1150 (Pr. No. 1298)

An Act amending the act of June 23, 1931 (P. L. 932, No. 317), known as "The Third Class City Code," providing for the immediate vesting of certain disabled police officers in pension systems.

HB 1151 (Pr. No. 3330)

An Act amending the act of June 23, 1931 (P. L. 932, No. 317), known as "The Third Class City Code," permitting interests in police pensions funds to vest after 12 years under certain conditions; providing for the amount of the retirement allowance benefit vested; and adding a definition.

HB 1688 (Pr. No. 3511) (Amended)

An Act amending the act of May 2, 1945 (P. L. 382, No. 164), known as the "Municipality Authorities Act of 1945," providing for the financing of projects through loans by the Authorities.

HB 1993 (Pr. No. 2748)

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the filling of a vacancy in the office of jury commissioner.

HB 2130 (Pr. No. 2765)

An Act amending the act of July 15, 1957 (P. L. 901, No. 399), known as the "Optional Third Class City Charter Law," increasing fines for ordinance violations.

Senator PETERSON, from the Committee on Public Health and Welfare, reported the following bill:

SB 734 (Pr. No. 2211) (Amended)

An Act prohibiting and restricting the use of certain instruments in connection with renal dialysis; granting rights to renal dialysis patients; and imposing duties on the Department of Health.

APPROVAL OF REGULATIONS

Senator BELL, from the Committee on Consumer Protection and Professional Licensure, reported the following regulations have been submitted to the Independent Regulatory Review Commission with no objections:

State Board of Pharmacy Regulation #16A-189; and
State Board of Medicine Regulation #16A-190.

RESOLUTION OFFERED

Senator MELLOW. Mr. President, I offer a resolution.

The PRESIDENT. Senator Mellow offers a resolution. Does the gentleman seek unanimous consent for immediate consideration?

Senator MELLOW. Mr. President, I seek unanimous consent for immediate consideration.

The PRESIDENT. The gentleman seeks unanimous consent for immediate consideration of a resolution. Is there an objection?

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.)

The PRESIDENT. Senator Mellow requests unanimous consent for the immediate consideration of a resolution.

Senator LOEPER. Mr. President, I object to unanimous consent.

The PRESIDENT. Senator Loeper objects to unanimous consent, thereby denying immediate consideration of the resolution.

MOTION TO SUSPEND RULES

Senator MELLOW. Mr. President, I rise to make a motion to suspend the Rules. I move that Rule XXXI, dealing with resolutions, paragraph 2, be suspended.

The PRESIDENT. Senator Mellow moves that the Rules be suspended for the purpose of allowing immediate consideration of the resolution, albeit an objection to unanimous consent.

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

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

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

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, I request temporary Capitol leaves on behalf of Senator Helfrick and Senator Shumaker.

Senator MELLOW. Mr. President, I request temporary Capitol leaves on behalf of Senator Fumo and Senator Williams and also Senator Bodack, who will probably have to leave the floor to go to his office before we take the vote.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Helfrick and Senator Shumaker. Senator Mellow requests temporary Capitol leaves for Senator Fumo, Senator Williams and Senator Bodack. The Chair hears no objection. The leaves will be granted.

LEAVE OF ABSENCE

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

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

Senator LOEPER. Mr. President, as I had requested a denial of unanimous consent for consideration of this resolution, I would ask for a negative vote on the Rule suspension.

Senator MELLOW. Mr. President, just a few short days ago we had the opportunity in this Body of discussing at some length and debating the issue with regard to minimum wage. During that discussion, Mr. President, it was pointed out by a number of speakers, all on this side of the aisle, that the minimum wage has not been increased since December of 1980, some eight years ago, and that by and large, the—

POINT OF ORDER

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

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state it.

Senator LOEPER. Mr. President, I do not believe this motion is debatable.

The PRESIDENT. Is the gentleman raising a point of order to that effect?

Senator LOEPER. That is correct, Mr. President.

The PRESIDENT. Senator Loeper's point is well taken. In fact, the motion to suspend the Rules is not a debatable motion.

PARLIAMENTARY INQUIRY

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

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

Senator MELLOW. Mr. President, can the Chair cite the Rule that would state that this motion is not a debatable motion, please?

The PRESIDENT. Mason's Manual, which governs when the Rules of the Senate are silent, indicates that, "A motion to suspend the rules may not be amended, debated, laid on the table, referred to committee, postponed, nor have any other subsidiary motion applied to it."

The Chair would also advise the gentleman that there have been a number of precedents prior to his motion that bear out that position.

Senator MELLOW. Mr. President, simply stated, I think the Rules of the Senate which we have adopted at the beginning of Session are the Rules that we should basically abide by. I can understand the frustration on the part of the Majority, Mr. President, but there is a strong willingness that we do consider Senate Bill No. 613 to establish a proper minimum wage in Pennsylvania, and I ask for an affirmative vote on the suspension of the Rules.

POINT OF ORDER

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

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state it.

Senator LOEPER. I simply raise the same point, Mr. President.

The PRESIDENT. The Chair appreciates it. The Chair understands that both gentlemen have completed their remarks.

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

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

YEAS—25

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

NAYS—24

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

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

**MOTION TO LAY RESOLUTION ON THE TABLE
AND MOTION WITHDRAWN**

The PRESIDENT. Does the gentleman wish to withdraw the resolution at this point or have it referred to a committee?

Senator MELLOW. No, Mr. President. I would like to have it referred to a committee.

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

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

Senator MELLOW. Mr. President, I would move that we lay the resolution on the table.

The PRESIDENT. The Chair has a bit of a problem with the motion because the bill is not yet even in committee. It is not before us and, therefore, cannot be laid upon the table. The motion is withdrawn.

DISCHARGE PETITIONS

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

In the Senate, June 21, 1988.

A PETITION

To place before the Senate the nomination of Bruce Crawley as a member of the Cheyney University of Pennsylvania.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Bruce Crawley, Philadelphia, Pennsylvania, as a member of the Cheyney University of Pennsylvania, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

David J. Brightbill
Robert C. Jubelirer
John Stauffer
F. Joseph Loeper
William J. Moore

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

In the Senate, June 21, 1988.

A PETITION

To place before the Senate the nomination of Thurman Evans as a member of the Cheyney University of Pennsylvania.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Thurman Evans, Elkins Park, Pennsylvania, as a member of the Cheyney University of Pennsylvania, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

David J. Brightbill
Robert C. Jubelirer
John Stauffer
F. Joseph Loeper
William J. Moore

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

In the Senate, June 21, 1988.

A PETITION

To place before the Senate the nomination of Warren W. Lamm as a member of the Wernersville State Hospital.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Warren W. Lamm, Sinking Spring, Pennsylvania, as a member of the Wernersville State Hospital, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

David J. Brightbill
Robert C. Jubelirer
John Stauffer
F. Joseph Loeper
William J. Moore

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

In the Senate, June 21, 1988.

A PETITION

To place before the Senate the nomination of Pattee J. Miller as a member of the Wernersville State Hospital.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Pattee J. Miller, Reading, Pennsylvania, as a member of the Wernersville State Hospital, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

David J. Brightbill
Robert C. Jubelirer
John Stauffer
F. Joseph Loeper
William J. Moore

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

SENATE CONCURRENT RESOLUTION

WEEKLY ADJOURNMENT

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

In the Senate, June 20, 1988.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, June 27, 1988, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Monday, June 27, 1988, unless sooner recalled by the Speaker of the House of Representatives.

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

SPECIAL ORDER OF BUSINESS EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator BRIGHTBILL,

That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to.

COMMUNICATIONS FROM THE GOVERNOR TAKEN FROM THE TABLE

Senator BRIGHTBILL, by unanimous consent, called from the table communications from His Excellency, the Governor of the Commonwealth, recalling the following nominations, which were read by the Clerk as follows:

CORONER, VENANGO COUNTY

June 20, 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 April 1, 1988 for the appointment of Joseph A. Reinsel, Jr., 114 Maple Avenue, Oil City 16301, Venango County, Twenty-fifth Senatorial District, as Coroner, in and for the County of Venango, to serve until the first Monday of January, 1990, vice Jonathan H. Hutchinson, resigned.

