Veto No. 1992-1

HB 1721 June 26, 1992

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

I am returning herewith, without my approval, House Bill 1721, Printer's No.3495, entitled "An act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, regulating testimony of defendants as to other offenses."

For nearly a century it has been the rule in this Commonwealth that no defendant in a criminal proceeding shall be compelled to answer questions on cross-examination about convictions of prior crimes of dishonesty or falsehood. The purpose of this rule is to prevent the predisposition and tainting of the minds of the jury with inferences that the defendant is guilty without giving the proper deference to the presumption of innocence until proven guilty beyond a reasonable doubt.

This prohibition preventing cross-examination about prior crimes must not be misunderstood to completely prohibit the prosecutor from presenting evidence of such crimes to the jury to disprove the reliability of the veracity or truthfulness of a defendant who testifies as a witness. The current state of the law permits the prosecutor to put such evidence on the record during the time allotted to the Commonwealth to rebut the case presented by the defense.

This bill changes about one hundred years of criminal procedure by relieving the prosecution from the responsibility of showing that the defendant was convicted of prior crimes of dishonesty or falsehood, and permitting the prosecution to force admissions from the mouth of a defendant who voluntarily takes a seat before the jury in order to defend against the accusations of criminal conduct. This is a substantial change in a rule of evidence which has consistently been applied in case after case since 1911, and which most likely helped to save defendants from being convicted of crimes for which they were unjustly accused.

I cannot approve this bill because no reasonable or legitimate justification has been presented to me for overturning a long and well-accepted rule of evidence intended to ensure fairness in criminal trials and because it flies in the face of the very purpose and intent of the rule to avoid the creation of a predisposition in the minds of the jury which threatens the presumption of innocence. It unfairly increases the tactical advantage of prosecutors at the expense of presumptively innocent defendants.

For all of these reasons, I hereby disapprove this bill and return it to the General Assembly without my signature.

ROBERT P. CASEY

Veto No. 1992-2

HB 1296 July 2, 1992

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

I am returning herewith, without my approval, House Bill 1296, Printer's No.1494, entitled "An act amending the act of June 21, 1939 (P.L.626, No.294), entitled 'An act providing for and regulating the assessment and valuation of all subjects of taxation in counties of the second class; creating and prescribing the powers and duties of a Board of Property Assessment, Appeals and Review; imposing duties on certain county and city officers; abolishing the board for the assessment and revision of taxes in such counties; and prescribing penalties,' providing for reduction of tax rates in certain cases."

This bill amends the Second Class County Assessment Law to limit real estate tax increases of political subdivisions following a reassessment to no more than 105 percent of the total amount of revenue which would have been generated under the tax duplicate for the political subdivision for the preceding year. This limitation would be applicable to every city, borough, township and school district located in the county, including the county itself. Since Allegheny County is the only county of the second class at the present time, the real effect of this bill is to limit the taxing power of only those political subdivisions located in Allegheny County.

Tax rate limitations of the kind required by this bill are often referred to as "anti-windfall" provisions because they prevent taxing jurisdictions from getting excessive revenue increases following a reassessment or revaluation of properties. Such "anti-windfall" provisions are contained in the General County Assessment Law, 72 P.S. § 5020-402(b), and in the Fourth to Eighth Class County Assessment Law, 72 P.S. § 5453.602(b). Therefore, to the extent that this bill is triggered only by the occurrence of a reassessment, it appears to be no more or less restrictive, offensive or beneficial than the anti-windfall provisions contained in these other assessment laws.

The problem with this bill is that the 105% cap would be imposed in Allegheny County every year, year after year, since Allegheny County reassesses the entire county each year and has been reassessing annually for some time. This annual reassessment practice is unique to Allegheny County. In other counties, reassessments or changes in the predetermined ratio (a percentage which is part of the formula used to determine assessed valuation) occur relatively infrequently over extended periods of time, such as ten or 20 years, thereby triggering the anti-windfall provisions of a county's respective assessment law with similar infrequency.

