Veto No. 1

SB 704 March 18, 1976

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

I return herewith, without my approval, Senate Bill No. 704, Printer's No. 1562, entitled "An act amending the act of April 9, 1929 (P.L.177, No.175), entitled 'The Administrative Code of 1929,' prohibiting the assignment of personnel to circumvent appropriation limits."

Senate Bill 704 amends the Administrative Code by restricting the assignment of employees from one department to another.

At the outset, let me state flatly that I am in full agreement with the intent of this bill. The Executive Branch, as well as the other branches of government must abide by the appropriation limits set by law and should not be able to transfer employees from one agency to another solely for the purpose of avoiding appropriation limits set by the General Assembly.

This administration has had a solid record of controlling personnel procedures and in holding down the State payroll, in line with funds appropriated by the Legislature.

Just today, Standard and Poor's announced that it is maintaining its "AA" high grade rating on the Commonwealth of Pennsylvania's General Obligation Bonds.

One of the principal reasons for this action was our ability to control costs of State Government and the steps we have taken to reduce the payroll at the Department of Transportation by 1,000 and by more than 1,000 positions in departments covered by the General Fund during the past thirteen months.

The reversal of the previous pattern of State payroll growth is dramatic evidence of our determination to manage this government on a businesslike basis and to live within appropriations.

Therefore, in vetoing this bill, I do not wish to imply that my office, or this administration generally, seeks the freedom to have absolute authority over the placement of State employees.

Far from it. The record clearly demonstrates the opposite.

My reasons for vetoing the bill are as follows:

The Budget Office, the Office of Administration and the Department of Justice strongly contend that the language in Senate Bill 704 is vague to the point of not being understandable. It could cause severe restrictions which are not intended by the sponsors.

The consequences could be far reaching.

For example, the State Action Center, which receives toll free citizen calls for help from throughout the Commonwealth, is staffed primarily by individuals assigned to that office by the various departments.

Enactment of Senate Bill 704 into law could conceivably destroy the Action Center, dismantle the Hot Line and deprive our people of their

instant access to the most successful citizens' complaint service of any state in the union.

Second, as Secretary McIntosh points out so strongly, certain circumstances demand a considerable degree of assignment flexibility. Excellent cases in point are the disasters precipitated by Hurricanes Agnes and Eloise. During these disasters, had the provisions of this act been law, the government would have been handicapped in its attempts to bring relief to flood victims throughout the Commonwealth.

The imprecise language of this bill could also affect government's ability to coordinate many programs which cross departmental lines. For example, programs for our elderly citizens, for health services and for manpower training have functions placed in various departments of State Government. It is vitally necessary to have these programs coordinated. In many cases, a single individual from one department will be assigned to do this coordination.

This is authority which is essential to the efficient running of government and it is this function which Senate Bill 704, by its vague wording, would place in jeopardy.

To deprive the Executive Branch of its ability to use such a person in a coordinating capacity would damage our efforts to eliminate fragmentation and streamline services.

In short, any administration needs a certain amount of flexibility in reassigning employees for vital functions.

Senate Bill 704, as written, does not provide for such instances.

Instead it leaves the distinct possibility that such reassignments would be prohibited.

Under the circumstances, I have no choice but to veto this bill, and to ask the members of the General Assembly to support my action, in defense of the Hot Line, the emergency needs of the Commonwealth and the provision of coordinated intra-departmental services.

MILTON J. SHAPP

Veto No. 2

HB 1492 March 18, 1976

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

I return herewith, without my approval, House Bill No. 1492, Printer's No. 2568, entitled "An act amending the act of April 9, 1929 (P.L.177, No.175), entitled 'The Administrative Code of 1929,' limiting the assignment of school children."

This is the so-called "anti-busing" bill.

But it is not an anti-busing bill. Indeed, the word "busing" is never even mentioned in the bill itself.

H.B. 1492 is indeed a pro-busing bill, for it is nothing more than an anti-Human Relations Commission Bill, which would invite the Federal courts to step in and dictate the very busing program in Pennsylvania that this legislation supposedly would prevent.

On December 27th, 1974, I vetoed an almost identical bill.

Again, on July 22nd, 1975, I vetoed a similar measure.

That veto was soundly sustained by the State Senate.

Now, for the third time, let me state emphatically that the measures described in H.B. 1492 will never serve to advance the cause of education or of understanding and equality among our people.

I do not believe in Federally dictated busing forced upon our people by court order.

But that is exactly what this bill will produce.

In depriving the Human Relations Commission of its tools to find peaceful solutions for our schools, this bill would leave the proponents of integration no recourse but to appeal to the Federal courts, which would then take direct action. This would lead to a situation in Pennsylvania's cities similar to that which is now plaguing Boston.

House Bill 1492 would deprive the Human Relations Commission of every means to do its job, thereby forcing it to abandon the quiet, deliberate and effective work the commission has been doing with our communities.

As on the two previous occasions, the answer is obvious: in the interest of equal opportunity for all our citizens, for the continued maintenance of sensible compromise, and for the avoidance of Federal court dictation of forced busing, I veto House Bill 1492 and call upon the Legislature and all our citizens to cooperate with the Human Relations Commission to work out these difficult and complex problems in a spirit of understanding rather than under the dictation of the Federal courts, a course which inevitably leads to disorder and unrest.

MILTON J. SHAPP

Veto No. 3

HB 1104 May 21, 1976

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

I return herewith, without my approval, House Bill No. 1104, Printer's No. 1265, entitled "An act amending the act of April 14, 1972 (P.L.233, No.64), entitled 'The Controlled Substance, Drug, Device and Cosmetic Act,' changing a reference from drug abuser to drug dependent person."

This bill would amend section 17 of the Controlled Substance, Drug, Device and Cosmetic Act by further limiting the instances in which a court may decide to place a defendant on probation without verdict.

The effect of this legislation would be to seriously weaken a valuable drug rehabilitation program.

As presently written, probation without verdict provides a valuable tool for rehabilitating drug abusers who *have not* previously been convicted of a drug offense under Pennsylvania law or a statute of the United States or another state.

By its very terms, this section of our law is limited to first offenders.

The present law contains strict limitations as to those eligible for probation without verdict. Only a first offender who "pleads nolo contendere or guilty to, or is found guilty of, any nonviolent offense under" the Controlled Substance, Drug, Device and Cosmetic Act is eligible for such consideration.

Moreover, if that person is *charged* (but not necessarily convicted of) illegal possession of controlled substances with intent to deliver or delivery of a controlled substance (a violation of section 13 (a) (30) of the act), the person must be a *drug abuser* in order to be eligible for probation without verdict.

H.B. 1104 seeks to further limit eligibility for probation without verdict by changing the words "drug abuser" to "drug dependent person."