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

ROBERT P. CASEY.

MEMBER OF THE HEALTH CARE POLICY BOARD

June 21, 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 April 11, 1988 for the reappointment of Dwayne Cooper, R. D. 1, Highland Drive, Industry 15052, Beaver County, Forty-sixth Senatorial District, as a member of the Health Care Policy Board, to serve until March 25, 1990, and until his successor is appointed and qualified.

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

ROBERT P. CASEY.

MEMBER OF THE MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

June 21, 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 April 11, 1988, for the reappointment of Wayne G. Davis, 1502 Surrey Lane, Overbrook Hills 19151, Montgomery County, Seventeenth Senatorial District, as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1990, and until his successor is appointed and qualified.

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

ROBERT P. CASEY.

NOMINATIONS RETURNED TO THE GOVERNOR

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

The motion was agreed to.

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

EXECUTIVE SESSION RISES

Senator BRIGHTBILL. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to.

CALENDAR

HB 1480 CALLED UP OUT OF ORDER

HB 1480 (Pr. No. 3498) — 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 REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1480 (Pr. No. 3498) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," further providing for the utilities gross receipts tax.

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 LINCOLN. Mr. President, I request temporary Capitol leaves for Senator O'Pake, Senator Andrezeski and Senator Hankins.

The PRESIDENT. Senator Lincoln seeks temporary Capitol leaves for Senator O'Pake, Senator Hankins and Senator Andrezeski. The Chair hears no objection. Those temporary Capitol leaves will be granted.

Senator LOEPER. Mr. President, Senator Wilt has been called from the floor to his office and I would ask for a temporary Capitol leave on his behalf.

The PRESIDENT. Senator Loeper requests temporary Capitol leave for Senator Wilt. The Chair hears no objection. The leave will be granted.

And the question recurring,
Shall the bill pass finally?

Senator LINCOLN. Mr. President, there has been a little bit of confusion going from Special Session into regular Session, and just so the Members of the Senate know that we are now preparing to vote on final passage for a tax reduction of some \$53 million for this fiscal year, and my understanding is that is only for six months, so the projection for the tax reduction into the next fiscal year would be \$106 million. I think it was pretty clearly pointed out yesterday, prior to our very rudely being restricted to any further debate on the budget that was passed last night, that this is one of the main reasons why the Democrats voted against the budget that passed, and I think it is very clear that to pass this with any support from this side of the aisle would add some type of credence to something I do not think deserves it. It is unquestionably something I question as to the seriousness of the effort in that no one has disputed facts that were put forth before this Body last evening that said it would amount to a ten cent per week tax reduction for the average family on their utility bills, and I think we were able to determine sometime today the total savings for a family in this Commonwealth from this action would be a savings of five dollars and some odd cents a year.

One of the news stations out of Philadelphia did a very interesting report where the young lady doing the story held a quarter and a penny in her hand and was telling the people in Philadelphia that the Republican Senate Members were going to give them twenty-six cents a month back by taking \$53 million out of a budget that they cannot and will not come forth with any verification of its being balanced.

Mr. President, I believe we will at some point in time within the next ten or twelve days do some serious negotiating and some serious legislating on the budget and on, possibly, some reduction in taxes, even though I am so strongly opposed to them, and I would hope that Governor Casey maintains his very strong and adamant position against any tax reductions at this time.

This is a bill that makes it easy to vote against tax reduction because it really is not something that has any benefit and will give any benefit to anyone in Pennsylvania. I would think if we were able to show the 11.5 million to 12 million people who live in this Commonwealth how foolhardy and foolish this is and how damaging it is to environmental programs, to education and many of the other programs in Pennsylvania that the Republican Majority has chosen to cut in their

budget, plus, I think it is almost incredible to think the revenue estimates that were certified and delivered to the Republican Majority on Monday stating that they are in excess in their revenue estimates to balance their budget and taking \$53 million more out of the available revenues, it just absolutely amazes me that they would have some reason for doing this. I would ask not only the Members of my caucus to vote "no," but I would also ask the responsible Members of the Republican caucus and those who I heard stand up last night and criticize Governor Casey for being such a partisan Governor. I remember very early in his first year, last year, when he was in the district of the gentleman from Mercer, Senator Wilt, quite frequently, working on the Sharon Steel problem. He was in the district of the gentleman from Butler, Senator Shaffer, quite frequently. He visited, I think it was the district of the gentleman from Centre, Senator Corman, and the district of the gentleman from Bradford, Senator Madigan, expressing not only through the money he was bringing in for grants and other things that were helping out in those areas where the economy is not quite as good as it should be, but he was bringing things in to people that said to them, we have a Governor who cares, and he does not care whether you are Republican or Democrat, he is going to do his job and revitalize this Commonwealth. What is he getting in return? In all the important issues we have not had Republican support for any of the Administration issues. What we saw was PENNVEST, in a Republican-controlled committee, almost destroyed. It took months and months of negotiating. And what do we do with the first PENNVEST meeting? Fifty percent of all those projects that were approved in the first meeting are in Republican Senate districts. Fifty percent of them, Mr. President. And what did they do in their budget last night? They take \$13 million out of the PENNVEST money, over 50 percent of what is requested for grants and for other purposes. Now you are seeing the reason why PENNVEST and a lot of other issues that were discussed here last night are not being funded. This is the reason—House Bill No. 1480. Because for whatever cockamamie idea they have come up with and for whatever reason, they are taking \$53 million out of this year's budget, and wait until next year, because this is a six-month bill from my understanding of it. That means the next fiscal year it will not be \$53 million, it will be \$106 million. Why not? If it is for six months and next year it is for a year. My financial advisor tells me I am wrong, as I have been known to be in the past, but logic tells me that if it is six months and it is \$53 million, twelve months makes it \$106 million, and until I see otherwise, I will not believe my financial advisor.

Many of the issues we attempted to deal with last night are contained in House Bill No. 1480. There is no way you can get around the fact that, one, the party of the Majority in this Body does not have the Governor's Office. They cannot go to the Governor and say, how about jacking up the revenue estimates for \$53 million because we need it for a tax reduction? Fellows, be realistic and accept the facts of life. The Constitution says you cannot spend more than the revenue estimates

that are officially certified through the Department of Revenue and the Governor's Office. That has been done. This \$53 million you are taking away from the available revenues will further unbalance the budget that was passed here last evening. I would hope we would see some reasonableness. I am amazed at budget time what some of the Members of that caucus over there can do.

The gentleman from Butler, Senator Shaffer, had a big press conference last week on a \$100 million bond issue for revitalizing our park system. Let me tell you something. During the six years that Senator Shaffer served in this Body under Governor Thornburgh, he had an opportunity in each budget we passed to do something about that particular issue. He voted "yes" for each one of those budgets, and in each year the park system was forgotten completely. One year there were twenty-five jobs cut; one year there was about a 3 percent decrease in the funding; one year it remained the same; and one year there was a \$700,000 increase, which amounted to about a 3 percent increase. Not one time in those six years when the Republican Administration served from 1979 through 1986, not one time did Senator Shaffer say, I have a \$100 million bond issue I would like to put together, because he was standing on this floor telling us how to do more for less. Well, the more for less is here, folks. You have a park system that fell apart. Bond issues are something that side of the aisle decried for years. Do not continue to make the same mistake that you made last night. If I were in your position I probably would have done exactly what you did last night. I would have cut off debate. I probably would have done exactly what you did and would not have allowed us to go into caucus and discuss something that was only \$19 billion. I probably would have done anything but put a good budget before you.

POINT OF ORDER

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

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state it.

Senator LOEPER. Mr. President, I think the debate is far and wide exceeding the parameters of the impact of the bill before us, and I would ask that the gentleman keep his remarks particularly to that legislation.

The PRESIDENT. The Chair would advise the speaker that he should confine his remarks roughly to the subject matter that is contained in House Bill No. 1480.