Real property taxes remain the only flexible and reliable local revenue source available to school districts, as well as other municipalities, under current law. An arbitrary cap on local revenues would certainly have a chilling effect on the ability of municipalities and school districts to competitively enter the municipal bond market.

House Bill 1296, in effect, establishes a local tax policy that discriminates against the municipalities and school districts of only one county in the Commonwealth. It arbitrarily caps local revenues in that one county without providing any alternative source of funds to maintain the level of educational quality and other governmental services the people have a right to expect from their school districts and municipalities.

Without question, the burden of local taxation is unfairly borne by homeowners, and for that reason I sympathize with the intent of this bill to control the growth of real property taxes. Unfortunately, this bill does not accomplish true tax reform but merely restricts the ability of school districts and municipalities to use what limited taxing authority they currently possess to pay for essential government services.

For all of these reasons, I hereby disapprove this bill and return it to the General Assembly without my signature.

ROBERT P. CASEY

Veto No. 1992-3

HB 1318 July 9, 1992

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

I am returning herewith, without my approval, House Bill 1318, Printer's No.3417, entitled "An act amending the act of March 10, 1949 (P.L.30, No.14), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' further providing for the cost of tuition and maintenance of certain exceptional children."

Upon the provisions of House Bill 1318, final audits will be prepared by independent auditors instead of by Office of the Budget comptrollers. While the department will set the audit standards, the Commonwealth will lose its ability to define the scope of the audits conducted and will have no control over the format and plan of the audits. This will severely handicap and reduce our oversight and control of this program. The time frame of 120 days for review of the independent audits does not allow sufficient time to conduct the type of review which these audits will require. Failure to notify schools in writing of the determination regarding the audit will result in acceptance by default which is an unacceptable practice. In addition, independent auditors will cost an estimated $750,000 to $1 million annually which will be charged directly against the appropriation, thereby reducing program funds. This estimate does not include additional costs for review and monitoring of the audits.

The backlog in audits of these approved private schools will be eliminated by the fall of this year. Therefore, a major impetus for passage of this bill will no longer exist. Alternative solutions were proposed which will not result in any additional costs to the State nor reduce program funds. Any of the alternative approaches could be enacted when the General Assembly reconvenes in September 1992.

Since House Bill 1318 will remove the Commonwealth from meaningful involvement in the approved private school audit process and unnecessarily increase costs to the State without any increase in services or benefits, I hereby disapprove this bill and return it to the General Assembly without my signature.

ROBERT P. CASEY

Veto No. 1992-4

HB 2401 November 25, 1992

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

I am returning herewith, without my approval, House Bill 2401, Printer's No.4029, entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for firearm licenses in cities of the first class and for loans on, or lending or giving firearms prohibited."

House Bill 2401 amends the Crimes Code by creating an exemption for any person in a city of the first class who has held a valid firearms license for five years or more from taking the firearms proficiency examination. In addition, this bill provides for the circumstances under which a person may loan or lend a firearm.

In ***Commonwealth v. Corradino***, 588 A.2d 936 (1991), the Pennsylvania Superior Court held that the loaning or lending of firearms under the Crimes Code is absolutely prohibited. This bill specifically delineates when a firearm can be loaned or given to another person. The person receiving the firearm must be licensed to carry a firearm or exempt from statutory licensing provisions or the person receiving the firearm must be engaged in a hunter safety program that is certified by the Pennsylvania Game Commission, a firearm training program or a competition approved by the National Rifle Association. I believe this bill places appropriate limitations on the loaning or lending of firearms and does not present a significant risk to public safety. Therefore, I have no objection to this provision.

Unfortunately, this bill was amended and an exemption from proficiency examinations was added for persons in first class cities who have held a valid firearms license for five years or more. The Philadelphia Police Department created a simple proficiency examination which requires a person with a firearms license to qualify their gun and demonstrate their ability to fire the weapon in a safe manner every five years. The examination consists of six questions and the firing of ten rounds at a target seven yards away. This gives the Police Department the ability to observe whether the person possesses the physical ability to use a firearm on the streets of Philadelphia. If this provision becomes law, there will be no way to determine whether there has been any change in a person's ability to handle a firearm. Over a five-year period, a person may have suffered some kind of mental or physical infirmity which would cause them to be unable to handle a firearm safely. Placing this exemption in law will expose the citizens of Philadelphia to licensees who no longer can use a firearm in a responsible manner.