Section 2(a) of the Controlled Substance, Drug, Device and Cosmetic Act defines "drug dependent person" as

> "a person who is using a drug, controlled substance or alcohol, and who is in a state of psychic or physical dependence, or both, arising from administration of that drug, controlled substance or alcohol on a continuing basis. Such dependence is characterized by behavioral and other responses which include a strong compulsion to take the drug, controlled substance or alcohol on a continuing basis in order to experience its psychic effects, or to avoid the discomfort of its absence. *This definition shall include those persons commonly known as 'drug addicts'.*" (Emphasis supplied)

When the Controlled Substance, Drug, Device and Cosmetic Act was first enacted in 1972, the term "drug abuser" in section 17 was carefully chosen rather than the more restrictive "drug dependent person." The

intent was to make certain that sellers of drugs, who did not themselves have a drug problem, were ineligible for probation without verdict and to assure eligibility to those with drug problems, although not necessary "drug dependent persons."

The change in eligibility contained in H.B. 1104 does not appear justified.

If this bill becomes law, a first offender arrested while in possession of a quantity of, for example, marihuana, who is charged by the authorities with possession and possession with intent to deliver, could only be eligible for probation without verdict if he or she could prove that he or she was *addicted* to a drug. A young person in this situation, who had a drug problem stemming from experimenting with so-called "soft drugs," would be ineligible for probation without verdict.

Such a result is clearly contrary to the rehabilitative emphasis of our drug laws and would be counterproductive to Pennsylvania's efforts to help first offenders who are drug abusers, though not necessarily drug addicts.

The ills sought to be remedied by this piece of legislation are not readily apparent — while its undesirable results are only too clear.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 4

SB 11 June 4, 1976

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

I return herewith, without my approval, Senate Bill No. 11, Printer's No. 1775, entitled "An act authorizing volunteer fire, ambulance and rescue companies and members thereof to enter State premises to fight fire under certain conditions; and providing for legal advice from the Attorney General for such persons in certain cases."

This bill authorizes volunteer fire, ambulance, and rescue companies to enter property owned by the Commonwealth when requested by a state officer in charge of the premises for the purpose of fighting a fire.

This authority delineation is a proper one.

However, Senate Bill No. 11 further states that the Attorney General must provide *free* legal assistance to *any* company who is sued in *any* civil action arising from the performance of fire fighting services on State property. Further, the measure contains a retroactive effective date of January 1, 1974.

I have two major objections to this proposal.

First, Senate Bill No. 11 contains no appropriation to the Department of Justice to cover the costs of providing this service. To implement the measure the Justice Department would have to hire attorneys to represent these volunteer fire, ambulance, and rescue companies and funds for this purpose have not been budgeted.

Second, it is not a proper function of the Justice Department to defend individuals or such companies as part of an on-going program. This type of representation would set a precedent for future extensions for free legal aid to other non-profit public-service related organizations.

It is important to recognize the great service performed by volunteer companies in protecting Commonwealth property. I also recognize the great frustration volunteer companies must feel when having performed valuable services to the Commonwealth they are nonetheless subjected to suits which are sometimes frivolous and baseless.

I must emphasize that I would have no objection to a case by case review of these situations by the General Assembly. The General Assembly could then approve after careful review an appropriation to cover the necessary legal costs incurred by a volunteer fire, ambulance, or rescue company which arises out of Commonwealth fire protection services. I would have no objections to that form of reimbursement; but I cannot approve this mandate to the Attorney General to provide free legal advice in each situation.

Such a blanket policy could easily result in abuse and I therefore find it improper and inconsistent with the policies and resources of the Pennsylvania Department of Justice.

The Department of Justice serves as the legal arm of the executive branch of state government. It provides legal advice to the Governor and the various state agencies and departments. The scope of the problem presented in this bill does not warrant the creation of an entirely new function which would necessitate hiring additional personnel in the Department of Justice.

The general purpose contained in Senate Bill No. 11 of assuring adequate fire protection for Commonwealth property is certainly in the public interest and a purpose I fully support. However, a more workable mechanism is necessary in order to effectuate the Commonwealth's responsibility for legal assistance in cases of civil suit against those volunteer companies called upon to aid the Commonwealth.

For these reasons, I must disapprove Senate Bill No. 11.

MILTON J. SHAPP

Veto No. 5

HB 188 June 11, 1976

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

I return herewith, without my approval, House Bill No. 188, Printer's No. 3206, entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'Tax Reform Code of 1971,' further providing for the term 'tangible personal property' and exempting certain fish feed from the sales tax," for the following reasons:

This bill would exclude from the sales tax the sales of fish feed purchased by or on behalf of fish cooperatives or nurseries approved by the Pennsylvania Fish Commission.

This provision is ambiguous, vague and practically impossible to administer. It would also reduce revenues to the Commonwealth.

The exemption applies to "fish cooperatives" or "nurseries approved by the Pennsylvania Fish Commission." Neither of these terms are statutorily defined for purposes of qualification or limitation. Furthermore, the exemption applies to sales at retail or use "on behalf of" fish cooperatives or nurseries.

An analysis of this bill indicates that there is no limitation on the scope of the exemption or on the person to whom "fish feed" is sold. Moreover, anyone alleging that the sale or purchase of fish feed is being made "on behalf of" a fish cooperative or nursery would qualify for exemption. Clearly, no administrative procedure could be developed to cover such tax free purchases.

I note that the bill also excludes sales of energy to non-profit cooperative community housing corporations when that energy is purchased for residential use. This provision would have been a first step in clarifying that sales of steam, fuel oil, natural gas and electricity should not be taxable to individual owners of cooperatives and condominiums. Home owners and many apartment dwellers do not pay tax on these items; and it therefore seems logical that condominium owners should not pay the tax either.

I have long supported efforts to eliminate the sales tax from consumer items wherever possible. I feel the sales tax is by its very nature a regressive tax.

I hope that the General Assembly will consider a bill excluding from the sales tax energy sales to all cooperatives and condominiums in context with its impact on state revenues. However, the tax exclusion as found in House Bill No. 188 appears to be both inartfully drawn and applicable to only a very limited type of housing to the exclusion of all others.

For these reasons, I must disapprove House Bill No. 188.

MILTON J. SHAPP

Veto No. 6

SB 891 June 18, 1976

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

I return herewith, without my approval, Senate Bill No. 891, Printer's No. 1695, entitled "An act amending the act of August 9, 1955 (P.L.323, No.130), entitled 'An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto,' providing that the county commissioners shall have the sole responsibility for collective bargaining negotiations for all employes paid from the county treasury."

Senate Bill No. 891 provides, in part, that the county commissioners of each county shall have the sole power and responsibility "to represent" judges of the court of common pleas in collective bargaining negotiations for judicial employes and in representation proceedings before the Pennsylvania Labor Relations Board. The bill also gives these same powers to the county commissioners with regard to all of the employes paid from the county treasury.