Senator LINCOLN. Mr. President, other than not wanting to hear what I am saying, I do not understand how anyone could argue that taking money away from necessary revenues that ultimately say whether a budget is balanced or not would have anything to do with anything that was in that \$11 billion that we talked about last night. How can it not have some impact on the budget? It is what funds the budget.

I am just about ready to wind down anyhow. Last night I did not get a chance because I was standing up to speak when they moved the previous question. That is probably the most praise I could have received by the other side of the aisle. I thought they were that afraid of my debate that they cut off

the question before I spoke. I think it is important that if we are going to get serious about the budget, I would be willing to help. I have been part of the negotiations, along with the gentleman from Philadelphia, Senator Fumo, from our caucus now; this is the fourth year. I have had to walk out of the room with Members of the other three caucuses not completely satisfied with what we did and not happy because I did not get something I wanted, but I have really learned, I think, in the last three years what good government and compromise are all about. As strong as I feel about some of the issues we are discussing, I am prepared to start those twenty-four hour negotiations. I am prepared to stay here through this weekend, or whatever it takes, along with the other three caucuses, to get this issue resolved, but I think before we do that, we are going to have to have some serious recognition of what you are trying to do by pushing this bill tonight.

If we are serious about solving this problem, withdraw this bill. Leave it on the Calendar, do not vote on it. We will be back here Monday. I will go to the Governor and say the Republican Majority in the Senate is expressing to us a sincere effort to resolve the differences. They have decided not to go in and by a partisan 26-23 vote pass a tax reduction that is senseless. Let us sit down and talk. If there is some way of reducing the taxes in this Commonwealth that would be of benefit to the people we all represent, let us sit down and talk about it in a manner that we are not going to be at one another's throats. I have been around long enough to know the silliness that went on here last night. It will come and it will go, and one year it will not happen and the next it will, and someday I will be gone and some other very handsome, very good speaker from Fayette County will be before you telling you the different things we are talking about. But, let us get serious now because this is the 21st of June, and I will tell you that I will walk from this floor straight over to the Governor's Office and use every bit of persuasiveness I have with him to start meeting this evening or tomorrow morning, or whenever, if you are serious enough about it to withdraw this bill from the Calendar. If not, I think we are going to see exactly what I predicted, a 26-23 vote. It is going to accomplish nothing but further delay. It is going to be a more divisive effort. It is time to put it aside, Members of the Senate. We are prepared as a caucus to do what it takes. We are prepared to compromise. We are prepared to do the many things it takes to put together a budget of the magnitude it takes to control and run this state. I am asking you and I am saying it publicly, I commit myself to whatever it takes, but somewhere along the line I think you have to use your majority in a more positive manner than how you have been using it in the last twenty-four hours.

Senator BELL. Mr. President, I am not going to spend a half hour talking about the next handsome Senator from this county or that, but I am just going to talk like a country boy. There are twelve million people in Pennsylvania, and there are \$53 million in taxes involved, apparently for six months. You divide twelve million into \$53 million and you come up with a figure around \$4.50. There is an average of four to five people

in a family. Let us take four. So that comes now to four times the other figure, and it is not a couple of pennies. We are not talking about money that belongs to Governor Casey, we are talking about money coming out of pockets of the people of Pennsylvania to pay the bills up here. They own this money. The Majority in the House and the Majority in the Senate do not own the money. This is the people's money. So go back to \$4.50 per person, times four and you get 18 bucks a year. That does not mean anything to maybe a lot of the Senators, but you know what you can buy with \$18 if you do not have the \$18 in your pocket? This, I think, is basic, so I know the gentleman from South Philadelphia is about ready to say, oh, you are wrong, it is twenty-two pennies per family, per year, some crap like that. Whether the individual pays directly or indirectly, the 4.5 percent gross receipts tax is a sales tax on utility services. If the apartment house owner pays it, he passes it through. If a filling station man pays it, he passes it through. If SEPTA pays it, they pass it through. Do not think that corporations and businesses—even in Wharton School they do not teach you that—pay taxes, they push it through. It is put on the backs of little boys. I am not somebody who is going to be up here talking about the handsome Senator who is coming ten years from now or any of that other crap. I am saying this: These taxes are coming out of the pockets of people, directly or indirectly.

Senator FUMO. As a graduate of the Wharton School, Mr. President, in the master's program, I would gladly answer the gentleman by saying corporations do pay this tax. I want to correct my colleague from Fayette, Senator Lincoln, because I want to make sure that the record of the staff of the Committee on Appropriations on the Senate side and the Democrats, is accurate. The cost of this is \$63 million. The reason why it calculates out the way it does on an annual basis for the next year of \$53 million is that most of the payers pay approximately 80 percent in April and the balance comes later. Some other people prepay. When you calculate that out, it is \$53 million, and I will be the first to say it is not \$106 million, even using the Governor's numbers and changing the calculations. I think the real reason why we should be opposed to this bill today is not that we do not want to help people, it is not that we do not want to cut taxes. I would love to be here today and introduce a bill and pass a bill that would cut all taxes. What would that mean? That would mean no government, and for some of the cynical people, they might even say that is terrific. But then when they want to go to a hospital, they might not find it open. When they had a problem with someone breaking into their house, they might not find a policeman, and if they ever caught the individual, they may not find a judge to hear the case nor a prison to incarcerate the individual, if he was guilty.

Mr. President, there is, in fact, a need for state government and it has to be paid for. Senior citizens have a need for state government and their needs have to be met as well, and when we talk about a tax cut of this nature, what we are talking about is a spending bill. What we are saying is that the Republican Majority in the Senate has decided it wants to spend \$53

million, according to a formula that gives back to the average household in Pennsylvania \$5.00 a year or ten cents a week, while at the same time it gives to large corporations, large commercial users, \$800 a year as opposed to the \$5.00 a year that the family gets, and it gives to large industrial users of energy \$1,500 a year as opposed to the \$5.00 that the family gets. When we talk about tax reductions, let us make sure the record is clear as to whose taxes are being reduced. In this particular instance, this is another occasion in which Republicans in the Senate want to take care of their friends in big business at the expense of everyone else, but they recognize they cannot just take care of their buddies in the back room, so they have to let a few crumbs fall from the table so they can label this a consumer cut. We all remember the capital stock and franchise cut that they proposed before. They got burned bad on that one, so they retreated from it. They changed the rates around a little bit and are now attempting to call this big business giveaway a consumer tax cut. Well it is not, and the fact of the matter still remains that the average family in Pennsylvania, which pays approximately \$1100 a year in utility bills, will save ten cents a week. That is not a magic number, you just plug it into the equation and that is the way it comes out at the tail end. That is not a great tax break for consumers of Pennsylvania.

Mr. President, I am not going to be as hard nosed as the Governor and as some of my colleagues. I recognize that Senate Republicans have painted themselves into a corner by demanding some sort of tax cut so they can go home and apparently try to kid their constituents and others that Republicans cut taxes. I am willing to throw a bone out there during negotiations. I am not going to be hard nosed and say not a nickel in tax cuts. If you want to take money and spend it on a big business giveaway tax cut, okay, but not \$53 million. There are too many senior citizen lunch programs that are in jeopardy to afford that kind of luxury.

There are too many people who are homeless on the streets of this state to afford that kind of luxury. There are too many hospitals that have to remain open to afford that kind of luxury, and yes, there are too many economic development programs that have to be taken care of and other problems like that in the environment to give away \$53 million to big business. You want to give them something a lot less, throw them a bone, go home and keep your face safe; that is what the negotiating posture is about. But, we on this side of the aisle cannot endorse, even in concept, a tax cut of this magnitude for big business at the expense of consumers and at the expense of those people who truly need the assistance of state government. Fifty-three million dollars can feed a lot of people in this state. It can clean up a lot of the environment in this state, and it can bring more jobs to this state. Ten cents a week for consumers is not going to be noticed and it certainly will not be missed, and if you ever gave those people the choice, they would be the first to tell you to keep the ten cents, take care of my senior citizen grandparent or parent, take care of my relative in a mental hospital, keep the ten cents a week, it will not break me. You are not going to con the people

today. Hopefully, you will not con the media and they will not grasp at the instant headline of tax cut, but, rather, they will do an in-depth analysis to find out where your big business tax cut really lies, and then I think people will agree with us, that this is an unfair tax cut in a budget we cannot afford. The budget you passed yesterday, you know the problems with it, we enumerated it, and I fully suspect if any one of you ever thought that was the real budget, you would not have voted for it. The problem is the time for the charade playing is over. I implore you not to continue with this folly, although I recognize you probably will, but remember this: The record of your vote will be kept, and we will get the message out if the media does not. I urge a "no" vote, Mr. President.