The chief law enforcement officials in the City of Philadelphia, the Police Commissioner and the District Attorney have expressed their opposition to this bill. In addition, Colonel Glenn Walp, the Pennsylvania State Police Commissioner, has written in opposition to House Bill 2401, because of the potential for placing many citizens of this Commonwealth in danger.

For these reasons, I am withholding my approval of House Bill 2401.

ROBERT P. CASEY

Veto No. 1992-5

HCRRR 1 December 2, 1992

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

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of House Concurrent Regulatory Review Resolution No.1, entitled "A concurrent resolution disapproving Environmental Quality Board amendments to hazardous waste regulations."

The regulations have been in development for more than seven years in a rulemaking process distinguished by numerous opportunities for public and industry participation. While many parts of the regulatory package simply conform the State regulations to Federal requirements, there are two provisions not required by the Federal program, namely substantial fee increases for hazardous waste permits and changes in the regulation of hazardous waste recycling activities.

Notably, the permit fee increases have generated little controversy. The regulated community appears to accept the proposition that more of the costs of regulating hazardous waste activities, properly, should be paid for by the industry and not by the General Fund.

In the second area, hazardous waste recycling, the regulations depart from the Federal scheme because the Federal approach includes large loopholes which allow certain hazardous waste activities to go largely unregulated. Because of the loopholes, hundreds of thousands of tons of hazardous waste are being managed at facilities or disposed of by operations that claim they are exempt from all hazardous waste regulations. Fortunately, Pennsylvania's Solid Waste Management Act of 1980 gives the Commonwealth the clear authority to regulate the handling of these wastes.

The risks from careless hazardous waste recycling are real, since one of every five Superfund sites across the nation were once poorly operated hazardous waste recycling centers. Twenty of those sites are in Pennsylvania, more sites than in any other state in the country. Under the State's Hazardous Sites Cleanup Act, emergency actions have been initiated at an additional ten sites that were involved with hazardous waste recycling.

The regulations strike a balance between encouraging true hazardous waste recycling and protecting the environment from negligent recyclers. The definitions in the rulemaking exempt all materials genuinely exhibiting the quality of products rather than waste. They are consistent with definitions recently approved by the Environmental Quality Board, the Independent Regulatory Review Commission and the General Assembly for residual (nonhazardous industrial) waste. The regulations generally reduce the regulatory burden on those hazardous waste recyclers who are subject to the requirements by allowing for notification rather than permit application.

Without the regulations, there is the potential that the United States Environmental Protection Agency will revoke our hazardous waste delegation.

Not only would Pennsylvania forfeit almost $5 million per year in Federal grants, but we also would be required to continue to administer an independent State program. Industry would be subjected to duplicative and possibly dual requirements.

I understand the concern in the regulated community about the impact of the regulations and the intentions of the Department of Environmental Resources in administering them. Many of those concerns have been addressed through changes in the regulations throughout the rulemaking process. Nevertheless, I am asking Environmental Resources Secretary Arthur A. Davis to initiate discussions with interested parties in order to assure that any remaining concerns are appropriately dealt with as the department begins to administer these regulations.

The amendments to the State's hazardous waste program are necessary to bring our State into compliance with Federal requirements and are fundamental to protecting human health and the environment from the potential harms posed by recycling hazardous wastes. Therefore, I am compelled to withhold my approval from House Concurrent Regulatory Review Resolution No.1.

ROBERT P. CASEY

Veto No. 1992-6

SB 1190 December 18, 1992

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

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of Senate Bill 1190, Printer's No.1338, entitled "An act amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth,' further providing for the deposit of moneys and for State depositories."