I am informed by the Court Administrator of Pennsylvania that the Commonwealth Court has recently heard argument as to whether it is constitutionally permissible for the General Assembly to provide for representation of judicial employes under the Pennsylvania Public Employes Relations Act (Act 195).

Certainly, if Act 195 is held to be an unconstitutional encroachment upon the independence of the judiciary, then a statute which removes judges from the collective bargaining process must necessarily be unconstitutional. Moreover, I understand that the question of who is a judicial employe under Article V of our Constitution is also presently before the Commonwealth Court.

Under our system of government, the courts and eventually our Supreme Court are the interpreters of our Constitution. In ordinary circumstances, when a constitutional challenge is pending before our courts, the General Assembly should move slowly, and probably abstain from action, pending a definitive opinion on the question before the court.

Senate Bill No. 891 presents a clear case for legislative abstention pending judicial action.

This is especially true since efforts to implement this statute, if enacted, would prove futile at this time and for sometime in the future. I am informed that all certification activities of the Pennsylvania Labor Relations Board with regard to judicial employes have been enjoined by the Commonwealth Court pending a decision on the labor cases now before that court.

Moreover, there are certain technical drafting problems in this bill which render interpretation and implementation difficult.

For these reasons, I am convinced that the legislative process should wait until the final arbiters of our Constitution have rendered a decision. When such a final decision has been made, the Executive Branch will be happy to work with all interested parties to find an area of compromise between the various positions on this matter.

Senate Bill No. 891 is not approved for the above stated reasons.

MILTON J. SHAPP

Veto No. 7

SB 1166 June 24, 1976

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

I return herewith, without my approval, Senate Bill No. 1166, Printer's No. 1835, entitled "An act amending the act of July 28, 1953 (P.L.723, No.230), entitled 'Second Class County Code,' defining a term, providing a service increment and option benefits and changing certain retirement ages and years of service."

This bill provides for a liberalization of the Allegheny County Pension law, including a service increment provision, a survivorship option, a 10% monthly benefit increase not to exceed $45, and reduced immediate retirement benefits for persons under age sixty (60) but who have twenty (20) years of service and are dismissed.

The combination of these additional benefits will add significantly to the unfunded liability of the county's pension system, which amounted to $62.4 million as of July 1, 1974. The only provision to offset these new costs is a partial contribution that would be required of recent retirees in order to receive the increased monthly benefit. Otherwise, the assumption of these additional costs is to be borne by the county government.

It would not serve the interests of the Allegheny County government, its taxpayers or its employees to add, at this time, to the unfunded liabilities of the county pension system.

Act 293 of 1972 mandated actuarial studies of all local government pension systems, and a Department of Community Affairs analysis of these studies estimated that State-wide the unfunded liabilities of local pension systems exceed $1 billion.

I am concerned that in the case of the failure of this Allegheny County pension system or any other local pension system that the State will ultimately have to pay the bill. I might add that presently the State is providing a subsidy of local pension systems in excess of $30 million a year.

There is a need for broad reform of the fiscal and actuarial aspects of municipal employee pension systems. I note the introduction of Federal legislation to regulate municipal pension systems and a recent State proposal to provide for a pension system review commission.

There is the need in Pennsylvania for the creation of a mechanism at the State level that can provide fair and objective analysis of specific legislative recommendations as well as provide a general overview of the municipal pension field. Proposals to provide such a mechanism deserve the full attention of the Pennsylvania General Assembly.

I encourage the General Assembly to join me in a moratorium on legislative changes to municipal pension benefits, such as those envisioned in Senate Bill No. 1166, until such time as we can create an appropriate vehicle that will effectively monitor and comprehensively review

Pennsylvania's various pension systems.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 8

SB 1542 June 28, 1976

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

I return herewith, without my approval, Senate Bill No. 1542, Printer's No. 2068, entitled "An act relating to the fiscal affairs of the Commonwealth concerning duties of the Governor, the Secretary of Revenue and the Budget Secretary, with respect to the submission of and signing the budget for any fiscal year; and, after a budget is enacted, regulating the issuance of warrants by the State Treasurer for certain requisitioned funds and imposing duties on persons authorized by law to issue requisitions for the payment of moneys from the State Treasury; and prescribing that Federal funds received by the Commonwealth shall be deposited in the General Fund account with certain exceptions."

If the funding principle embodied in Senate Bill No. 1542 were to prevail, it would totally hamstring Pennsylvania's ability to utilize and acquire Federal funds.

It would virtually destroy the flexibility of every level of government in this State to seek out, and then use, Federal money creatively and effectively.

The issue in Senate Bill No. 1542 is not the actual appropriation of Federal funds by the General Assembly. That issue will be resolved only when the General Assembly acts upon a Federal funding bill on a line by line basis.

It is my belief that Federal funds can only be appropriated by the United States Congress and that those funds are earmarked directly for the agencies and programs embodied in Federal legislation and regulations.

I believe strongly that my position will prevail.

But, until it does, Senate Bill No. 1542 would cause havoc in the interim period between its enactment and a final resolution of the Federal funding issue.

Even worse, if my position does not prevail, Senate Bill No. 1542 could cause even greater havoc over the long term if it becomes law.

Members of the General Assembly, on both sides of the aisle, have often urged both State and local governments to accelerate their quest for additional Federal funds.

I am well aware that there is a difference of opinion among professional budget analysts concerning the impact of this bill. Some believe that, if the General Assembly sets up restricted accounts or resorts to other legislative devices, pass through Federal funds could flow to local communities uninterrupted by the strictures of Senate Bill No. 1542.

But it would take many months to set up those accounts by legislation, a costly, tedious and time-consuming process. In the intervening period of time, the very evils which I have described would take effect for all Federal funding, State and local.

If, in the meantime, the General Assembly's viewpoint were to prevail in the courts that they have an absolute right to appropriate Federal funds on a line by line basis — a position I disagree with — there will be no avoiding the fact that, in one way or another, all Federal funds, State and local, which pass through the State Treasury, must be appropriated by the General Assembly if Senate Bill No. 1542 becomes law.

Therefore, the members of the General Assembly should consider very carefully whether they want to be responsible to every local community, school board and governmental agency which will come to them with desperate and legitimate complaints about the failure of Federal funds to flow to their projects.

It will be the grave responsibility of each member of the General Assembly who votes to override this veto, to explain to his or her own people on the local level why the money isn't there.

Indeed, the situation could become so critical that I might have no recourse as a responsible Governor than to call the General Assembly into repeated special sessions to pass every dollar of overlooked or unanticipated Federal money and to set up, one by one, the hundred or so restricted receipt accounts which must be carefully and meticulously drawn up for the sole purpose of getting around Senate Bill No. 1542.

This is the last thing I would want to do.

But I will not sit by and watch Federal funds go elsewhere or get logjammed on their way to our local communities because of the stringent and restrictive features of Senate Bill No. 1542.