Senator LOEPER. Mr. President, I have listened with great interest to the remarks of the gentleman from Fayette and the gentleman from Philadelphia relevant to a proposal to cut one of the most onerous taxes to many of our people in Pennsylvania, the Utility Gross Receipts Tax. This 11 percent cut that we are proposing in this bill will save the taxpayers of Pennsylvania an additional \$53 million. I might point out, Mr. President, that that \$53 million figure may seem somewhat insignificant to some people. However, I think if you take a look at the record and the cumulative tax cuts that have been put into place in Pennsylvania over the past four years, you will see that those tax cuts and savings to the people of this Commonwealth have amounted to over \$2 billion in less spending by state government and more money in their particular pockets. One gentleman indicated that this was a partisan bill, that only those on this side of the aisle in the Majority were interested in cutting taxes. I would remind him if he were to look at the vote of the tax cut bills that passed this Senate and are sitting now over in the House of Representatives, there was bipartisan support for those bills cutting taxes. Particularly of interest, I could not help but listen about the big business break that we were going to give to business throughout this Commonwealth. Let me tell you something: Fifty-three million dollars represents about one-half of one per cent of the total spending plan in the current fiscal year's or the next fiscal year's budget, one-half of one per cent. I think if we follow through and take a look again at some of the remarks that the gentlemen made, that they could not endorse any kind of tax cut of this magnitude, that it was really going to create a spending crisis for Pennsylvania. I might indicate to the gentleman that it is ironic that he served as a cosponsor to Senate Bill No. 819, which was introduced in May—just about a year ago—that would totally eliminate the gross receipts tax in Pennsylvania, a cost to the Commonwealth of Pennsylvania of some \$544 million. That certainly is a significant number compared to the tax cut that we are asking for consideration here today. Mr. President, I believe it is another step in the right direction; it is a step to continue the cumulative savings to the people of Pennsylvania; it is a step in the direction to cut excess spending in state government, but yet tries to address the critical priorities that are before us, and I would ask for an affirmative vote.

Senator MELLOW. Mr. President, it is not my intention to continue the debate much longer this evening, except I think it is appropriate that we do point out a few facts. First of all, Mr. President, on two occasions, back in 1983, then again, I believe, in 1985, although I do not have the actual record before me, I introduced a very similar proposal in the form of an amendment on the floor of this Senate. In the first case I believe there was support from one Republican Member of the Pennsylvania Senate to cap the gross receipts tax, and that particular vote was defeated by a vote of 25 to 25 because at that time the Lieutenant Governor of Pennsylvania, who was not of the same political party as the current Administration, decided not to exercise his constitutional right and to vote in favor of that amendment which, in fact, would have made it a part of a bill which could have brought about a reduction in the gross receipts tax some two years ago. Shortly thereafter, Mr. President, the same amendment was introduced, and on that particular occasion the amendment to cap the gross receipts tax was defeated strictly on a partisan vote with all Democrats voting in favor of the cap of the gross receipts tax and all Republicans voting against it. Subsequent to that, Mr. President, both gentlemen from Allegheny, Senator Romanelli and Senator Zemprelli, introduced the same amendment with the same results: All Republicans voting against the capping of the gross receipts tax at a current level, all Democrats voting for the capping of the gross receipts tax at that level.

Mr. President, I concur in theory and in concept with what we are dealing with here in this particular tax reduction. Unfortunately, Mr. President, I think the timing of the Majority Whip and the proposal he is advocating this evening is at an inappropriate time. At the same time they gave us a budget yesterday that is at least \$111 million out of sync, based on the revenue estimates as certified by the Governor, they are now asking for a reduction or a capping of the gross receipts tax at \$53 million in this particular up and coming fiscal year. Mr. President, they have indicated to us that this is a further indication of what it means to have a reduction in taxes. I would like to call to their attention, Mr. President, an article that appeared in the Patriot today, and it may have been an editorial or it may have been a news article, I cannot tell by the news clip, but that news clip talks about the debt service being eliminated on unemployment compensation, and, Mr. President, the only reason why that service has been eliminated is because the Governor of Pennsylvania has shown the proper type of leadership and wants to give the right message to business in Pennsylvania that we can go ahead and we can transfer money from another fund so we can make our Unemployment Compensation Fund in Washington solvent, and by doing so, Mr. President, we can save business and industry in Pennsylvania approximately some \$475 million in monies that would have to be paid in the future to make that fund solvent. So what are we talking about? We are all here, Mr. President, to accomplish the same thing. Perhaps it is the style that alters things just a wee bit, but I concur that one of the most regressive forms of taxation

we have is to allow the gross receipts tax to continue to escalate. But is it not incredible that it depends on whose ox is being gored, that on four occasions the Republican Majority in the Senate decided in their wisdom not to go ahead and not to cap the tax, when we, in fact, offered that as an amendment here in this Body, and, today, to try to embarrass an Administration, to try to put us in a position that somewhere in the next two years we, in fact, may have to do one of two things: either ask for a tax increase or cut back on the very vital programs that our people need. By going ahead and doing this today, Mr. President, that, in fact, is what would take place. Furthermore, we are bound by the Constitution that we must have a balanced budget. The Majority Members of the Senate know that the same as we know that. They also know the budget they presented yesterday, Mr. President, is \$111 million out of balance, and today they are asking us to go ahead and further reduce the revenues by \$53 million. Are they not being a bit intellectually dishonest, not only with the people here today, but also with those constituents whom they represent?

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—26

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

NAYS—23

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

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

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

HB 498 CALLED UP OUT OF ORDER

HB 498 (Pr. No. 3501) — 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 REREPORTED FROM COMMITTEE AS
AMENDED ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 498 (Pr. No. 3501) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, to include certain Federal service as nonstate service; further providing for special early retirement; and providing for further supplemented annuities.

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 LINCOLN. Mr. President, would the Majority Whip, the gentleman from Delaware, Senator Loeper, stand for a brief interrogation?

The PRESIDENT. Will the gentleman from Delaware, Senator Loeper, permit himself to be interrogated?

Senator LOEPER. I will, Mr. President.

Senator LINCOLN. Mr. President, under Purdon's Law, Title 43, Section 1407, subparagraph (a) "Note required for bills. Except as otherwise provided in subsection (f)(1), no bill proposing any change relative to a public employee pension or retirement plan shall be given second consideration in either House of the General Assembly, until the commission has attached an actuarial note prepared by an enrolled pension actuary which shall include a reliable estimate of the cost and actuarial effect of the proposed change in any such pension or retirement system."

Mr. President, my question is, have we complied with this requirement which is part of the Pennsylvania law?

Senator LOEPER. Mr. President, it is my understanding that in House Bill No. 498, as has been past practice with either former COLA bills or extension of retirement bills that have passed this Body, there is a provision contained in House Bill No. 498 that waives the actuarial note requirements. However, I would also amend that to note that the Senate has already passed Senate Bill No. 347, which contains a COLA increase to which actuarial notes were completed.

Senator LINCOLN. Mr. President, do I understand the gentleman to say that in lieu of complying with Title 43, Section 1407, of Purdon's, he is transferring the responsibility for complying with that section of that particular act from one particular piece of legislation that may have been passed at some time previous to this particular day, and by doing that is in some way obviating the requirement?

Senator LOEPER. Mr. President, I would refer the gentleman to Page 11, Section 7, of the bill which contains the language I mentioned heretofore.