Senate Bill 1190 would amend The Fiscal Code by permitting the Treasury Department to include the retained earnings and loan loss revenues of a depository when calculating the amount of deposits that the treasury can place in any bank, banking institution or trust company designated as an inactive depository. It would also permit the State Treasurer to deposit State moneys in excess of the current limit of $500,000, not to exceed twenty-five per centum of an inactive depository's paid-in capital, surplus, retained earnings and loan loss reserves. The State Treasurer would be permitted to deposit moneys in excess of the current $1,000,000 waiver cap in any inactive depository designated by the Board of Finance and Revenue.

The current limits on deposits in financial institutions are prudent limits to protect the integrity of Commonwealth funds deposited with these institutions. The proposed expansion of the limit placed on such deposits by includ-

ing an institution's retained earnings and its loan loss reserves is a move that increases the risk of such deposits with no commensurate increase in return. Additionally, staff would need to be added to more closely monitor the financial institution's levels of retained earnings and loan loss reserves in order that the limits on deposits were adhered to.

In summary, the Commonwealth's costs are increased, the risk on its deposits are increased but its investment return is not. For these reasons, and because I am informed that this legislation is not supported by State Treasurer Catherine Baker Knoll, I am withholding my signature from Senate Bill 1190.

ROBERT P. CASEY

Veto No. 1992-7

SB 1370 December 18, 1992

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

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of Senate Bill 1370, Printer's No.2629, entitled "An act providing grants to Pennsylvania businesses participating in international trade fairs."

This bill duplicates a provision in Senate Bill 1371, Printer's No.2602, now known as Act 130 of 1992, which establishes within the Department of Commerce a program for making grants to Pennsylvania businesses in order to help them defray expenses incurred in attending international trade fairs. I signed Senate Bill 1371, Printer's No.2602, into law because it provides for a more comprehensive program for the promotion of Pennsylvania exports.

By the power vested in me by the Constitution, I hereby disapprove this bill because it would establish a grant program which already exists under Act 130 of 1992.

ROBERT P. CASEY

Veto No. 1992-8

HB 555 December 18, 1992

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

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of House Bill 555, Printer's No.4270, entitled "An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for fleet owner transporter registration plates; further providing for the standards for recovered theft vehicles, for the certification of mechanics, for exemption from vehicle registration, for motor vehicle business registration plates, for penalties for exceeding maximum weights, for limitations on use of records, for warrantless arrests and for off-highway motorcycles and trail bikes; and authorizing the Department of Transportation to enter into multijurisdictional permit agreements for oversize or overweight vehicles or loads."

House Bill 555 is an omnibus bill revising various parts of the Vehicle Code. One of its provisions would permit a uniformed police officer to arrest without a warrant the driver of a motor vehicle that was involved in an accident in which someone was seriously injured or killed. The bill allows an arrest of such a person for a violation of any provision of the Vehicle Code. Incident to such an arrest, the officer is authorized to administer a breath, blood or urine test, presumably for the purpose of determining the presence of alcohol or drugs in the system.

Unlike section 1547(a)(1) of the code, this new provision contains no requirement that the police officer have reasonable grounds, i.e., probable cause, to believe the person has been driving while under the influence of alcohol or drugs. The Pennsylvania Supreme Court has very recently struck down another provision which allowed warrantless chemical tests in the absence of probable cause. The court found that section 1547(a)(2) violated the guarantee against unreasonable searches and seizures found in both the Fourth Amendment to the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution.

The new section in House Bill 555 is clearly a legislative response to the court's decision in ***Commonwealth v. Kohl*** just three months ago. The theory of this bill appears to be that an arrest of the driver for any Vehicle Code offense, regardless of whether it is for speeding or driving with an expired registration or inspection sticker, will be sufficient justification to test for blood alcohol content even in the absence of facts indicating intoxication. The Supreme Court has made very clear in ***Kohl***, however, that the officer must have probable cause to believe the operator was driving under the influence. Probable cause to arrest for some other offense will not suffice.

While I am certainly in agreement with the purpose of this legislation to crack down on drunk drivers who cause serious injury and death, I cannot

sign legislation which I am convinced will be found by our courts to violate both the State and Federal constitutions. Fortunately, Pennsylvania's drunk driving law still allows for blood alcohol tests without the driver's consent in cases where probable cause does exist.