I urge the General Assembly to sustain my veto of this bill. Let's not block the mechanism whereby Federal funds continue to flow even if we do disagree on the line by line appropriations bill itself.

There is no member of the General Assembly who wants to spend the summer months explaining why Federal funds are not moving to the local level because of his or her vote.

For these reasons, I am returning, without my signature, Senate Bill No. 1542, and urge the General Assembly to sustain my position in the general public interest.

MILTON J. SHAPP

Veto No. 9

SB 675 July 9, 1976

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

I return herewith, without my approval, Senate Bill No. 675, Printer's No. 2078, entitled "An act amending the act of August 31, 1971 (P.L.398, No.96), entitled 'County Pension Law,' further defining regular interest, further providing for simultaneous payments of salary and retirement benefits and providing for subsequent admissions to the system."

The bill amends the County Pension Law, Act No. 96 of 1971, which affects class 2-A through eighth class counties.

There are three changes which Senate Bill No. 675 would make to existing law, and their interaction will result in a substantial liberalization of the County Pension Law.

Specifically, the proposed amendments would:

1. Provide that the retirement board may establish an interest rate for member contributions higher than 4% (presently mandated by the statute) but not to exceed 5-½%.
2. Expands from thirty to ninety days the number of days in which a retired employe may work for the county on a per diem basis and not be deemed re-employed; and thus eligible both for per diem compensation and retirement benefits.
3. Would allow row officers and expanded "grace period" in joining the pension system, extending right up to their last day in office in any one term, provided that they pay in all sums that would have been deducted plus interest in the range of 4% to 5-½%. Presently, county officers have a one-year grace period.

Although the first proposed amendment moves in the proper direction, objective observation cannot fail to note that the final two items are flagrant giveaways.

Under the provisions of 2, employes drawing county pensions could work as consultants and thereby receive both pension benefits and a salary. Additionally, extending the thirty-day per diem limit to ninety days would enable a retired worker to be on the payroll for 180 half-days, which is more than half the number of working days in any one year. At the current rate for clerical or professional employes, the additional income in this ninety-day period could range from between $4,000 to $8,000 per year and more.

Under the provisions of 3, a first-term county row officer would have the option of waiting until after election day to see if he has been re-elected to a second term before joining the system. Obviously, it would be worth his while to accumulate eight years of pension benefits, while it might not be worth his while to have only four years of pension benefits.

I find this legislation unacceptable. As I stated in my veto message for Senate Bill No. 1166, it is time to halt the increasing burden in our county and State pension systems, or else the danger exists that our pension systems will become increasingly unsound fiscally.

I again call upon the General Assembly to join me in a moratorium on legislative changes to municipal and State pension benefits until such time as we can create an effective mechanism to analyze proposed changes to the State's municipal pension systems.

As we see around the Country, the potential for fiscal collapse of pension systems from the sheer burden of new and more generous benefits for pensioners is like a time bomb ready to detonate. I shall continue to veto measures like Senate Bill No. 675 until such time as we are better equipped to evaluate these proposed changes to pension laws.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 10

HB 314 July 9, 1976

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

I return herewith, without my approval, House Bill No. 314, Printer's No. 3549, entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'Tax Reform Code of 1971,' further defining 'dividends' and 'compensation,' and providing for taxation as personal income on installment payments of real and personal property and further providing for tax returns."

House Bill No. 314, if enacted, would almost certainly result in substantial loss of revenues, a finding of unconstitutionality and extreme administrative burdens. For these reasons, I cannot approve its enactment.

House Bill No. 314, Printer's No. 3549, would amend the Personal Income Tax portion of the Tax Reform Code in four areas:

SPECIAL TAX PROVISIONS - NO RETURN REQUIRED. The proposed amendment to section 330 would provide that "no return shall be required if the taxpayer has no tax due by reason of application of special tax provisions." While at first glance, this would appear to be a common sense approach, there are insoluble difficulties in its implementation. The Special Tax Provision is a "credit" rather than an "exclusionary" mechanism. *Only* by completing a tax return can the Special Tax Provision be applied. Under the law, any person who receives taxable income is liable for payment of the tax. The Special Tax Provision is one of several ways of establishing full or partial *credit* against the payment of the self-determined tax liability; therefore, this Special Tax Provision credit *cannot* be applied where no return is filed. Unless a claim for this credit is made on the tax return, the Department of Revenue would have no control over the authentication of claims for the credit. There is every reason to believe that numerous taxpayers would incorrectly or wrongfully assume their eligibility for the Special Tax Provision credit and fail to file a return. This provision alone would be so subject to abuse that it could result in a substantial loss of revenues. In addition, the Department of Revenue would be deprived of certain basic information and statistics which are absolutely necessary in the estimation of revenues, determination of distribution of income and the total amount and number of taxpayers eligible for the Special Tax Provision tax credit.

UNREIMBURSED EXPENSES EXCLUDED FROM COMPENSATION. The proposed amendment to section 301 (b) would exclude from the definition of the term "compensation" any and all "reasonable and necessary actual expenses expended pursuant to the production of income and not otherwise reimbursed." I note that this language results from an amendment included by the Conference Committee; however, rather than answer the criticisms directed at the

previous language for its ambiguity, this amendment results in even more potential for abuse and is therefore subject to even greater loss of revenues than was the previous language. In addition, it is far more likely to be found unconstitutional by the Supreme Court. This, of course, will benefit no one.

I recognize that there are certain individuals in the Commonwealth who face the difficulty sought to be resolved by House Bill No. 314, that is, they are W-2 wage or salary earners who must expend a portion of their W-2 income in the production of that income without being reimbursed. The Tax Reform Code makes no provision for the deduction or exclusion of unreimbursed expenses. The primary difficulty in providing for the exclusion of these unreimbursed expenses is that such provisions invariably run afoul of the court's pronouncements regarding uniformity of tax laws. This, of course, is the same stumbling block which stands in the way of the far more progressive graduated income tax which I have proposed on numerous occasions.

As I am sure you will recall, the Supreme Court of Pennsylvania found the original Personal Income Tax Law unconstitutional in *Amidon vs. Kane* in which the court stated in part, "natural persons, on the other hand, cannot be likened to profit maximizing entities. Individuals spend their resources for an infinite variety of reasons unrelated to the making of a 'profit.' Thus, unlike the corporate context, *it would be exceedingly difficult, if not impossible to create a Personal Income Tax designed to take into account the 'cost' of producing individual income.*"

The Commonwealth Court recently explained that allowing a deduction for unreimbursed expenses would impose a tax only upon spendable compensation as opposed to a tax on gross income which is the foundation of the Personal Income Tax system. The proposed change in the definition of "compensation" would necessitate the creation of an additional classification of compensation. Such a classification would constitute an unreasonable and impractical one in that it would benefit the unreimbursed employe over one who is reimbursed by his company since the former would have control over what constitutes "necessary" and "reasonable." This, in turn, would further exacerbate the non-uniformity of this particular provision.