Senator LINCOLN. Mr. President, do I understand, then, that starting on line 21 on page 11 continuing through line 23 that, "The provisions of Section 7 of the Act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, shall not apply to this Act."

Senator LOEPER. The gentleman is correct.

Senator LINCOLN. Mr. President, in lieu of using language in this particular bill to circumvent the need and the requirement for proper actuarial studies and some strong basis that it is not going to do irreparable harm to the fund,

can the gentleman tell me if even a fiscal note has been prepared for House Bill No. 498 and the amendments that were placed therein in the meeting of the Committee on Appropriations yesterday?

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, I would refer to the Members that on their desks apparently there is a fiscal note on House Bill No. 498 from the Senate Committee on Appropriations.

Senator LINCOLN. Mr. President, I have not seen the fiscal note, and I do not think anybody else over here has. I do not doubt the gentleman from Delaware's statement that it is here, but I would like to ask one further question relative to that. How could the Committee on Appropriations come up with a fiscal note without some input from the people at the retirement fund as to what the costs may be, and if they have that type of ability, then why do we need Title 43, Section 1407? Why do we need that?

Senator LOEPER. My understanding, Mr. President, is that the Committee on Appropriations prepared the fiscal note before the Members based on input gained from the Retirement Board.

Senator LINCOLN. Mr. President, the cost to local school districts, as I see it, would be \$12.6 million in the fiscal year 1988-89 and is estimated to be \$16.8 million annually thereafter?

Senator LOEPER. Mr. President, would the gentleman repeat his question?

Senator LINCOLN. Mr. President, the gentleman from Allegheny, Senator Fisher, was gracious enough to give me his copy of the fiscal note, and in very quickly reading it over, I see the estimated cost is \$20.1 million in the fiscal year 1988-89 and \$26 million annually thereafter for the state, and it would be an increase to school districts of \$12.6 million for fiscal year 1988-89 and \$16.8 million annually thereafter. Is that a correct assessment of the cost as written?

Senator LOEPER. That is my understanding, Mr. President.

Senator LINCOLN. Mr. President, unfortunately, as has been the case in the last twenty-four hours, we have not had a real opportunity to assess the cost of this bill. I would, because of this being officially written and released by the Committee on Appropriations, have to accept it on the record today as being accurate, but my experience with increases of this type for COLA over the past sixteen years—and I have been personally involved along with many other people in the Senate with bringing about increases periodically—would tell me that these estimates are rather low. I would think they are conservative, to say the least. There is a potential of a great deal of money, and I would ask the gentleman from Delaware if any provisions were made in the budget that was passed last night for the \$20.1 million that is estimated to be the cost in the next fiscal year?

The PRESIDENT. Senator Loeper, the question was whether provisions were made in the budget that passed last night for the \$20.1 million required by this bill?

Senator LOEPER. Yes, Mr. President, they were.

Senator LINCOLN. Mr. President, the \$12.6 million that it is estimated to cost local school districts in fiscal year 1988-89 is something that generally is not considered to any great extent when we deal with things here in the General Assembly, and I would ask the gentleman from Delaware if the \$12.6 million it will cost in the next fiscal year for local school districts has been considered as part of the budget that was passed here last evening?

Senator LOEPER. Mr. President, I would indicate that the budget that was passed last evening was a responsible budget and certainly took into consideration both of those items.

Senator LINCOLN. Mr. President, I noticed the gentleman was much more direct in his answer to my question about the \$20.1 million than the \$12.6. I am not sure whether it was in the budget last night or not, and I will not pursue it any longer because I have a feeling that the gentleman is not too sure either.

Has the gentleman from Delaware had any contact with the Office of the Budget or the Governor's Office as to whether this particular piece of legislation is adequate to what they had planned on providing for retirees, both the state and teachers, and if there has been any confirmation from the Office of the Budget as to these figures in support of this type of effort?

Senator LOEPER. Mr. President, I have not had any direct conversation with either the Office of the Budget or the Governor's Office, but it was extremely obvious that the proposal made by the Administration was totally inadequate to help our retired teachers and state employees.

Senator LINCOLN. Mr. President, the vote on House Bill No. 498, which will take place very shortly, is one that I would like to clarify as far as our caucus is concerned in that we have always supported increases, which have been, I think, in 1979 when the Democrats controlled the Senate and in 1984 when the Republicans controlled the Senate, and similar increases were granted to retirees. It is something that, personally, has always been in the forefront. I have developed over a period of years a very good relationship with retired teachers and retired state employees, and I think they are deserving of an increase of this type. I would think the vote we are going to cast right now—and I would hope there will be a solid "yes" vote in favor of this bill—will be one that will express our true desire to help those among us who need help: the retirees, particularly the teachers and the state employees who retired years ago, and we have every intention of supporting that type of effort but that this may not be, in the final analysis of what we do for the budget, what we end up with, and that we are prepared to support the Administration in their efforts to get more, either through health care cost payments or an actual COLA. I think this kind of a vote is a very difficult one to vote negatively on, and I do not think there is any good reason or good way of explaining that to any of your constituents.

I would ask the Members of our caucus to support this bill, but with an understanding that that support is just a general support of doing something between now and the end of June when the budget is finally passed for the people who would be covered by this increase. I think this is something we should be working together on, and I am looking forward to doing that in the next two weeks.

Senator BELL. Mr. President, I was amazed at the Minority's spokesman implying to the Majority spokesman, have you cleared this with the Governor and Budget Director? We are the Legislature. We are not a bunch of stooges run over here by whatever the Governor wants to have done. We are under the separation of powers, basic American government. We do not talk to the Governor and say, what do you want done and then we will do it. But I will tell you one thing: I have talked to a lot of retired teachers and I know what they want, and every time I try to communicate to the Governor, I hear from Tommy Lamb, and I do not know who elected him.

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—49

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

NAYS—0

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

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

LEGISLATIVE LEAVES

Senator LINCOLN. Mr. President, I request temporary Capitol leaves for Senator Scanlon and Senator Lynch.

The PRESIDENT. Senator Lincoln requests temporary Capitol leaves for Senator Scanlon and Senator Lynch. The Chair sees no objection. The leaves will be granted.

CONSIDERATION OF CALENDAR RESUMED

SB 1328 CALLED UP OUT OF ORDER

SB 1328 (Pr. No. 2167) — Without objection, the bill was called up out of order, from page 7 of the Second Consider-

ation Calendar, by Senator LOEPER, as a Special Order of Business.

BILL ON SECOND CONSIDERATION AMENDED

SB 1328 (Pr. No. 2167) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the regulation of storage tanks and tank facilities; imposing additional powers and duties on the Department of Environmental Resources and the Environmental Quality Board; and making an appropriation.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator FISHER offered the following amendment No. A3805:

Amend Table of Contents, page 1, line 14, by striking out "UNDERGROUND" and inserting: aboveground

Amend Sec. 103, page 5, line 17, by striking out "SURFACE" and inserting: piping, surface

Amend Sec. 103, page 5, line 20, by inserting after "VESSELS" where it appears the second time: including oil and water separators

Amend Sec. 103, page 6, line 2, by striking out "LIQUID" and inserting: Nonstationary tanks, liquid

Amend Sec. 103, page 6, by inserting between lines 5 and 6:

(10) Sumps, drip pots and other vessels designed to catch drips, spills, leaks or other releases before such releases enter the environment.

(11) Tanks located indoors above the surface of the floor.

(12) Tanks used for storage of products meeting the United States Food and Drug Administration regulations under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.).

Amend Sec. 302, page 12, line 16, by striking out "304" and inserting: 310

Amend Sec. 302, page 14, line 19, by striking out "FIVE" and inserting: ten

Amend Sec. 303, page 14, line 20, by striking out "UNDERGROUND" and inserting: aboveground

Amend Sec. 303, page 14, lines 22 through 29, by striking out all of said lines and inserting: person shall construct, operate, renovate, install, replace or substantially modify any small aboveground storage tank unless authorized by the department through policies, rules or regulations or by obtaining a permit.