I note also that the Department of Environmental Resources has urged my veto of this legislation because it would require the department to license motorcycles for off-highway recreation. Secretary Arthur Davis points out that allowing motorcycles on park and forest trails could cause excessive soil compaction and erosion, create conflict with other State forest users and exacerbate existing law enforcement problems on public lands.

ROBERT P. CASEY

Veto No. 1992-9

HB 713 December 18, 1992

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

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of House Bill 713, Printer's No.4255, entitled "An act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for a prohibited offensive weapons exemption for liquor control enforcement officers; prohibiting the possession of a firearm or other dangerous weapon in a court facility; further providing for use of force in protecting property, for competency of witnesses, for sentencing for first degree murder and for sentencing for offenses committed with firearms; and providing for sentencing for robbery of cars."

House Bill 713 contains a number of significant revisions to the Crimes Code and the sentencing laws of the Commonwealth. Among those changes are several provisions which attempt to respond to the recent criminal trend of "car-jacking" and to impose mandatory minimum prison terms for those convicted of the offense. Under this bill, any person who commits robbery where the property taken was an occupied motor vehicle will receive a mandatory minimum prison sentence of at least five years. If an occupant of the motor vehicle was physically injured, in any way, the defendant will receive an additional five years in prison. Only after serving the minimum ten-year term will the person be eligible for parole.

These mandatory minimum terms would apply to all grades of robbery. Currently, the lowest degree of robbery is that committed "by force however slight." This offense carries a maximum of just seven years. It is unclear whether the General Assembly intended to increase the maximum term, as well as the minimum, where the offense involved an occupied motor vehicle. Current law requires that the minimum term of imprisonment cannot exceed one-half of the maximum term provided for the offense. House Bill 713 would create a conflict with current law that would be resolved by the courts in one of at least three possible ways. A court could conclude that the General Assembly intended to increase the maximum term to at least twice the new minimum. In that event, the maximum term for some robbery offenses would go from seven to ten years and even up to 20 years in those cases where someone is injured. Another possibility is that a court would find no clear legislative intent to increase the maximum term. In that event, the court would choose whether to apply the new minimum term, and to ignore the rule against minimums exceeding one-half the maximum, or vice versa.

House Bill 713 also creates a separate five-year mandatory minimum term if the car-jacker visibly possessed a firearm during the commission of the offense. Since the bill does not establish a separate crime, but only a separate

penalty where the offense was committed with a firearm, it would appear that the five-year minimum terms are cumulative. In other words, a person who commits car-jacking will get a minimum of five years for the basic offense, plus five years if someone was injured even slightly, plus five years for displaying a firearm. And, again, depending upon how the bill is interpreted, that person could receive a maximum of thirty years in prison for a crime that at the low end currently carries a maximum of just seven years.

I believe this result is completely disproportionate to the sentencing scheme that exists in statute as well as through the guidelines of the Pennsylvania Commission on Sentencing. Without question, car-jacking has become a very serious threat to the safety of motorists, especially in urban areas of the Commonwealth. On the other hand, there is no evidence to suggest that a penalty of this magnitude will deter would-be car-jackers any more than the current penalties applicable to felony robbery. Current law already mandates a State prison term of at least five years for most robberies committed with a firearm, regardless of whether the property taken was a car. The current definitions of robbery and kidnapping are sufficient to convict any defendant who might have been prosecuted under this bill if it became law.

Another major flaw in House Bill 713 is that it would actually remove the authority for mandatory sentences for robbery committed with a firearm under existing law, ***unless*** the offense involved a motor vehicle. While I doubt whether the General Assembly intended to limit the scope of the firearm mandatory sentence to car-jackers only and to lessen the penalty for all other armed robberies, the language used in House Bill 713 clearly leads to those results.