I note that most of the terms used in this short amendatory provision are virtually incapable of being adequately defined. It is this inherent ambiguity which results in such a tremendous potential for abuse that the category of income known as "compensation" could theoretically be eliminated as a portion of the Personal Income Tax base. This, of course, would severely decrease General Fund revenues.

Furthermore, in view of the virtual certainty that the Supreme Court will find this provision unconstitutional as soon as it is challenged, a serious question arises as to whether the enactment of this measure into law, because of the benefits which may result, is such a futile act that it should not be undertaken.

INSTALLMENT SALES. The proposed amendment to section 303 (a) would provide that "in the case of installment sales of real or personal property the taxable gain recognized in any year shall be that portion of the total gain that the installment payment in any such year bears to the total sales price to be paid over the entire installment period." While the Internal Revenue Service has a similar provision with regard to the Federal Income Tax, it must be remembered that there is no requirement of uniformity in the Federal system. Furthermore, the Internal Revenue Code and the Internal Revenue Service regulations, contain numerous guidelines which set forth precisely how this provision is implemented on the Federal level. There are no guidelines in House Bill No. 314 which would allow the Department of Revenue to accurately and equitably administer this provision. The lack of definition and clarity would render this amendment virtually impossible to implement.

Because of the potential for substantial revenue loss as a result of fraud arising from the proposed changes in the Personal Income Tax and the other reasons given above, I return herewith, without my approval, House Bill No. 314, Printer's No. 3549.

MILTON J. SHAPP

Veto No. 11

HB 605 July 9, 1976

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

I return herewith, without my approval, House Bill No. 605, Printer's No. 3087, entitled "An act amending the act of March 16, 1970 (P.L.180, No.69), entitled 'An act relating to State taxation; changing the manner in which tentative and annual taxes are to be paid; providing a penalty in certain cases; and making a repealer,' further providing for a revision in the method of reporting, for additional tax and interest, for the underpayment of annual and quarterly taxes, for removing additional tax for understatement, and for the quarterly reporting and payment of the tentative Corporate Net Income Tax and Corporation Income Tax."

This bill would:

1. Permit the quarterly payment of Corporate Net Income Tax and Corporation Income Tax.

2. Provide that the last filed annual tax report (rather than the immediate prior year's report) would be the basis for determining the 90% prepayment for those paying various corporation taxes as currently provided, and,

3. Remove the 10% addition to tax (penalty) for understatement and impose the same "penalty" for underpayment of the tax.

4. Take effect with regard to 1 above for tax periods beginning January 1, 1978, and with regard to 2 and 3 above, immediately.

At the outset, I strongly favor, and would approve, those provisions referred to in 2 and 3 above. However, I cannot at this time approve the quarterly payment.

If House Bill No. 605 becomes law, it would be necessary to reduce annual revenue estimates beginning with fiscal year 1977-78. It has been estimated that enactment of House Bill No. 605 would result in the following loss of revenues to the fiscal years listed below.

Fiscal Year	Estimated Revenue Loss
1977-78	$67.5 million
1978-79	$63.1 million
1979-80	$82.5 million
1980-81	$82.1 million
4-year total revenue loss	$295.2 million

The Commonwealth of Pennsylvania simply cannot sustain such a substantial delay of tax revenues which would reduce our funds available for appropriation in each of the next four fiscal years.

This reduction would hit the Commonwealth at a very critical time.

We are faced in our next budget, which will be presented in January, with deepening fiscal problems, especially those involving the public schools. Our needs will increase substantially while this bill, if approved, would reduce the funds available for appropriation by nearly $300 million over the next four years. I believe any change in the 90 percent prepayment must be done in the context of a complete tax revision.

I fully recognize the need and justification for some type of relief. The prepayment law was passed by previous administrations to balance past budgets, but the overriding consideration now is the fiscal solvency of the Commonwealth. A bill of this kind at this time and under the circumstances we face would jeopardize that solvency, or force the State to raise taxes to make up the deficiency. In all likelihood, since corporation taxes now account for about 26% of the total tax receipts of the State (which is substantially below the 30% which Governor Scranton declared was the ideal level) the tax increase necessitated by such action would be levied against corporations anyway, and the net cash savings to corporations in any given year would be negated.

I cannot approve the implementation of the quarterly payment of the Corporate Net Income and Corporation Income Tax as provided in this bill.

For these reasons, I return House Bill No. 605 without my approval.

MILTON J. SHAPP

Veto No. 12

HB 835 July 9, 1976

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

I return herewith, without my approval, House Bill No. 835, Printer's No. 2647, entitled "An act amending the act of May 22, 1935 (P.L.233, No.99), entitled 'An act creating and establishing a fund for the care, maintenance, and relief of aged, retired, and disabled employees of the Bureau of Police in cities of the second class; providing a pension fund for said employees; and providing for the payment of certain dues, fees, assessments, fines, and appropriations thereto; regulating membership therein; creating a board for the management thereof; providing the amount, mode, and manner of payment to beneficiaries thereof, and for the care and disposition of said fund; providing for the payment into this fund by cities of the second class of all monies heretofore payable into any other funds, organizations, corporations, or associations having the same or similar purposes, and of such additional monies as may be necessary to carry out the provisions of this act,' further providing for disability benefits."

This bill amends the Pittsburgh Police Pension Fund to provide that an employee may retire with a full pension for a non-service connected disability immediately upon becoming a member of the pension system. Presently, the law requires that an employee must have served at least 10 years before they may become eligible for a non-service connected disability pension.

This is an extraordinarily generous provision which will inevitably be abused. For example, a rookie officer in his first day of service could disable himself in an accident at home, retire at full pension (which is equal to one-half of annual salary), and subsequently, under the survivorship benefits of this law, have his wife receive these benefits after his death.

I hasten to point out that this veto in no way affects the awarding of pensions to officers disabled in the line of duty. A rookie who was shot or otherwise disabled on his first day on the force is presently and will continue to be eligible for a full disability pension.

While it may be reasonable to reduce the 10-year service requirement for non-service connected pensions, it is totally unreasonable to eliminate any service requirement. We note that the Social Security System requires at least 5 years of membership for receipt of a disability pension.

House Bill No. 835 provides for additional benefits under one of the three pension systems maintained by the City of Pittsburgh. The total unfunded liabilities of the City's pension systems approximate $300 million. In addition, this particular police pension system functions on a pay as you go basis; it has practically no assets and pays retirement benefits out of the contributions of active members. Such a seriously under-funded

system cannot afford to have additional benefits heaped upon it that only increase this unfunded liability.

Once again, I urge the General Assembly to join me in a moratorium on municipal pension legislation until we can create an effective mechanism to analyze the full impact of such legislation and to make proposals for the broad reforms that are so necessary. When a Pennsylvania municipal pension system fails, it is the State that is going to have to pay the bill.