Amend Sec. 303, page 14, line 30, by striking out "(C)" and inserting: (b)

Amend Sec. 303, page 14, line 30, by inserting after "APPLICATION" where it appears the second time: or other department approved application

Amend Sec. 303, page 15, line 5, by striking out "(D)" and inserting: (c)

Amend Sec. 303, page 15, lines 16 through 20, by striking out all of said lines and inserting:

(d) Review of applications.—An application submitted by a certified tank installer is deemed approved by the department unless the department disapproves the application within ten days of submittal. The

Amend Sec. 303, page 15, line 22, by striking out "15" and inserting: ten

Amend Sec. 303, page 15, line 30, by striking out "(F)" and inserting: (e)

Amend Sec. 303, page 16, line 2, by striking out "(G)" and inserting: (f)

Amend Sec. 303, page 16, lines 4 and 5, by striking out all of said lines

Amend Sec. 304, page 16, lines 8 through 14, by striking out all of said lines and inserting: person shall construct, operate, renovate, install, replace or substantially modify any underground storage tank unless authorized by the department through department policies, rules or regulations or by obtaining a permit.

Amend Sec. 304, page 16, line 15, by striking out "(C)" and inserting: (b)

Amend Sec. 304, page 16, line 15, by inserting after "APPLICATION" where it appears the second time: or other department approved application

Amend Sec. 304, page 16, line 19, by striking out "(D)" and inserting: (c)

Amend Sec. 304, page 16, line 28, by striking out "PERMITS" and inserting: applications

Amend Sec. 304, page 16, line 28, by striking out "PERMIT" and inserting: application

Amend Sec. 304, page 17, lines 3 through 7, by striking out all of said lines and inserting:

(d) Review of applications.—An application submitted by a certified tank installer is deemed approved by the department unless the department disapproves the application within ten days of submission. The

Amend Sec. 304, page 17, line 9, by striking out "15" and inserting: ten

Amend Sec. 304, page 17, line 17, by striking out "(F)" and inserting: (e)

Amend Sec. 304, page 17, line 19, by striking out "(G)" and inserting: (f)

Amend Sec. 304, page 17, lines 21 and 22, by striking out all of said lines

Amend Sec. 305, page 17, line 27, by striking out "Marshal" and inserting: Marshal

Amend Sec. 306, page 20, by inserting between lines 10 and 11:

(f) Initial registration fees.—Until such time that regulations on registration fees are promulgated under section 311, each registration application shall be accompanied with a registration fee that shall be \$600 for each aboveground storage tank, \$300 for each small aboveground storage tank and \$150 for each underground storage tank.

(g) Renewal.—Each registration issued under this section shall be renewed every three years as determined from the date of the last registration. Renewals shall continue until such time that the department receives written notification from the owner that the storage tank has been permanently closed.

Amend Sec. 307, page 20, line 28, by inserting after "TANK": , excluding a small aboveground storage tank,

Amend Sec. 307, page 20, lines 29 and 30, by striking out "OF TANKS UNDER THE OWNER'S CONTROL PURSUANT TO A SCHEDULE" in line 29, all of line 30 and inserting: on new aboveground storage tanks or substantially modified aboveground storage tanks. Each existing

Amend Sec. 307, page 21, line 1, by inserting after "TANK": , excluding a small aboveground storage tank,

Amend Sec. 307, page 21, line 1, by striking out "A HYDROSTATIC TEST" and inserting: an out of service inspection

Amend Sec. 309, page 21, lines 18 and 19, by striking out all of said lines and inserting: The department shall have the authority to establish a certification system for tank installers and private tank inspectors by regulation. The department is authorized to certify through training and testing programs and shall

also be empowered to revoke or suspend the certification of a tank installer or private tank inspector pursuant to regulations promulgated under section 311. Any license

Amend Sec. 311, page 22, line 26, by striking out "EXISTING" and inserting: substantially modified

Amend Sec. 311, page 23, by inserting between lines 3 and 4:

(10) Inspection requirements for existing aboveground storage tanks.

Amend Sec. 311, page 23, line 7, by striking out "EXISTING" and inserting: substantially modified

Amend Sec. 311, page 23, by inserting between lines 16 and 17:

(6) Inspection requirements for existing small aboveground storage tanks.

Amend Sec. 311, page 23, by inserting between lines 22 and 23:

(4) Certification fees for tank installers and private tank inspectors.

Amend Sec. 312, page 24, line 11, by striking out "ALL"

Amend Sec. 312, page 24, line 30, by striking out "SEVEN" and inserting: nine

Amend Sec. 312, page 25, line 15, by inserting after "interest.": One member shall be a representative of local government. One member shall be a representative of county government.

Amend Sec. 501, page 26, line 26, by striking out "Installation" and inserting: Substantial

Amend Sec. 501, page 26, line 30, by striking out "Changes" and inserting: Substantial changes

Amend Sec. 504, page 29, line 22, by inserting after "TANK": located adjacent to surface waters

Amend Sec. 504, page 29, line 24, by inserting after "operator": or the agent of the owner or operator

Amend Sec. 504, page 29, line 29, by inserting after "facility": located adjacent to surface waters

Amend Sec. 504, page 29, line 30, by inserting after "AND": annually

Amend Sec. 702, page 31, line 26, by striking out "ONE-HALF" and inserting: Twenty-five percent

Amend Sec. 702, page 31, line 29, by striking out "50%" and inserting: 75%

Amend Sec. 703, page 32, line 8, by striking out "coverage" and inserting: damages

Amend Sec. 901, page 33, line 28, by inserting after "TANKS.": For purposes of this chapter, the term "tank facility" means an area in which two or more aboveground storage tanks are located.

Amend Sec. 1101, page 35, by inserting between lines 8 and 9:

(1) Sell, distribute, provide or fill any storage tank with a regulated substance unless the storage tank has a valid registration issued under this act and the regulations promulgated hereunder.

Amend Sec. 1101, page 35, line 9, by striking out "(1)" and inserting: (2)

Amend Sec. 1101, page 35, line 14, by striking out "(2)" and inserting: (3)

Amend Sec. 1101, page 35, line 17, by striking out "(3)" and inserting: (4)

Amend Sec. 1101, page 35, line 20, by striking out "(4)" and inserting: (5)

Amend Sec. 1104, page 38, line 20, by striking out "any" and inserting: the same

Amend Sec. 1104, page 38, line 21, by inserting after "act": at the same facility

Amend Sec. 1104, page 38, lines 27 and 28, by striking out "violation for each separate day and each"

On the question,

Will the Senate agree to the amendment?

Senator FISHER. Mr. President, this is an omnibus amendment which has been prepared and circulated to the storage tank bill which is presently before the Senate. There are a number of substantive changes that have been made in the bill, most by this amendment, the most important of which would be one to eliminate some of the permitting requirements for existing tanks and change that to either a permit by rule requirement, which would be a more expedited process, or a registration requirement. In addition to that, the testing procedures for the large aboveground storage tanks have been modified to require that rather than merely a hydrostatic test, which is a water test, out-of-service inspections should be performed on all the large aboveground storage tanks once every ten years. There are other changes contained within the bill. One other additional one which is in this amendment is one which would change the fund, which is the Spill Prevention Fund, to provide that no more than 75 percent of that fund can be utilized for administration of the program, rather than the existing 50 percent which is contained within the bill which is before us. These amendments have been drafted with the cost of the bill in mind and also in trying to streamline a program that will be effective in controlling the large and medium size aboveground tanks and the belowground and the underground storage tanks across the Commonwealth. I would urge support for the amendment.

Senator MUSTO. Mr. President, the gentleman from Allegheny, Senator Fisher, and I have done extensive work on this amendment, and I would request an "aye" vote on the amendment.

And the question recurring,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

Senator FISHER offered the following amendment No. A3750 and, if agreed to, asked that the bill be considered for the second time:

Amend Table of Contents, page 2, by inserting between lines 11 and 12:

Section 313. Underground Storage Tank Fund.

Amend Bill, page 26, by inserting between lines 9 and 10:

Section 313. Underground Storage Tank Fund.