House Bill 713 also amends the Crimes Code to permit the use of deadly force against car-jackers. Current law provides a legal justification for the use of deadly force to protect oneself against death, serious bodily injury, kidnapping or rape. Deadly force is also justifiable in some situations where there has been an unlawful entry into one's home, usually a burglar. House Bill 713 substantially expands the law in the area to permit the use of deadly force whenever a motorist believes he is about to become the victim of a car-jacking. There is no requirement that the perpetrator threaten any injury to the motorist, only that the motorist needs to use deadly force to keep the car-jacker from taking his car.

I am persuaded by the letter I received from State Police Commissioner Glenn Walp requesting my veto of House Bill 713. Commissioner Walp correctly points out that the provision on use of deadly force is so ambiguous and subjective that it would likely result in unnecessary injuries and deaths. For that reason, and because of all the defects in the mandatory sentencing provisions discussed above, I am withholding my signature from this bill.

Unfortunately, there are a number of other provisions in House Bill 713 to which I have no objection and which I will sign if enacted by the General Assembly. These include new criminal penalties for possession of firearms in court facilities, allowing liquor control enforcement officers to carry black-

jacks with appropriate training and allowing persons with criminal records to testify in criminal proceedings.

ROBERT P. CASEY

Veto No. 1992-10

SB 345 December 28, 1992

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

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of Senate Bill 345, Printer's No.2399, entitled "An act amending the act of July 3, 1947 (P.L.1242, No.507), entitled 'An act relating to police and firemen's pension funds in cities of the second class A, and directing such cities to appropriate certain moneys thereto, and requiring reports and audits,' and the act of September 23, 1959 (P.L.970, No.400), entitled 'An act providing for the creation, maintenance and operation of an employes' retirement system in cities of the second class A, and imposing certain charges on cities of the second class A and school districts in cities of the second class A,' further providing for credit for military service."

I have no choice other than to withhold my approval of Senate Bill 345.

Senate Bill 345 would permit policemen, firemen and nonuniformed employees of cities of the second class A to purchase nonintervening military service as a credit towards their pension service. This bill applies only to the City of Scranton since it is the only municipality currently meeting the population requirements for the second class A classification.

If this bill would become law, it would increase the already dangerously unfunded liability of the pension systems in the City of Scranton, placing them in jeopardy of failing to meet their obligations to retirees, and force the city to reallocate its limited financial resources at a time when it must put every cent of taxpayers' dollars to its most prudent use. This bill mandates a luxury which the city cannot afford at this time.

The Public Employee Retirement Commission, an agency of the Commonwealth charged with reviewing all legislation affecting public employee pension and retirement plans and monitoring them to assure their actuarial viability, has reported to me that the public employee retirement systems of the City of Scranton have substantial unfunded actuarial accrued liabilities. The actuarial note from the commission states that these liabilities are neither stabilizing nor decreasing, but rather have increased from $55.875 million on July 1, 1985, to 64.168 million as of January 1, 1990, the latest date for which data is available. The actuary has estimated that Senate Bill 345 will add another $3,000,000 to this already dangerous level of unfunded liability.

Furthermore, as a result of this enormous underfunding, the city's retirement systems have been classified as severely distressed under the Municipal Pension Plan Funding Standard and Recovery Act of 1984. This level of distress is the highest level that may be assigned under the Recovery Act. This status entitled the city to participate in the Supplemental State Assistance Program which is financed by annual appropriations from the Commonwealth's General Fund for the purpose of financially helping ailing pension

systems. The amount of assistance received by a city's pension fund under the Recovery Act is directly related to the degree of financial distress in the individual municipal retirement system. It is expected that the amount of assistance received from the program will increase dramatically over the next year.

On January 10, 1992, the city was declared financially distressed under the Municipalities Financial Recovery Act. Hopefully, with the assistance provided by the Commonwealth under this law, the city will be on the road to fiscal stability. The underfunding of the city's pension systems is very much a part of the larger financial distress of the city. Adding unfunded liability to the city's obligation to fund its pension systems will only contribute to the city's critical fiscal status.

For all these reasons, I hereby withhold my signature from Senate Bill 345, Printer's No.2399.

ROBERT P. CASEY