Therefore, in the interests of sound fiscal management and the long-range protection of those pensioners benefiting from the existing pension system in Pittsburgh, I must disapprove this bill.

MILTON J. SHAPP

Veto No. 13

HB 856 July 9, 1976

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

I return herewith, without my approval, House Bill No. 856, Printer's No. 3496, entitled "An act amending the act of June 1, 1956 (P.L.1959, No.657), entitled, as amended, 'An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the County Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain state officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts,' making a change relating to time of payment, providing a procedure for changing mileage."

The main purpose of this bill is to enact into statutory law the Report of the Commonwealth Compensation Commission of November 30, 1972 in so far as it affected the salaries and expenses of the General Assembly.

I am of the opinion that this is an appropriate action because it enables a person seeking this information to find it in the statutes of the Commonwealth.

The bill, however, makes one significant change in the Report which convinces me to veto it. Rather than adopting the mileage allotment recommended by the Commission, or even a different amount, it bases that expense on the rate established by the Internal Revenue Service from time to time. I find this impermissible for the following reasons.

Any such delegation to a non-State agency always raises constitutional questions, such as in the case of the first personal income tax act in Pennsylvania.

The delegation is to a Federal rather than a State agency.

The purpose of the Internal Revenue Service rule is different than the purpose for mileage reimbursement to a member of the General Assembly. The former is expense oriented; the latter requires no expense at all, but is rather related to time and distance traveled.

I would approve a bill that merely codifies the report of the Commission, but I cannot approve this bill which, by relying on a standard over which the people of the Commonwealth have no control, is certainly contrary to the spirit, if not the letter, of our Constitution, which allows members of the General Assembly such mileage "as shall be fixed by law."

Furthermore, this legislation could establish a precedent that could spread to local government officials and remove from public scrutiny the true cost of their mileage reimbursement.

And, in this case too, such legislation would remove accountability to an appointed agency in Washington, far removed from the electors of

Pennsylvania who are footing the bill.

For these reasons, I must disapprove House Bill No. 856.

MILTON J. SHAPP

Veto No. 14

HB 1752 July 9, 1976

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

I return herewith, without my approval, House Bill No. 1752, Printer's No. 2654, entitled "An act authorizing the Department of Property and Supplies, with the approval of the Governor and the Department of Environmental Resources, to convey a tract of land in Lower Yoder Township, Cambria County, in exchange for another tract located in the same township.

I hereby return House Bill No. 1752 without my signature pending further investigation regarding transfer of mineral rights on the tracts involved.

For this reason, the bill is not approved.

MILTON J. SHAPP

Veto No. 15

HB 1858 July 9, 1976

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

I return herewith, without my approval, House Bill No. 1858, Printer's No. 2382, entitled "An act amending the act of August 1, 1975 (No.87), entitled 'An act relating to pensions for employees of the City of Pittsburgh,' authorizing members to purchase credit for military service and clarifying the effective date of the act."

This bill provides for the inclusion of a military buy-back provision in the nonuniform Employee Pension Law of the City of Pittsburgh (Act 87, of 1975). The bill would allow an employee to purchase full credit for up to three years of nonintervening military service, after payment of 5% of the salary or wages he would have earned during the military service, plus an interest rate of 5% paid on this sum.

This is a considerable liberalization of the pension law, which at present only allows for crediting of intervening military service. We are advised that some 56% of the present 2,500 employees covered by this system are veterans and could theoretically avail themselves of this benefit. Therefore, at the present contribution rate of the City, the City could be required to provide up to an additional $4 million in City contributions. In addition, the unfunded liabilities of this system, which now stand in excess of $100 million, will potentially be increased by another $20 million if House Bill No. 1858 becomes law and this benefit is granted.

The City of Pittsburgh currently has the State's largest total unfunded liability among its three municipal employee pension systems. State mandated actuarial studies completed in 1974 showed the City's total unfunded liability to be in excess of $250 million. I am advised by the City that this amount has increased to some $300 million. In addition, one of the City's pension systems is still on a pay as you go basis. It has practically no reserves and pays retirees directly from the contributions of active members.

Once again, I call to the attention of the General Assembly the obvious fact that in the event of the failure of this or any other municipal pension system, it is the State that will ultimately have to pay the bill. Once again, I call on the General Assembly to join me in a moratorium on legislative changes to municipal pension benefits until such time as we can create a mechanism to accurately analyze proposed legislation and make specific recommendations to strengthen the State's municipal pension system.

Until a review commission or other similar agency is created, I will continue to veto all pension benefit legislation, regardless of how beneficial it seems to be to pensioners. This must be done to protect those persons for whom the pension fund was created.

MILTON J. SHAPP

Veto No. 16

HB 2142 July 9, 1976

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

I return herewith, without my approval, House Bill No. 2142, Printer's No. 3408, entitled "An act amending the act of May 20, 1937 (P.L.728, No.193), entitled 'An act providing for the creation of a Board of Arbitration of Claims arising from contracts with the Commonwealth; providing for and regulating the procedure in prosecuting claims before such board; defining the powers of the board; and fixing the compensation of members and employes thereof; providing that the awards of such board shall be final; providing for the payment of awards; and authorizing an appropriation,' changing the title of the board and its members; transferring certain additional jurisdiction to the court; making certain repeals; increasing the terms of court members; further providing for the compensation of court members; providing for hearing panels and for additional expenses; changing procedures for transcripts; providing for the disposition of written complaints and providing for appeals to go to the Commonwealth Court."

This bill is the latest attempt to consolidate the various administrative boards which currently hear various types of contract claims against the Commonwealth.

There has long been a need to establish one adjudicative body to decide all disputes arising out of contracts between the Commonwealth and private citizens and corporations. Although House Bill No. 2142 embodies many reforms which this administration supports, the bill is defective in several important respects.

One of the most serious problems with the current arbitration system is the serious backlog of cases. For this reason it is essential that the members of the panel be full-time employes. House Bill No. 2142 has no requirement for full-time service.

Not only should the court members serve full-time, but they should also all be individuals learned in the law. The proposed Court of Claims is charged with the exercise of adjudicative duties and functions requiring essential legal expertise. Legal questions are decided best by those learned in the law. Adequate provision for the utilization of expert witnesses and consultants, and staff support personnel would assure a complete and balanced flow of information to the Court of Claims.

The bill places the court within the Department of the Auditor General. It is my feeling that a quasi-judicial body such as the Court of Claims, charged with the responsibility to decide questions which invariably involve conflicting departmental interests and claims must be an independent administrative entity within the Executive Branch. Only then can we be assured of the future value and viability of this court.

I feel that I must reiterate my belief in the necessity for remedial legislation in this area. I urge the General Assembly to work with my administration in developing a comprehensive bill reforming the Commonwealth contract arbitration procedure.