(a) Establishment and administration.—There is hereby established within the State Treasury a special nonlapsing, revolving fund to be known as the Underground Storage Tank Fund. The department shall be responsible for the administration of the Underground Storage Tank Fund. All fees collected under subsection (c) shall be deposited into the Underground Storage Tank Fund. The proceeds of the Underground Storage Tank Fund are hereby continuously appropriated to the department for the purposes of this section.

(b) Purpose.—The purpose of the Underground Storage Tank Fund is to assist the owners or operators of underground petroleum storage tanks to meet the financial responsibility

requirements imposed by Federal law and Federal regulations. In addition, the Underground Storage Tank Fund may be liable, on a site-by-site determination, for certain costs incurred in the cleanup of contamination caused by leaking underground petroleum storage tanks.

(c) Imposition of fee.—There is hereby imposed a fee of \$100 per year on each underground petroleum storage tank located within this Commonwealth. The fee imposed by this subsection shall be paid by the owner or operator of each underground petroleum storage tank to the department. The liability of the owner or operator for the payment of the fee shall be determined by a written agreement between the owner and operator.

(d) Financial responsibility.—The owner or operator of any underground petroleum storage tank shall be responsible for the costs of cleanup of any contamination caused by a leaking underground petroleum storage tank up to and including an amount of \$75,000. The Underground Storage Tank Fund shall be responsible for the costs of cleanup of any contamination caused by a leaking underground petroleum storage tank exceeding \$75,000, but not to exceed \$1,000,000. The Underground Storage Tank Fund shall not be used for the repair, replacement or the maintenance of an underground petroleum storage tank.

(e) Rules and regulations.—The Environmental Quality Board shall promulgate rules and regulations for the administration and operation of the Underground Storage Tank Fund by the department. The same board shall review and, if necessary, revise the fee imposed by subsection (c) based on recommendations from the department which are based on projected program and fund expenditures. The board shall also have the power and may adjust the liability level under subsection (d) for the owners or operators of underground petroleum storage tanks. The board shall not have any power to lower the liability level for owners or operators to any sum less than \$50,000.

(f) Transfer of funds.—The secretary shall have the authority to transfer moneys from the Spill Prevention Trust Fund to meet the provisions of this section on an emergency basis. No more than 5% of the total revenue generated from the previous fiscal year shall be transferred within a one-year period.

(g) Implementation.—The board shall be authorized to revise or terminate the fund program created under this section following any changes to the Federal law or regulations on the financial responsibility requirements imposed on underground petroleum storage tank owners or operators. Any moneys remaining in the Underground Storage Tank Fund upon its termination shall be transferred to the Spill Prevention Trust Fund solely for the purposes of property damage claims resulting from a release at a storage tank or cleanup and removal costs.

On the question,

Will the Senate agree to the amendment?

Senator FISHER. Mr. President, as I indicated, Senate Bill No. 1328 deals with the storage tank issue, both aboveground and belowground storage tanks. Part of the issue in this bill deals with underground storage tanks. There are approximately 140,000 underground storage tanks across the Commonwealth, which under federal law that was enacted in 1984 the Commonwealth is required to have an inspection program for those tanks. This bill will provide for that inspection program. Unfortunately, under the federal law there is also a requirement that every owner or operator of an underground storage tank would be required to have \$1 million of liability coverage in force. Many people have come before our committee, principally those who are in the business of selling gasoline and other petroleum products, and have expressed

great concern that it would be financially impossible for them to acquire liability insurance of \$1 million. The amendment which is before us, which has been jointly offered by me on behalf of myself and the gentleman from Luzerne, Senator Musto, would require that an underground storage tank fund be established, a fund that would be funded by a \$100 a year fee on each underground petroleum tank across the Commonwealth. In return for the payment of this \$100 fee, any owner or operator of an underground storage tank would receive liability insurance or coverage for that amount of damages that they may be responsible for for the sum of \$75,000 up to \$1 million.

If that sounds similar to another system that we have presently in place in the Commonwealth dealing with automobile insurance, it may be. However, the major difference between this fund and the notorious CAT Fund is those people who will be charged the fee have come before us and asked us to create this fund. I think it is the only way in which many of our small service station dealers, our mom and pop businesses can stay in business. I, quite frankly, have said to them that they really should be in Washington and they should be lobbying to have this outrageous requirement modified. However, until that is done, I believe it is responsible for us to follow this course to establish this fund. Some other states have done it—notably, the State of Tennessee has a fund fairly similar to this—and I would urge adoption of this amendment.

And the question recurring,

Will the Senate agree to the amendment?

MUSTO AMENDMENT TO FISHER AMENDMENT

Senator MUSTO offered the following amendment No. A3830 to amendment No. A3750:

Amend Amendments, page 2, line 2, by inserting after "department": including specific criteria for eligibility requirements under subsection (d)

On the question,

Will the Senate agree to the amendment to the amendment?

Senator MELLOW. Mr. President, would the gentleman from Allegheny, Senator Fisher, the sponsor of the main amendment we are dealing with, permit himself to be interrogated?

The PRESIDENT. Would the gentleman object to us dealing with Senator Musto's amendment to the amendment first?

Senator MELLOW. Not at all, Mr. President.

And the question recurring,

Will the Senate agree to the amendment to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the amendment offered by Senator Fisher, as amended?

Senator MELLOW. Mr. President, I desire to interrogate the gentleman from Allegheny, Senator Fisher.

The PRESIDENT. Will the gentleman from Allegheny, Senator Fisher, permit himself to be interrogated?

Senator FISHER. I will, Mr. President.

Senator MELLOW. Mr. President, could the gentleman indicate to us, out of the 140,000 underground tanks he talked about, if he has any knowledge or if the information is available on those tanks, how many of them would be considered environmentally sound?

Senator FISHER. Mr. President, I do not believe there has been any testimony that has come before the committee that has been verified. I believe EPA testified that perhaps as many as 25 percent of them may not be environmentally sound. However, when interrogated, the witness indicated that was a guess and was only a national average and he really had no way of knowing how many tanks, in fact, in Pennsylvania would not be environmentally sound. I would strictly be guessing to give any answer.

Senator MELLOW. Mr. President, can the gentleman tell us if he has any knowledge of, in addition to the 140,000 tanks that are identifiable, how many other tanks may be located underground in Pennsylvania in service stations or other areas that no longer are in use?

Senator FISHER. Mr. President, I do not have that figure.

Senator MELLOW. Mr. President, can the gentleman indicate to us for the \$100 fee per year, does that fee remain constant regardless of the age of the tanks or regardless of the size of the tanks?

Senator FISHER. Mr. President, that fee would be \$100 per year for each and every underground storage tank, regardless of size or age.

Senator MELLOW. Then, Mr. President, is the gentleman telling us that an underground tank that is five years old with a capacity of several thousand gallons would pay a \$100 fee, and a tank that is twenty-five years old with the capacity of 500 gallons, located at a service station, would pay the same fee?

Senator FISHER. Mr. President, that is correct under the amendment.

Senator MELLOW. Mr. President, can the gentleman also indicate to us how a fee of \$100 per year was arrived at?

Senator FISHER. Mr. President, the fee was arrived at by looking at the other fees that are assessed within the bill. There is currently a registration fee for underground storage tanks of \$150 every three years, or \$50 a year. It was felt that with the approximate number of 140,000 tanks, that \$100 fee, which would yield \$14 million, would be a fund sizable enough to cover the number of tanks involved and to provide adequate financial responsibility for the owners of those tanks across the Commonwealth. It was a fee which we felt was reasonable under the circumstances while, at the same time, provided enough of a yield to provide a fund that would have solvency.

Senator MELLOW. Finally, Mr. President, can the gentleman tell us for the record what the authorization would be if, in fact, one year from now we find that the fee is not an adequate fee? Who would have the determination or the authorization to increase the fee?

Senator FISHER. Mr. President, the Environmental Quality Board, under subsection (e) of the amendment, would be able to revise the fee imposed based upon recommendations from the department based on the projected program and fund expenditures.