For the above reasons, I am returning without my signature House Bill No. 2142.

MILTON J. SHAPP

Veto No. 17

HB 2353 July 9, 1976

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

I return herewith, without my approval, House Bill No. 2353, Printer's No. 3146, entitled "An act amending the act of May 11, 1889 (P.L.188, No.210), entitled 'A further supplement to an act, entitled, "An act to establish a board of wardens for the Port of Philadelphia, and for the regulation of pilots and pilotage, and for other purposes," approved March twenty-ninth, one thousand eight hundred and three, and for regulating the rates of pilotage and number of pilots,' further regulating the rates of pilotage and class of pilots."

This bill, which purports to increase the fee for piloting ships on the Delaware River, is apparently misdrafted as it in fact reduces the fee.

This bill does not express the manifest intent of the Legislature.

I wish to note at this time that I have recently signed legislation to provide that some foreign based automobile manufacturers must use Pennsylvania ports under certain circumstances. If this pilotage fee bill is returned to me, I must emphasize that it must provide for competitive rates so as not to jeopardize the continued vitality of Pennsylvania commerce.

For these reasons, I return House Bill No. 2353 without my approval.

MILTON J. SHAPP

Veto No. 18

HB 2464 July 9, 1976

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

I return herewith, without my approval House Bill No. 2464, Printer's No. 3476, entitled "An act amending the act of December 15, 1959 (P.L.1779, No.673), entitled, as amended, 'The Fish Law of 1959,' permitting temporary obstruction of fishways."

This bill would permit the obstruction of Pennsylvania waterways for the purpose of preventing the passage of fish.

This measure presents many possibilities and potentials for abuse.

Its provisions would allow any organized sportsmen's club in existence for a period of one year or more to obstruct the passage of fish for a period of forty-eight hours by simply giving written notice to the Pennsylvania Fish Commission.

I find this authorization to obstruct fishways to be unacceptable. I believe our existing law is adequate and proper regarding fishing in Pennsylvania and I see no reason to allow this bill to become law.

For these reasons this bill is not approved.

MILTON J. SHAPP

Veto No. 19

HB 861 November 26, 1976

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 861, Printer's No. 3822, entitled "An act amending the act of December 22, 1959 (P.L.1978, No.728), entitled, as amended, 'An act providing for and regulating harness racing with parimutuel wagering on the results thereof; creating the State Harness Racing Commission as a departmental administrative commission within the Department of Agriculture and defining its powers and duties; providing for the establishment and operation of harness racing plants subject to local option; imposing taxes on revenues of such plants; disposing of all moneys received by the commission and all moneys collected from the taxes; authorizing penalties; and making appropriations,' changing a penalty; changing the rate of tax; providing for exotic wagers and further providing for its disposition."

This bill amends the Harness Racing Law by altering the rate of tax, providing for exotic wagers, and imposing a tax thereon, and altering the disposition of all moneys collected from the taxes.

Specifically, this measure will cause the Harness Racing Fund to sustain an estimated loss of $588,000 annually as a result of reducing the tax for the Fund from 1.5% to 1.25% in first class school districts, and from 5.5% to 5.25% in other school districts.

Also, this bill imposes a substantial new tax of 8% on the wagering public in one "exotic" wagering event during each racing day.

This tax or any other additional levy potentially drives away some wagers, thus serving to reduce the total handle. It is most important that any additional tax should serve some clear public purpose. This bill distributes 3% of the new 8% tax to the Harness Racing Associations and 5% to the Sire Stakes Fund. The amount going to the Sire Stakes Fund creates a windfall of about $1.5 million, more than doubling the revenue to that limited purpose fund.

None of the proceeds go to the Harness Racing Fund to support Commonwealth programs.

In fact, the bill will reduce the amount of money going to the Department of Commerce for the community facilities program. The effect of this change is to reduce revenue by approximately $100,000 annually for this important program which aids our local governments in their industrial development efforts.

My Administration will be willing to consider legislation which reflects the legitimate needs of the Harness Racing industry while recognizing the importance of fully protecting the fiscal integrity of our Commonwealth programs.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 20

HB 2363 December 2, 1976

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 2363, Printer's No. 3725, entitled "An act relating to the implementation of the emergency telephone number '911'; providing a title; providing an intent; providing for a State plan; providing a system director; providing for telephone industry coordination; providing for coin telephone conversion; providing for system approval; and providing an appropriation."

This bill seeks to implement a Statewide emergency telephone number system. I firmly believe that a simplified means of procuring emergency services will result in the saving of lives, reduction of damage to property, and swifter apprehension of criminals.

However, I must withhold my approval of this legislation.

Section 11 of this bill provides that the director of a newly created telecommunications management agency "shall not spend or encumber any Federal funds until they have been appropriated by act of the General Assembly for the purposes of this act."

I have repeatedly stated that the General Assembly has no right to "appropriate" Federal moneys contrary to Federal law. Since Section 11 is, I believe, unconstitutional, I must withhold my approval of this bill.

During the next legislative session, I will propose new legislation to provide for the proper implementation of the 911 system.

I fully support efforts to implement this system. I am also hopeful that this legislation will be approved by the General Assembly prior to July 1, 1977, so that the implementation effective date sought to be achieved by House Bill No. 2363 will be enacted into law.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 21

HB 2387 December 2, 1976

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 2387, Printer's No. 3210, entitled "An act reenacting and amending the act of September 29, 1951 (P.L.1615, No.414), entitled 'An act to authorize the Secretary of Public Assistance of the Commonwealth of Pennsylvania to apply to the Secretary of Agriculture of the United States for the return of assets of the former Pennsylvania Rural Rehabilitation Corporation, to receive, deposit and administer such assets for rural rehabilitation or other authorized purposes, and to enter into agreements with the Secretary of Agriculture of the United States with respect to the future administration of said assets,' transferring functions and duties to the Department of Agriculture and creating a Policy Committee to allocate the funds."

This bill is intended to reenact and amend present law affecting the assets of the former Pennsylvania Rural Rehabilitation Corporation and to transfer the functions and duties with respect thereto from the Secretary of Public Welfare to the Department of Agriculture. It would create a Policy Committee consisting of four members of the General Assembly, the Secretary of Agriculture, and two members to be appointed by the Secretary who would elect from among them a chairman. The Policy Committee would determine the expenditure and use of the Federal funds received under this act.

On December 27, 1974, I vetoed House Bill No. 516, which is almost identical to House Bill No. 2387.

On July 25, 1975, I vetoed House Bill No. 212, which is almost identical to House Bill No. 2387.

In each instance, I articulated my objections to the legislation in my veto message. In each instance, my veto was sustained by the General Assembly.

House Bill No. 2387 is now before me in substantially the same form as the two bills I vetoed previously. This measure unconstitutionally usurps the powers of the executive branch of government by placing members of the General Assembly in a position to make decisions in the operation of executive departments.

Article IV, section 2 of the Pennsylvania Constitution provides that "the supreme executive power shall be vested in the Governor," not in the Legislature. The separation of powers is a distinctive feature of our system of constitutional government. Under it, the Supreme Court of Pennsylvania has consistently guarded the independence of the several branches of government. As Governor, I cannot assent to a bill which limits the authority of the executive branch to manage the daily affairs of government.

The funds in question are to be used for rural rehabilitation and must be expended in accordance with narrow limits set forth in Federal statutes and

guidelines. The program is currently being administered by the Secretary of Public Welfare, and no compelling need for a policy committee has been shown. I see no cogent reason for such a committee if the program is to be transferred to the Department of Agriculture.

I should also note that my disapproval of this bill in no way affects the continuing operation of this Federal program. Those citizens who have benefitted in the past by this program will continue to do so. In contrast, the implementation of this bill would doubtlessly be challenged in the courts. Such lengthy court proceedings would seriously disrupt the vital services which the program now provides. This situation would not be in the best interests of the Commonwealth.

For these reasons, I must disapprove House Bill No. 2387.

MILTON J. SHAPP

Veto No. 22

SB 1430 December 9, 1976

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 1430, Printer's No. 2136, entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further defining the offense of obscenity, redefining obscene, and further providing for injunctions."

Our society continues to be faced with a flood of obscene material which is frequently forced on our citizens by offensive public display. I again reaffirm my position in favor of legislation which will alleviate this situation. I again urge the enactment of laws to constitutionally limit dissemination of offensive materials to minors.

I will not, however, approve legislation which directly assaults constitutional rights. Freedom of expression is a basic human right and I will continue to oppose legislation which limits First Amendment guarantees.

This is not the first time, as Governor, I have faced the issues presented in Senate Bill No. 1430.

On March 1, 1974, in vetoing Senate Bill No. 737, another so-called anti-obscenity bill, I stated that "it would be virtually impossible to conjure up a more certainly unconstitutional bill than Senate Bill No. 737."

I also stated, in my veto of Senate Bill No. 737, that "The General Assembly, acting in haste, has created a patchwork crazy quilt of constitutional infirmities that, if enacted, would retard legitimate controls on obscenity for years, while lawyers argued over its mistakes in court."

More than two and one half years later, the General Assembly has again passed a bill, Senate Bill No. 1430, which contains three of the provisions I stated were unconstitutional in my March 1, 1974, veto of Senate Bill No. 737.

The Attorney General has informed me that the passage of time has not made these provisions constitutional.

In his opinion as to the constitutionality of Senate Bill No. 1430, the Attorney General states that the bill is unconstitutional because it: (1) permits seizure of allegedly obscene materials in bulk without a prior hearing; and (2) could have the effect either of barring access of minors to legitimate book stores or of admitting minors but of limiting the display of materials only to those permitted under this bill to be displayed to minors. Additionally, the bill raises a serious question of constitutionality by authorizing the uncompensated destruction of materials seized pursuant to a civil proceeding.

I will not approve a bill with clearly unconstitutional provisions. This is especially true where, as here, First Amendment protections are threatened by the provisions of Senate Bill No. 1430.

For these reasons, this bill is not approved.

MILTON J. SHAPP

Veto No. 23

HB 2265 December 9, 1976

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 2265, Printer's No. 3761, entitled "An act relating to the rights of grandparents to visit their grandchildren in certain cases."

This bill provides that grandparents may petition a court of common pleas for a writ of habeas corpus granting them reasonable visitation rights with their grandchildren, even in cases where the child is not in the custody of both parents.

I am keenly aware of the great love that often exists between grandparents and grandchildren. I have the greatest sympathy for grandparents, who, for some reason, are deprived of the companionship of their grandchildren. However, I do not believe that this bill will in any way further the best interests of either the grandparents, the grandchildren, or the family unit as a whole.

House Bill No. 2265 seemingly grants greater rights to grandparents than are presently accorded the parents themselves. This is completely contrary to Pennsylvania law, which recognizes the primacy of the parent-child relationship.

The bill is overbroad in its scope. It not only encompasses cases where the parents are divorced or separated, or where one parent is deceased, but would include situations where a child has been adopted. To permit a court-ordered visitation in such a situation would surely be disruptive of the adoptive family unit.

In addition, I hesitate to sign any bill that would encourage litigation among the family unit. While this bill is basically a codification of existing case law, its enactment could encourage the institution of lawsuits by one member of a family against another. The health and welfare of a child must not be jeopardized by subjecting him to a crossfire of legal maneuverings over custody and visitation rights.

It is also clear that a parent's obligation to allow grandparents visitation is a moral, and not a legal, right. This right should be enforced amicably, by agreement of the private parties concerned, and not forcefully, through legal action. Court action could hinder parental authority and force a child to choose sides in a family dispute that he never wanted in the first place.

In the interest of preserving the family unit and preventing intra-familial litigation, I am therefore vetoing House Bill No. 2265. I believe the subject matter of the bill does not lend itself to legislative action, and that the resolution of the issue involved here is best left to the private arena.

For these reasons, this bill is not approved.

MILTON J. SHAPP

Veto No. 24

HB 1932 December 10, 1976

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1932, Printer's No. 3629, entitled, "An act amending the act of December 31, 1965 (P.L.1257, No.511), entitled 'An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court,' further providing for exemptions from taxation and requiring reports by collectors of certain taxes."

This bill would provide an exemption from the Pennsylvania Amusement Taxes for bowling alleys.

By exempting all bowling alleys from the local amusement tax, municipalities could be forced to raise other local taxes to replace these lost revenues. For example, in Montgomery County, projected losses from this proposed amusement tax exemption will exceed $100,000 per year.

These taxes will have to be made up by increases in other local taxes which will affect a broader base of citizens.

It should be pointed out that under present law local governments which impose the amusement tax can, if they desire, exempt bowling alleys from paying the tax. The decision whether or not to exempt the bowling alleys is best left to local discretion.

The need to reform and update Pennsylvania's local taxes is well-documented.

House Bill No. 1932 contains two provisions which represent laudable tax reform. They are a prohibition against local political subdivisions from levying occupation and occupational privilege taxes on housewives and others who are not employed or have no income from occupations; and the exclusion of social security income and retirement benefits from the determination of total income.

It is regrettable that these provisions could not have been approved by the General Assembly in a separate bill. I would approve such a bill.

I am hopeful that during the 1977 legislative session considerable attention will be given to the need for reform of our local tax enabling laws. The tax reform provisions outlined above should be included with other needed legislative reforms in this important area.

However, because the amusement tax exemption for bowling alleys represents a total Statewide exclusion from a tax without either a local option to initiate such a tax exemption, or a proposal to replace revenues lost to local governments by this exemption, I must disapprove House Bill No. 1932.

MILTON J. SHAPP