Senator MELLOW. Mr. President, can the gentleman then also indicate to us how many Members of the Legislature serve on the Environmental Quality Board?

Senator FISHER. Mr. President, there are four Members of the General Assembly, one from each party in each House, who serve on the Environmental Quality Board.

Senator MELLOW. Also, Mr. President, can the gentleman tell us with regard to the Environmental Quality Board—if he would know and perhaps he may not, but I do not know—how many members of the Administration serve on the Environmental Quality Board?

Senator FISHER. Mr. President, I believe the total complement of the board is either fourteen or sixteen members, and at least six of the members are secretaries or deputy secretaries from various departments.

Senator MELLOW. I thank the gentleman, Mr. President.

Mr. President, I congratulate and salute both the gentleman from Luzerne, Senator Musto, and the gentleman from Allegheny, Senator Fisher, for bringing to the floor of the Senate a very, very serious problem that has not been created by the Department of Environmental Resources or by the Commonwealth of Pennsylvania with regard to these underground tanks. My main concern, Mr. President, is the fact that perhaps \$100 per year and the \$14 million annually may not be enough money when we are dealing with 140,000 known tanks. We do know the size of the tanks, but we do not know what type of environmental condition they are in.

Finally, Mr. President, my concern also is that we could find ourselves shortly down the road, within the next year or two, in the same position we are in with regard to the CAT Fund, because the governmental entity that will have the authorization of increasing these permits. If I heard the gentleman correctly, there are approximately sixteen members of the Environmental Quality Board, of which four are Members of the Legislature and six are either members of the Cabinet or are deputies, and, therefore, ten out of the sixteen members are directly attributable to either the Legislature or to the Administration and, therefore, there will be a tremendous amount of pressure put on these individuals by people who own the underground tanks not to go ahead and not to increase that fee above \$100. My fear is eventually that may fall back on us such as we are going through today with the CAT Fund. However, knowing full well that it will be impossible for those individuals who own underground tanks to be able to come up with an insurance policy of \$1 million, I support the amendment with some reservation that what may happen in the future may be totally reminiscent of what has taken place with the CAT Fund.

Senator BELL. Mr. President, I also want to congratulate the gentleman from Luzerne, Senator Musto and also the gentleman from Allegheny, Senator Fisher, for working out this

solution, because the service station operators in my district are very concerned about this problem, and they support the proposal of Senator Fisher and Senator Musto 100 percent. They are also concerned about the future, and again I support the amendment 100 per cent.

And the question recurring,
Will the Senate agree to the amendment, as amended?
It was agreed to.

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

It was agreed to.

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

SB 1399 CALLED UP OUT OF ORDER

SB 1399 (Pr. No. 2062) — Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL LAID ON THE TABLE

SB 1399 (Pr. No. 2062) — The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, further providing for judicial administration; providing for disclosure of certain information by justices, judges and justices of the peace; further providing for judicial discipline; and providing for finances and budgets.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

HB 803 CALLED UP OUT OF ORDER

HB 803 (Pr. No. 3326) — Without objection, the bill was called up out of order, from page 6 of the Second Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL LAID ON THE TABLE

HB 803 (Pr. No. 3326) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for the use of side stop signal arms on school buses.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

SB 1401 CALLED UP OUT OF ORDER

SB 1401 (Pr. No. 2063) — Without objection, the bill was called up out of order, from page 8 of the Second Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL LAID ON THE TABLE

SB 1401 (Pr. No. 2063) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the establishment of a Statewide Judicial Evaluation Commission and of County Judicial Evaluation Commissions; and providing for the powers and duties of the commissions.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

SB 1423 CALLED UP OUT OF ORDER

SB 1423 (Pr. No. 2064) — Without objection, the bill was called up out of order, from page 8 of the Second Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL LAID ON THE TABLE

SB 1423 (Pr. No. 2064) — The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, further providing for the method of selecting justices and judges; and creating judicial advisory commissions.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

BILLS WHICH HOUSE HAS NONCONCURRED IN SENATE AMENDMENTS

BILLS OVER IN ORDER

HB 212 and 854 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON CONCURRENCE IN HOUSE AMENDMENTS

BILLS OVER IN ORDER

SB 291, 1022 and 1167 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

THIRD CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 389, SB 395, HB 423, 750, SB 1171, 1344, HB 1729 and 1899 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 865 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILLS OVER IN ORDER

SB 186, HB 265, SB 435, 628, 693, 799, 816, 863, 1146, HB 1178, SB 1201, 1219, 1256, HB 1338, SB 1339, 1376, 1383, HB 1387, SB 1397, HB 1432, SB 1435 and HB 1727 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

FIRST CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 76, 188 and SB 1382 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, JUNE 22, 1988

10:00 A.M.	APPROPRIATIONS (to consider Senate Bills No. 1050, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483 and House Bills No. 2196, 2197, 2411, 2412, 2413, 2414 and 2415)	Room 461, 4th Floor Conference Rm., North Wing
10:30 A.M.	TRANSPORTATION (to consider House Bills No. 1340, 1744 and Senate Bills No. 1255 and 1425)	Room 8, Hearing Rm., East Wing
Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider House Bill No. 40 and certain executive nominations)	Rules Committee Conference Rm.
1:00 P.M.	PUBLIC HEALTH AND WELFARE (to conduct a public hearing concerning subsidized day care)	Room 8, Hearing Rm., East Wing

MONDAY, JUNE 27, 1988

1:00 P.M.	ENVIRONMENTAL RESOURCES AND ENERGY (to consider House Bill No. 1852)	Room 461, 4th Floor Conference Rm., North Wing
-----------	--	---

TUESDAY, JUNE 28, 1988

11:30 A.M.	JUDICIARY (to consider Senate Bills No. 943, 959, 1304 and 1433)	Room 8, Hearing Rm., East Wing
------------	--	--------------------------------------

WEDNESDAY, JULY 13, 1988

9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (Public Hearing on Senate Bill	Room 8, Hearing Rm., East Wing
-----------	---	--------------------------------------

No. 1295)

MONDAY, JULY 18, 1988

1:00 P.M. CONSUMER PROTECTION Room 8,
AND PROFESSIONAL Hearing Rm.,
LICENSURE (Public East Wing
Hearing on Senate Bill
No. 1262)

WEDNESDAY, AUGUST 3, 1988

9:30 A.M. CONSUMER PROTECTION Room 8,
AND PROFESSIONAL Hearing Rm.,
LICENSURE (Public East Wing
Hearing on House Bill
No. 2261)

MONDAY, AUGUST 8, 1988

1:00 P.M. CONSUMER PROTECTION Room 8,
AND PROFESSIONAL Hearing Rm.,
LICENSURE (Public East Wing
Hearing on Senate Bill
No. 1229)

WEDNESDAY, AUGUST 24, 1988

9:30 A.M. CONSUMER PROTECTION Room 8,
AND PROFESSIONAL Hearing Rm.,
LICENSURE (Public East Wing
Hearing on telephone
deregulation)

ADJOURNMENT

Senator LOEPER. Mr. President, I move the Senate do now adjourn until Wednesday, June 22, 1988, immediately following adjournment of the First Special Session.

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

LEGISLATIVE LEAVE

Senator LINCOLN. Mr. President, I would request a temporary Capitol leave for Senator Mellow.

The PRESIDENT. Senator Lincoln requests temporary Capitol leave for Senator Mellow. The Chair hears no objection. The leave will be granted.

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

Senator LINCOLN. Mr. President, there are several other very important issues on the Calendar tonight.

Senator LOEPER. Mr. President, the motion to adjourn is not debatable, I believe.

Senator LINCOLN. Mr. President, I was only going to ask for a "no" vote, I was not really going to get into a debate. I would ask that the Members of the Senate vote "no" on this motion.

And the question recurring,

Will the Senate agree to the motion?

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

YEAS—26

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

NAYS—22

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

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

The PRESIDENT. The Senate is adjourned until Wednesday, June 22, 1988, immediately following adjournment of the First Special Session.

The Senate adjourned at 7:23 p.m., Eastern Daylight Saving Time.